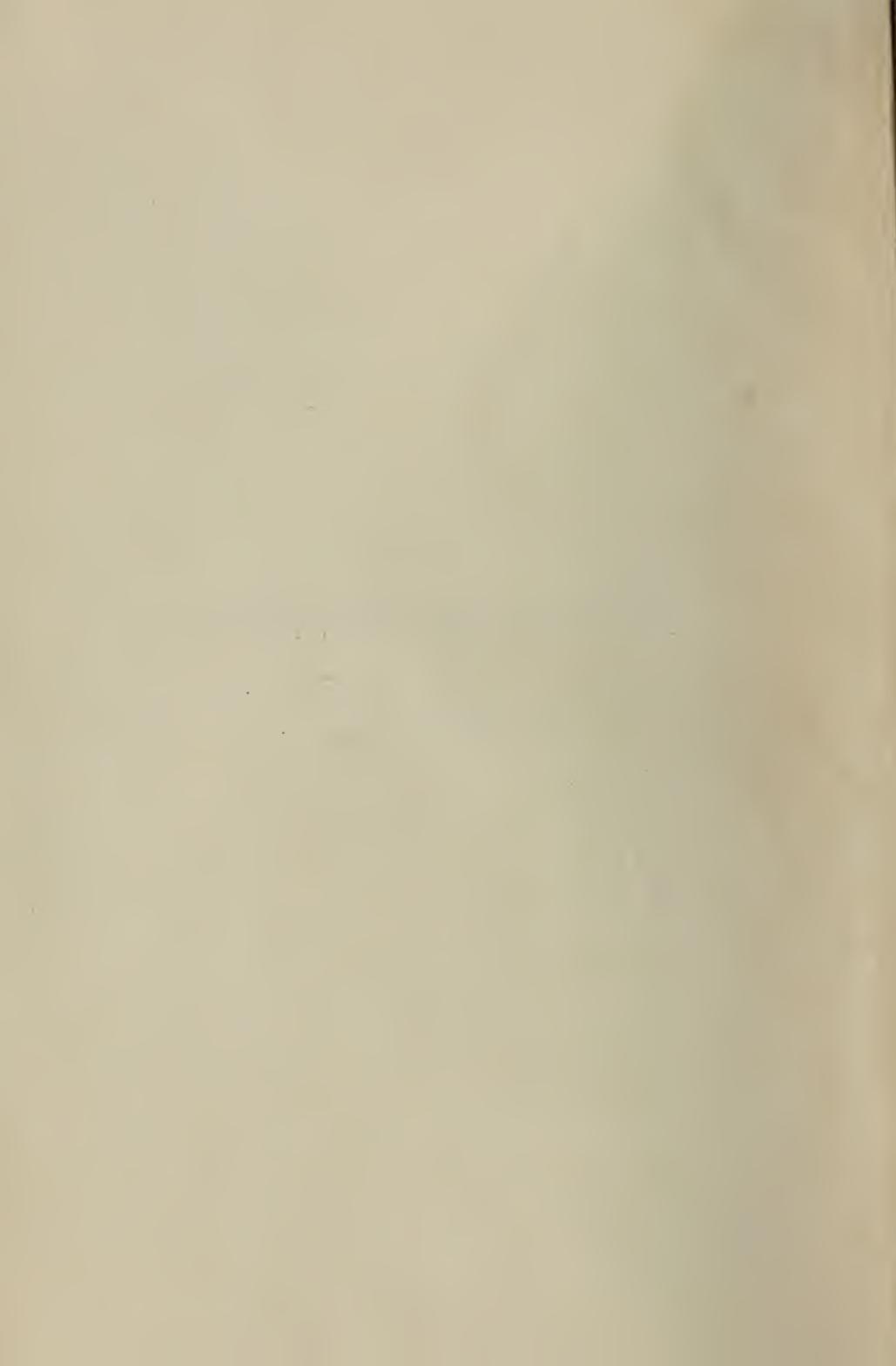




HISTORICAL RECORDS
OF
AUSTRALIA.



COMMONWEALTH OF AUSTRALIA.

← Australia Parliament. Treaty & History Comm. Hist.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

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FROM ENGLAND.

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INTRODUCTION.

GOVERNOR MACQUARIE administered the government of New South Wales for eleven years and eleven months (1810-1821). During this period the growth and development of the colony was extraordinary. In 1810 settlement was practically confined within the boundaries of the county of Cumberland, exclusive of the settlements at Newcastle, at Norfolk island, and in Tasmania. In 1821 settlement had been extended in the west beyond Bathurst, in the south to the districts of Illawarra and Argyle, and in the north in various localities as far as Port Macquarie. The population had increased from 11,950 in March, 1810, to 38,778 in October, 1821, both inclusive of the military. Between the same dates, the cattle had increased from 12,442 to 102,939, sheep from 35,888 to 290,158, horses from 1,134 to 4,564. In 1810 the port duties collected at Port Jackson did not exceed £8,000; at the end of Macquarie's administration they amounted to between £28,000 and £30,000 *per annum*. During this period, methods and ideas had to be adapted to the altered conditions; the voice of public opinion asserted itself; the English government was compelled to listen to the desires and to consult the interests of a rapidly increasing class of colonists, who had made their homes and had acquired vested interests in the colony; and no longer was the English government enabled to regard the colony simply as the receptacle for the undesirables from other parts of the British empire.

Prior to the arrival of Macquarie, there had been virtually two paramount powers in the colony, the governor and the military party. The governor had been endowed with almost unlimited powers by his commission and by colonial customs and precedents. The military party, consisting of the New South Wales Corps and its adherents, had acquired a dominant interest by long residence in the colony, by the binding power of common interests, and from the fact that its members had naturally gained prestige in a community consisting of persons most of whom were or had been under the sentence of the law. The antagonism and jealousy that were only to be expected between the two paramount powers had in

many cases been prejudicial to the interests of the colony; but at the same time the military party had acted as a check on the exercise of too great arbitrariness by a governor, notably during the administration of Governor King.

When he arrived in the colony, Macquarie was accompanied by the 73rd regiment, and carried orders for the recall of the New South Wales Corps. By the removal of this corps, Macquarie was left a clear field for the introduction of a well-considered system for the development of the colony, as there was no longer an organised body to thwart the measures of the governor. For many years he possessed the unqualified confidence and unstinted support of the English government; when he experienced difficulty with a regiment, the regiment was removed; when he was involved in a quarrel with the judge-advocate and judge, orders were given promptly for the recall of both. He had an almost unlimited supply of convict labour at his disposal. He had the control of the public purse, and, although his lavish expenditure was constantly the subject of criticism by the secretary of state, no active measures were taken to limit it by the English government. His powers were enormous. The validity of the colonial custom of issuing government and general orders was not challenged until some years after his arrival, and even after they were questioned their promulgation was continued. By these orders, the governor could control trade, could impose customs duties, could inflict penalties, and generally could pass enactments which had all the force of law. His influence over the individual in all classes was likewise large owing to his powers of preferment, as he could make land grants, give various indulgences, assign useful or useless servants to settlers, grant pardons, and remit sentences.

When he arrived in the colony, Macquarie found that the rule of a governor was virtually, to quote the words of J. H. Bent, "*quod gubernatori placet, legis habet vigorem.*" This maxim probably pleased Macquarie's vanity, and he endeavoured to maintain it throughout his lengthy administration. In the early years, whilst his attention was devoted chiefly to the material development of the colony in the construction of roads and the erection of necessary public buildings, the unfettered decision of the governor was of great value. But later, when it was necessary to develop the social, judicial, and economic fabrics of the colony, the obsession of this maxim led Macquarie into serious blunders, such

as his actions with regard to emancipists, his attempts to control the law courts, his flogging of free persons without any magisterial inquiry, his court martial of the Reverend Benjamin Vale, and his granting of a charter to the bank of New South Wales.

When he arrived in the colony, Macquarie found the administration in a state of chaos owing to the deposition of Governor Bligh; the public works neglected; the emancipists and free settlers dissatisfied; the system of public credit disorganised; a rising feeling against the judicial administration; and the convict system ill regulated. He found the colony rapidly emerging from infancy to adolescence, and, in fact, he found it necessary to re-create the administrative, social, economic, and judicial frameworks of the colony. Although he had the experience of the previous twenty-two years to assist him in framing his systems, and an undaunted personal determination, it is probable that his ill-balanced judgment prevented his personal influence from achieving any substantial improvement except the purely material development of the colony, and the initiation of a financial and economic system.

He commenced his government by revoking all the acts of the insurrectionary administrators and by reinstating the officials who had been in office at the time of the arrest of Governor Bligh. Subsequently, in accordance with the discretionary power given to him by the secretary of state, he confirmed* most of the land grants and pardons so revoked. His public works policy has been already discussed,† and it is necessary first to consider what might be called his social policy, as it had considerable influence over his entire administration.

Within a fortnight of his arrival in the colony, Governor Macquarie had committed himself to a policy for the encouragement of emancipists and ex-convicts, which depended on the maxim that the fact of a person having once been a convict was no bar to his re-admission into society or to his appointment to the higher judicial and official positions in the colony. Prior to this date (1810), all persons, with two exceptions, belonging to the emancipist and ex-convict classes had been rigidly excluded from general society. The exceptions were G. B. Bellasis and the Reverend Henry Fulton; the former, an officer in the East India Company's service, had been transported for killing his opponent in a duel,

* See notes 66 and 99, volume VII. † See pages xv and xvi, volume VIII.

and had held command of the governor's bodyguard under King; the latter had been sentenced for complicity in the Irish rebellion, and had acted as chaplain to Governor Bligh and his household. For twenty-two years a rigid barrier had been raised between all who had arrived free in the colony and those who had been landed under a sentence of the law. It is evident therefore that Macquarie, in adopting this policy, attempted a revolutionary change in the social conditions of the colony. The policy was "recommended more by motives of humanity than of reason, and (was) as new as it was hazardous."* It caused a storm of opposition, which was due not so much to the humanitarian principle involved, as to Macquarie's methods of attempting to procure its general acceptance.

Governor Macquarie assumed the administration on the 1st of January, 1810, and eleven days later he appointed Andrew Thompson, an ex-convict, as a magistrate at the Hawkesbury. With little practical knowledge of the colonial conditions, and without any attempt to educate public opinion up to the change in the social system that was thereby initiated, Macquarie took the drastic step of giving to an ex-convict the highest distinction which he had in his power to bestow. Thompson had been transported in 1790 for setting fire to a stack, when in his seventeenth year. When his sentence had expired, he had settled at the Green Hills (Windsor), had engaged in business as a retail shopkeeper, and had built small vessels, with which he traded to Sydney. He had been remarkably successful in amassing wealth, and, when Macquarie arrived, lieutenant-colonel Foveaux recommended him "as an individual and an active and intelligent chief constable." Macquarie stated that his reasons for making the appointment were Thompson's loyalty to the cause of Governor Bligh, the scarcity of men at the Hawkesbury eligible for the magistracy, and a desire to restore Thompson to that rank in society which he had lost. These reasons are of little value, when it is remembered that Macquarie could have selected the officer in military command at Windsor for the magisterial duties, and that, as Thompson's rank in society before his conviction had been exceedingly humble, his elevation to the bench of magistrates, instead of restoring him to an equal rank, raised him to a higher one. But in making the appointment Macquarie forgot that "some consideration was surely due to the feelings of those magistrates, as well as that society, who, with the

* See first report by J. T. Bigge, page 83.

knowledge they possessed of his (Thompson's) recent situation, could not but regard the unsolicited return of this lost member to his rank and place amongst them as a degradation of their own."* This appointment and a similar one given to another ex-convict, Simeon Lord, on the 3rd of August, 1810, brought forth a strong protest from the Reverend Samuel Marsden, on account of the character of the persons appointed; and, when Macquarie, about the same time, attempted to associate Marsden with Lord and Thompson as trustees of the public roads, he was met with Marsden's prompt refusal to accept such office with the co-trustees nominated.

Macquarie's new policy and his appointments to the magistracy met with universal criticism. Macquarie, however, was extremely intolerant of opposition, and it is probable that this intolerance and an ill-balanced judgment led him to make serious mistakes in the elaboration and execution of a policy, which on calmer consideration he would have perhaps avoided. The humanitarian principle of his policy was generally recognised and accepted; it was approved by the secretary of state,† and endorsed by a select committee of the House of Commons in 1812. But although the principle was correct, it is extremely doubtful whether the time had then arrived for its promulgation; and Macquarie's first attempts to raise members of an excluded class to the highest positions in the land, and to introduce them to the most exclusive class at that period, the military, were too revolutionary to succeed. Macquarie was also singularly unfortunate in his choice of the individuals for preferment.

After the elevation of Thompson and Lord to the magistracy, they were introduced to the society of government house, and were invited to the mess of the 73rd regiment; but their social advancement was not effected. Macquarie failed to realise that his patronage alone could not secure the general acceptance of an individual, and that men whom he chose to invite to his table might be considered by private individuals unfit associates on account of their morals and personal character. He made no attempt to conciliate the opposition to his measure, and failed to recognise "the evils of resistance in quarters where co-operation

* See first report of J. T. Bigge, page 82. † See page 134, volume VIII.

was necessary." In this failure, he materially contributed to the opposition which developed against his policy and administration in other spheres.

At an early period, Governor Macquarie selected assistant surgeon William Redfern for special preference. Redfern had been transported for complicity in the mutiny at the Nore. He was possessed of considerable professional abilities, but his manner was self-assertive and was resented by the class to which Macquarie attempted to introduce him. He was invited to government house, and through Macquarie's influence to the mess of the 73rd regiment, and later to that of the 46th regiment; but this had little effect on his social status. When the 48th regiment arrived, he was introduced by Macquarie to its officers, and, in the company of brigade-major Antill, he called on each of them, but with four exceptions they refused to return his call. When he was invited to the mess by lieutenant-colonel Erskine, many of the junior officers abruptly left the table; to obviate such action in future, Erskine made it a rule of the mess that no officer should leave the table until the first thirds were drunk.

Governor Macquarie encouraged the presence of five other ex-convicts at government house. They were the Reverend Henry Fulton, James Meehan, the deputy surveyor, Richard Fitzgerald, a superintendent, Michael Robinson, confidential clerk in the secretary's office, and Francis Howard Greenway, the architect. Of these, Robinson received special notice of Macquarie's favour. He had been transported in 1798 for writing a threatening letter to Mr. James Oldham.* After Macquarie's arrival he was appointed chief clerk in the office of the governor's secretary, and as such fulfilled the confidential duty of transcribing the governor's despatches. On the occasions of the birthdays of their Majesties, he was invited to government house and permitted to recite to the assembled company odes of his own composition.

The results of Macquarie's endeavours to introduce ex-convicts into general society were aptly summarised by Mr. Commissioner Bigge.†

"The elevation of these persons to a rank in society, which they never possessed and for which, without meaning any reflection upon them, their manners gave them no kind of claim, has not been productive to them of the benefits that were contemplated.

* See note 193, volume II. † See first report of J. T. Bigge, page 150.

“ It was in vain for Governor Macquarie to assemble them, even on public occasions at government house, or to point them out to the especial notice and favour of strangers, or to favour them with particular marks of his own attention upon those occasions, if they still continued to be shunned or disregarded by the rest of the company.

“ With the exception of the Reverend Mr. Fulton, and, on some occasions, of Mr. Redfern, I never observed that the other persons of this class participated in the general attentions of the company. . . .

“ Although the emancipated convicts, whom he has selected from their class, are persons who generally bear a good character in New South Wales, yet that opinion of them is by no means universal. Those however, who entertained a good opinion, would have proved it by their notice . . . and those, who entertained a different opinion, would not have contracted an aversion to the principle of their introduction from being obliged to witness what they considered to be an indiscreet and erroneous application of it.”

It is clear that Governor Macquarie's endeavours to introduce ex-convicts into general society were defeated largely by his own methods. His attempts to restore them to full civil rights were only a qualified success. Notwithstanding the criticism of the appointments of Thompson and Lord to the magistracy, Macquarie made two further appointments of ex-convicts to the bench, in the persons of the Reverend Henry Fulton and William Redfern. Of these four appointments, Mr. Commissioner Bigge reported* that they “ were unnecessary, that they produced no good effect upon the parties themselves, and that they have lowered the respect and estimation of the magisterial office.” Subsequently Redfern's name was omitted from the new commission, which Macquarie was directed to issue on the accession of King George IV; Simeon Lord was allowed to resign prior to the issue of the new commission, whilst Andrew Thompson had died nine months after his appointment. Least exception was taken to the elevation of the Reverend Henry Fulton to the bench.

When the new charter was promulgated in 1814, by which new civil courts were established, Governor Macquarie, in furtherance of his policy, attempted to force the judge-advocate and judge to

* See first report of J. T. Bigge, page 89.

adopt the principle that a previous conviction was no bar to the admission of an attorney to the practice in the colonial courts. This led to a bitter controversy* between the governor and the judge, J. H. Bent. Bent refused to adopt Macquarie's proposals, and adjourned the sittings of the supreme court until a reference could be made to England. The secretary of state did not support Macquarie in his advocacy of this principle, and refused to sanction its adoption. Nevertheless, Macquarie still continued his attempt to procure the admission of ex-convicts to an official position in the courts, and in 1817 appointed Simeon Lord a member of the supreme court bench, and a little later Richard Fitzgerald a member of the governor's court which was held at Windsor.

In the establishment of the bank of New South Wales and in the proposed formation of an agricultural society, Governor Macquarie attempted to secure full rights for ex-convicts. In the formation of the bank, he desired that all classes should co-operate, especially as some ex-convicts were among the most opulent in the colony, and that all classes should be represented in its direction and management. When the election of directors for the bank was under consideration, it became known that a conditionally emancipated convict, Edward Eagar, was to be nominated for office by William Redfern; whereupon four out of six proposed directors refused to accept office if Eagar was elected. The subscribers accordingly made it a rule of the bank that no person was eligible as a director unless he was absolutely and unconditionally free. Macquarie had to accept this regulation, and shortly afterwards soothed Eagar's disappointment by granting him an absolute pardon.

Macquarie prevented the formation of an agricultural society by stating his desire that its membership should be open to all classes of the community. This was impracticable, as it was probable that ex-convicts would have been excluded under the system of ballot that was proposed for the election of members.

Macquarie carried his policy of encouraging emancipists to such extremes that it became proverbial in the colony that "the surest claim to his favour and confidence was that of having once worn the badge of conviction for felony."†

* See page 479 *et seq.*, volume VIII.

† See first report of J. T. Bigge, page 147.

In spite of all Macquarie's efforts, little was achieved in removing the barrier which was raised around the emancipists and ex-convicts. Mr. Commissioner Bigge stated that only one instance was known of the wife of an emancipist being admitted to the society of the wives of military officers, but he added, "it has generally been thought that such instances would have been more numerous, if Governor Macquarie had allowed every person to have followed the dictates of their own judgment."*

It is probable that Governor Macquarie's emancipist policy was conceived in haste and elaborated afterwards; that in the year 1810 certain ex-convicts had been emancipated, by servitude or pardon, for a sufficient period to justify by their subsequent good conduct their claim for a modification of their rigid exclusion from the respectable walks of life; that this class began to assert its claims, when encouraged by Macquarie's appointment of one of their number to the magistracy; that Macquarie recognised the justice in part of these claims; that he utterly failed in achieving his object owing to the ill-advised methods he adopted, although he won the gratitude of the large class he had befriended; and that the net result was exasperation and disappointment to the entire class of emancipists and ex-convicts.

In fact, Macquarie's policy did more harm than good, and had the effect of strengthening instead of removing the barrier between the two classes, the free population and the emancipists and ex-convicts. J. T. Bigge, in 1822, reported that the prejudices of the free population were then "too deeply fixed to be removed; and the ambitious feelings of the higher classes of emancipated convicts have been too long encouraged and cherished to expect from them either submission or conciliation. Governor Macquarie has thus left to his successor the difficult and, I may even add, the hopeless task of bringing back, to their proper and just standard, the pretensions of two large classes of the inhabitants of New South Wales, without giving to the one party a supposed ground of triumph, and without inflicting upon the other too large a measure of vexation and disgrace."†

Macquarie's treatment of the free settlers and his interference with social activities were arbitrary and non-conciliatory. At an early date he conceived a dislike for the settlers from England,

* See first report of J. T. Bigge, page 150.

† *Ibid.*, page 154.

who had arrived free, and he developed a decided preference for settlers from the emancipist class.* Macquarie had some justice in criticising adversely some of the free settlers, as a large number were of a poor type, and had come to the colony in the hope of bettering themselves after they had failed in England. On the other hand, such good settlers as did arrive found it difficult to obtain the labour necessary for farming pursuits. Macquarie's passion for the erection of public buildings absorbed the best labourers amongst the convicts, and, when the settlers applied for assigned labour, it was practically impossible to obtain builders, blacksmiths or other mechanics, who would be useful on their farms. The free settlers experienced also many difficulties from Macquarie's intolerance of opposition and from his sympathies with the class of emancipists.

Three instances may be quoted of the governor's arbitrary treatment of free persons.

In the year 1816, a memorial from a number of colonists was transmitted to the House of Commons, which represented certain grievances† against the administration of Macquarie. The governor thereupon took the severe step of refusing all land grants and indulgences to the alleged signatories. For this action he was severely censured by Earl Bathurst,‡ who stated that it had a tendency to check the undoubted right of a subject to petition parliament. Macquarie, in his defence,§ stated that the petition contained malicious representations, and he was justified in withholding indulgences from those "who dared to asperse my personal honor and Government." This was typical of Macquarie's attitude on many occasions, for he was frequently unable to perceive that the person criticised often cannot gauge the value of the criticism, and that an attempt to expose the abuse of authority by himself was not an act of sedition on the part of the complainant.

In the year 1816, Philip Connor, who had been a lieutenant in the 73rd regiment, and had been convicted of manslaughter,|| returned to the colony for the purposes of marriage. Macquarie had not approved of the lenient verdict given by the criminal

* See page 598, volume VII. † See page 329 *et seq.* and page 732 *et seq.*

‡ See page 762.

§ See despatch marked "No. 1 of 1819," dated 1st March, 1819.

|| See page 7 *et seq.*, volume VIII.

court in Connor's case, and rightly considered Connor an undesirable immigrant. He accordingly compelled him to enter into a bond to leave the colony by the ship in which he arrived. As this ship sailed before the ordinary banns of marriage could be published, Connor was prevented from fulfilling his marriage contract, as Macquarie refused to grant a special license.

In the year 1816 also, Macquarie ordered the corporal punishment* of two ex-convicts and one free immigrant for trespass on the government domain at Sydney. These punishments were inflicted merely on the reports of constables and without any magisterial inquiry, and were a deliberate breach of the civil rights of the subject.

When reports of these occurrences and of Macquarie's preference for emancipists reached England, it is little wonder that the better type of free settlers was disinclined to go to the colony; and the free settlers already in the colony might be afraid of being subjected to an arbitrary act of the governor. It is certain that Macquarie's influence had a decided effect, and towards the close of his government free immigration was somewhat restricted.

The policy of Governor Macquarie with regard to the financial and economic affairs of the colony was good, and materially assisted in its advancement.

The powers of the governor over trade and commerce were supreme. By the colonial custom of issuing general orders, he could regulate the currency; establish specie values; fix the rate of interest, the prices of commodities, and the rates of wages; impose export and import duties; and control monopolies.

When Macquarie arrived in the colony, there was no legalised currency or specie, and the internal trade suffered from the want of a proper medium of exchange. The internal trade of the colony depended chiefly on the demand of government for supplies of grain and meat. When these were lodged in the public stores, store receipts were issued, which were consolidated at stated periods by bills on the English treasury. These bills were eagerly sought by merchants and others, who were desirous of making remittances to England. Prior to consolidation, the store receipts passed from hand to hand as the equivalent of money in the ordinary course of business. Their use, however, brought disadvantages to the small settler. Owing to the want of small change, he

* See page 734 *et seq.* and note 162.

was compelled to lodge his receipt with the retail storekeeper or publican for purchases made, and, until the value of the receipt was exhausted, it induced improvidence and extravagance on the part of the settler. To obviate the want of small change, it had become the practice to issue small notes of hand for sums as low as threepence. So long as the issue of these notes was made by persons of probity, no evils were experienced; but the ease with which these notes were placed in circulation induced many to take pecuniary advantage of the system. The methods of effecting this were described by Macquarie in a despatch to Earl Bathurst.* Macquarie quickly realised the evil influences on the colonial trade of the want of a legalised circulating medium. On the 30th of June, 1810, he issued a proclamation,† regulating the issue of currency notes, and in his third despatch in 1810‡ he sought permission to establish a government loan bank with the power to issue notes. This proposal was not entertained by the committee of the privy council for trade and plantations, but at the same time it was decided to send £10,000 worth of dollars to the colony to alleviate the distress caused by the want of currency. When these dollars were received by Macquarie in 1812, he decided to partially re-mint them, and to make a specie peculiar to the colony, in order to conserve it for local use. Each dollar, worth five shillings, was converted§ into a "holey dollar" and a "dump" with colonial values of five shillings and one shilling and threepence respectively. These coins were put in circulation in the year 1814 through the agency of the commissariat department,|| and considerably relieved the specie difficulty.

The advantages of a sterling standard for all commercial transactions were, however, imperfectly attained, and towards the end of the year 1816 the growth of trade made this want more acute. In consequence, Macquarie caused a public meeting to be held, whereat it was decided to establish a bank,¶ subject to the governor's approval, with a capital of £20,000. Macquarie readily gave his sanction to the proposal, and granted the shareholders a charter of incorporation. It is typical of the change in Macquarie's character that, whereas in 1810 he had sought the permission of the English government to establish a bank, in 1817 he

* See page 216. † See note 54. ‡ See page 265, volume VII.

§ See page 750 *et seq.*, volume VII.

|| See page 333, volume VIII.

¶ See page 219 *et seq.*

granted a charter for the formation of a bank and sought confirmation of it afterwards. This charter was held to be null and void by the English crown law officers, and Macquarie was informed that he had no power to grant such a charter.* Notwithstanding the illegality of the incorporation, the formation of the bank of New South Wales under Macquarie's sanction formed a prominent milestone in the financial history of the colony. The bank issued notes of value from two shillings and sixpence upwards, payable in sterling on demand, and these notes practically initiated a sterling circulation in the colony.

The unlimited control exercised by a governor over finance and trade is well exemplified in the fixation of rates of interest. Governor King, by an ordinance in July, 1804, had fixed the legal rate at £8 sterling *per centum per annum*. Notwithstanding the variations in the value of money, it had remained at that arbitrary rate until February, 1817, when, at the request of the directors of the bank of New South Wales, Governor Macquarie increased it to £10 *per centum*.

Throughout most of his administration, Macquarie maintained the practice of fixing the prices of commodities necessary to support life. As already noted, the internal trade of the colony depended largely on the purchases of wheat and meat made by government. As long as the government was the chief purchaser, the fixation of the price of wheat had many advantages. It enabled the farmer to anticipate his return with some confidence. If the government had not fixed the price, in years of abundant harvest the price of wheat would have fallen so low that it would not pay the farmer to grow it. In consequence, in the year following, little ground would be cultivated, and then, the harvest being small, the price of wheat would be increased enormously. In spite of much opposition, Macquarie maintained fixed prices for wheat. At the same time, he strongly advocated the establishment of a distillery, protected by a preferential duty on the spirits distilled, in order that a market might be created for the surplus crop of grain after the demands of government were satisfied.

Prior to Macquarie's arrival, the evils of monopoly had been rampant. These evils had been most in evidence in the spirit trade, and had been the cause of considerable difficulty to former governors. Macquarie had received specific instructions from the secretary of state to suppress the traffic in spirits, and to prohibit

* See page 840.

their use as a medium of barter for produce and the necessaries of life. Shortly after his arrival, he had practically attained this end by the imposition of an import duty of three shillings *per* gallon, and by requiring all importers to receive a permit for each individual speculation in spirits prior to landing the same in the colony. These regulations had practically controlled the spirit traffic; but, nevertheless, about ten months after his arrival in the colony, Macquarie granted a huge monopoly* in spirits to the contractors for the erection of the general hospital. This remarkable action was severely criticised by the secretary of state,† and seems incapable of any justification.

Macquarie was, however, successful in coping with attempted monopolies in the necessaries of life. He prevented a monopoly in grain by means of importations from Bengal; he utilised the government herds of cattle to defeat a monopoly in meat; and in September, 1812, he issued a striking proclamation‡ strongly condemning any attempts to secure the artificial inflation of prices.

In December, 1814, Macquarie abolished§ the retail sale of goods from the government stores. This practice had been established in the year 1800 to protect the settlers against extortions in their purchases of the smaller articles of merchandize; but Macquarie found that it was no longer necessary owing to the arrival of frequent shipments of goods and to the competition amongst the traders. At the same time, Macquarie opened all the ports in the territory to the unrestricted importation of spirits and merchandize.

Throughout his administration, Macquarie was lavish in the expenditure of public money. As the larger part of this was met by drafts on the English treasury, a considerable sum of money was introduced into the colony. The average aggregate amount of bills drawn during the four years (1806-1809) preceding Macquarie's arrival was £29,415. In 1810 Macquarie drew £72,600, in the first ten weeks of 1811 £21,214, and in subsequent years his expenditure rapidly increased, out of proportion to the increase of the population. The circulation of this money caused a "boom," and led to a false and superficial prosperity. Macquarie claimed credit for this prosperity, but, unfortunately for such claim, the "boom" was followed by the inevitable depression after his departure.

* See page 401 *et seq.*, volume VII, and note 66, volume VIII.

† See page 486, volume VII.

‡ See note 130, volume VII. § See page 471, volume VIII.

Macquarie made every effort to encourage trade and commerce. An example of this may be quoted. In 1813 he had enacted a schedule of import duties* on certain articles which were the produce of the south seas. A few years' experience of their incidence convinced him that they were a source of injury to the trade, and in 1817 he proposed† that a draw-back of these duties should be allowed on such articles that were re-exported.

In one instance in connection with trade Macquarie showed a remarkable hastiness of disposition, and his intolerance of opposition led him to commit a serious error. After the declaration of peace with America, the resumption of American trading at Port Jackson was expected. In February, 1816, the American schooner *Traveller* arrived from Canton, freighted with tea and merchandize, which were at the time much in request at Sydney. Macquarie granted the schooner liberty of entry. Shortly afterwards she was seized under the provisions of the navigation act by the Reverend Benjamin Vale, one of the chaplains on the colonial staff. When Macquarie heard of this he at once released the schooner from arrest. He then preferred charges against Vale, and had him brought to trial by court martial,‡ which sentenced Vale to be "publicly and severely reprimanded and admonished." Such action was quite illegal, and in consequence Macquarie was severely censured by Earl Bathurst.§

Macquarie's influence on finance, trade, and commerce materially contributed to the advancement of the colony. He created a "boom," which had certain advantages, although followed by the inevitable depression. He developed a system of public credit. He abolished some restrictions on trade and drew attention to others. Excepting his mistakes in conniving at a monopoly in spirits in 1810, and in the wrongful issue of a charter to the bank, his influence over finance and commerce was excellent.

Macquarie's character was many-sided, and this is strikingly demonstrated in his relations with the individuals over whom he more or less had control. He showed an extraordinary kindness of heart and even an excessive leniency to those who were incompetent or had committed errors, provided that they had in no manner clashed with his own principles. On the other hand, he

* See page 749, volume VII.

† See page 401.

‡ See page 100.

§ See page 206.

was unjust and even vindictive, probably owing to his intolerance of opposition and his natural hastiness of disposition, when an individual came into conflict with him.

Examples of his kindness may be quoted. In March, 1816, Macquarie reported* that he had found it necessary to remove surgeon Mountgarrett from the magistracy for improper conduct, and at the same time recommended his retirement from the position of surgeon on account of the loss of an arm. In the same despatch he severely criticised the conduct and capacity of surgeon Luttrell, and recommended his removal. Yet, in spite of such adverse reports, Macquarie proposed that pensions should be granted to both officers. The pensions were refused at first by the secretary of state, in consequence of Macquarie's reports, but on a second application were granted. His action with regard to a pension for Mrs. Eliza Bent was very similar.

His vindictiveness was shown on several occasions. One has already been noted, viz., his withdrawal of land grants and indulgences from the alleged signatories to a petition of grievances to the House of Commons.† His treatment of the Reverend Samuel Marsden was remarkable. At an early date the opinions of the latter had clashed with his own. Marsden had adversely commented on the appointments of Thompson and Lord to the magistracy. In the month of February, 1814, Macquarie and Marsden were again in conflict, owing to the refusal of the latter to read a general order in church. It had been customary to announce many general orders, relating to a variety of subjects, during divine service. As Marsden was largely engaged in farming pursuits, it is possible that his refusal to read this order,‡ which related to the supply of grain to the public stores, was due to a personal interest. A difference of opinion also arose over Marsden's attempted introduction of low-church doctrines. In 1817 Earl Bathurst transmitted an extract§ of a letter containing charges against Macquarie's administration, without disclosing the author's name. The governor wrongfully assumed that the letter was written by Marsden, and in his reply to Earl Bathurst made an attack|| upon him. At the same time, in a confidential despatch, Macquarie transmitted a list,¶ which included Marsden's name, of twelve

* See page 67. † See page xiv. ‡ See page 257 *et seq.*, volume VIII.

§ See page 197 *et seq.*

|| See page 495 *et seq.* and page 502 *et seq.* ¶ See page 500.

persons, whose dispositions he variously described as discontented, intriguing, vindictive, or seditious towards the colonial administration. Prior to this date, in spite of previous differences, there had been a certain amount of friendship between the governor and the chaplain; but, subsequently, Macquarie conceived the idea that whilst professing friendship Marsden was making secret attacks on him. The relations between the two became strained, and finally Macquarie took the grave step of taxing Marsden, in the presence of others, with the crimes of sedition and mutiny. The charge of sedition was based on the fact that Marsden had taken a deposition from the public flogger, relating to the corporal punishments* ordered by Macquarie for trespass on the government domain at Sydney. These punishments were grossly illegal, and, as J. T. Bigge reported,† it was probable, “from a consciousness, perhaps, . . . that he was without defence, Governor Macquarie from one error only fell into another” in making this charge against Marsden. The charge of mutiny was based on Marsden’s refusal, some years before, to be associated with the ex-convicts, Andrew Thompson and Simeon Lord, and his objection to the principle that ex-convicts should be admitted to general society. At the interview with the governor, Marsden declared that he would no longer act as a magistrate, a position which, by reason of his long residence in the colony, he was probably the most qualified to hold. He did not, however, give immediate effect to his resolution, but in March, 1818, he tendered his resignation. Macquarie thereupon announced in general orders that he “had been pleased to dispense with the services of the Reverend Samuel Marsden as justice of the peace and magistrate.” As it was Macquarie’s practice to publish an eulogistic statement of the services of a public officer on his retirement, this bald announcement conveyed the impression of a real dismissal accompanied by disgrace. It is evident that Macquarie’s conduct towards Marsden was most unjust, and it is probable that, had he listened to the advice of Marsden, many of the mistakes of his administration would have been avoided.

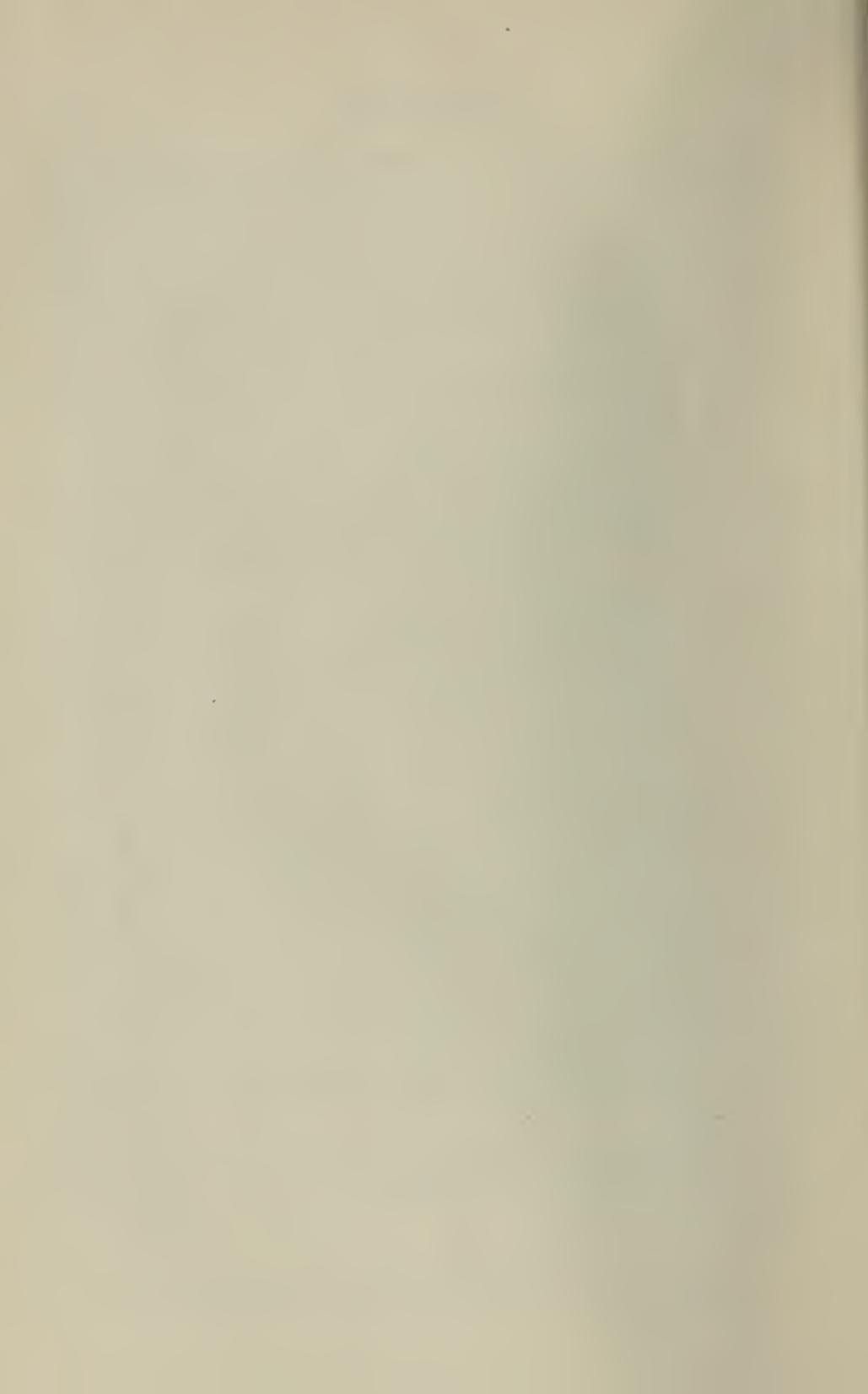
The conclusion of the discussion of Governor Macquarie’s administration will be found in volume X.

October, 1916.

FREDK. WATSON.

* See note 162.

† See first report by J. T. Bigge, page 92.



DESPATCHES.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

SIR H. E. BUNBURY TO GOVERNOR MACQUARIE.

(Despatch per ship Atlas; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 16th Jany., 1816.

I am directed by Earl Bathurst to transmit to you an Assignment of One hundred and eighty nine Male Convicts shipped on Board the Atlas. I have, &c.,

1816.
16 Jan.

Assignment
of convicts
per Atlas.

H. E. BUNBURY.

[Enclosure.]

UNDER SECRETARY BECKETT TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 14th Jany., 1816.

I am directed by Lord Sidmouth to transmit to you the within Assignment of 189 Male Convicts, which have been embarked in the Ship Atlas for the purpose of being sent to New South Wales, and I am to desire that you will lay the same before Lord Bathurst, and move His Lordship to be Pleased to forward such Assignment to the Governor of that Colony. I beg leave to observe that the Ship Atlas is now at Spithead under Sailing Orders.

I have, &c.,

J. BECKETT.

[Sub-enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Atlas; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 16th Jany., 1816.

I am directed by Earl Bathurst to transmit to you an application, which has been addressed to him by the Son of the late Governor King, with a Copy of the answer, which has been

Application
from lieutenant
King.

1816.
16 Jan.

returned to it by his Lordship's direction, in order that you may be apprized of the degree of expectation which has been held out to Mr. King, and consider yourself authorized to fulfil the intention Lord Bathurst has expressed in the event of Mr. King's proceeding to New South Wales.

I have, &c.,
HENRY GOULBURN.

[Enclosure No. 1.]

LIEUTENANT NORFOLK KING TO EARL BATHURST.

No. 1 White Harte Court, Brook Street, Holborn,

My Lord, 4th Jan., 1816.

Having no Friends to present my Petition, I have Taken the Liberty of Inclosing it to your Lordship, Trusting that the Claims therein stated will move your Lordship to Interest yourself in my Behalf, in enabling me to get out and Settle in the Colony of Van Dieman's Land.

I can assure your Lordship that it is the total want of Friends that gives me the Honour of Subscribing My self,

Your Lordship's, &c.,
NORFOLK KING, Lieutenant in the Royal Navy.

[Enclosure No. 2.]

THE PETITION OF LIEUTENANT NORFOLK KING.

To the Right Honorable Earl Bathurst, Principal Secretary of State for the Colonial Department.

THE Humble Petition of Lieutenant Norfolk King, Royal Navy, Sheweth,

That your Petitioner is Son to the late Captain Philip Giddley King, and late Governor of His Majesty's Territory of New South Wales; that, Your Petitioner was born at Norfolk Island in the Year 1788, and supposed to be the first human being born on that Island from which circumstance he takes his name.

That Your Petitioner held a Grant of Land* on Norfolk Island, of which the evacuating that Island deprives him.

That Your Petitioner is given to understand that those Persons, deprived of Land in the above Island, have been remunerated by a proportion of Land in Van Dieman's Land.

That Your Petitioner entered His Majesty's Navy at the age of 14, was promoted to the rank of Lieutenant in 1810, and has been constantly employed.

And Your Petitioner, as in duty bound will ever Pray,

NORFOLK KING.

Transmission
of petition.

The petition
of lieutenant
King.

* Note 1.

[Enclosure No. 3.]

1816.
16 Jan.

UNDER SECRETARY GOULBURN TO LIEUTENANT KING.

Sir, Downing Street, 16th January, 1816.

I am directed by Lord Bathurst to acknowledge the receipt of your Letter of the 4th instant, and to acquaint you that directions have been given to the Governor of New South Wales to place you on the same footing with other Persons possessed of Land in Norfolk Island at the date of its evacuation; but, as Government have ceased to give free Passages to Persons proceeding to N. S. Wales, it is not in Lord Bathurst's power to comply with that part of your request.

Compensation
to be granted
to lieutenant
King.

I have, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 1 for 1816," per H.M. brig Emu*; acknowledged by Earl Bathurst. 30th January, 1817.)

My Lord, Government House, Sydney, 20th February, 1816. 20 Feb.

Previous to entering upon the Business which is to constitute the principal object of this Letter, I have with much regret to inform your Lordship that Ellis Bent Esqre., our late Judge Advocate, who has been for a long time in a declining State of Health, at length paid the last Debt of Nature on Friday the 10th of November, 1815. His disease latterly proved to be a Dropsy in the Chest. Some weeks before his Decease, finding his complaint increasing on him, he had taken the resolution of returning to Europe by the Way of India in the Hope that the Voyage might be of Service to his Health, and for this purpose had applied for and obtained my permission; his complaint however increased too much to allow him to carry that purpose into Effect, and he had in consequence relinquished it.

Death of
judge-advocate
Ellis Bent.

My late Dispatches will have informed your Lordship of certain parts of Mr. Bent's Conduct having been very offensive and disrespectful to me, which I had much reason to resent, having uniformly endeavoured to serve him and his family to the utmost extent of my power, as I could well convince your Lordship, were it necessary, by the recital of those Services which I had rendered him in this Country; but my Successful recommendation of him, to the Earl of Liverpool your Lordship's Predecessor, for an Increase of Salary will itself be Sufficient to Shew how much disposed I was to be his Friend. Neither do I, even now, either regret that I had so interested myself on his behalf, or consider that I Suffered private Regard in any degree to lead me to make any favourable communication respecting him which was not due to his Public Character as Judge Advocate.

Conduct of
Ellis Bent
towards
Macquarie.Friendship of
Macquarie for
Ellis Bent.

1816.
20 Feb.

Report on
administration
of Ellis Bent.

And now, my Lord, when Death has put an end to all responsibility on his part for his altered conduct towards me, and notwithstanding that I did not receive any communication from him expressive of Regret for the part he had latterly taken in opposition to me and my measures, altho', as he felt himself evidently passing out of Life, I had entertained a degree of Hope that he would in some sort have done so, I still feel that I should write of this Gentleman to your Lordship in those Terms which his Administration of the Law in his official Capacity here seems to me to merit.

Ellis Bent's
public
character.

The family of
Ellis Bent.

In the very arduous discharge of his Duties as Judge Advocate I am free to say that Mr. Bent's conduct alike gave full and perfect Satisfaction to myself and the Public, to whom He faithfully, indefatigably and ably administered Justice, so long as his Health enabled him to take the Bench. Mr. Bent has left a widow in an advanced State of Pregnancy, and four children, the eldest of whom is under Eight years of age, and I fear they are left in a very unprovided destitute State. I combine the circumstances of Mr. Bent's upright character as a Judge with that of the Severe Loss Sustained by his family by his decease, in order that this latter event may the more forcibly Impress on your Lordship's humane consideration the Distress entailed on his helpless family.

Report on the
misconduct
of J. H. Bent.

Having thus paid a just Tribute to the meritorious Services of the deceased, I shall now proceed to a much less pleasant Duty, which is the Recital of Acts, most daring and insulting to me and my Government, which Mr. Jeffery Hart Bent, the Judge of the Supreme Court here, has continued unceasingly to manifest Since the Period of my former communication* to your Lordship on the same Subject.

Construction
of roads by
Macquarie.

Previous however to entering on the particularly offensive part of Mr. Justice Bent's Conduct, I must beg to call to Your Lordship's Recollection that, shortly after my arrival in this Country, finding its progress towards Comfort and Wealth much impeded by the want of good Roads to lead to the Farms and Settlements in the Interior, and that the Cultivators and Graziers were thereby much discouraged in their Undertakings, whereby the indispensably necessary Supplies from thence were rendered at Head Quarters not only precarious but also excessively dear, I say, my Lord, finding this to be the Case I early determined on the construction of good roads, which by local funds I have been happily enabled to effect to the mutual advantage of the Crown and the Public. One of these Roads and the earliest as to the time of its Construction, is that leading from hence to Parramatta, which has been Subsequently continued to Windsor on

* Note 3.

the River Hawkesbury, 36 miles from hence, in the Heart of our principal Grain Country. When this road was completed, I considered it expedient to place Turnpikes on it, and to Cause a moderate Toll to be levied thereon, not only to keep the Road itself in Repair, but also to repay to the Police Fund eventually the considerable sums which had been drawn thence for its construction. In adopting this measure, however, I considered it advisable to consult with the late Judge Advocate Bent (the only Law Officer of the Crown then in this Territory) and having obtained his decided opinion in favor of its Justice and Legality, I got him to frame in the Technical Terms of Law, a Suitable Proclamation for me to issue for the information and guidance of the Public on that occasion. This he very willingly did, and in terms perfectly corresponding with my wishes. A Copy of that Proclamation (dated 30th March 1811) forms the last in the Series of documents which I transmit herewith for your Lordship's perusal and Information.

1816.
20 Feb.
Turnpikes
and tolls
established.

Proclamation
framed and
approved by
Ellis Bent.

Having made a communication* to Lord Liverpool, at that time Secretary of State for the Colonies in regard to the expence attending the Construction of this Road, and also transmitted Him a copy of the Proclamation apprizing His Lordship of my Intention to appropriate the Surplus of the Tolls, after making the necessary repairs on the Road, to the Liquidation of the Debt contracted to the Police Fund, His Lordship was pleased to approve of the Expenditure for the reasons assigned, and the more particularly from my having, by the Establishment of Tolls, provided a Source whence the original expence would be eventually discharged. Thus far, my Lord I have entered into these long past and minute circumstances in order to Shew that the establishing a Toll on the road between Sydney and Parramatta being deemed a legal measure by Judge Advocate Bent, and the Same having been also approved by your Lordship's Predecessor, I had the most satisfactory reason to consider the Measure perfectly within the Limits of my Authority. The Benefit resulting to the Public has been justly appreciated, and I have the pleasure to add that the Tolls imposed have been most cheerfully paid by every Person using the Road, All being alike sensible of the very great Benefit resulting from it, and also perfectly satisfied with the moderation of the Toll enacted. My own public Duty requiring that I should from time to time pass into the Interior, I thought fit to exempt myself and Suite from the Payment of the Tolls, and for Similar reasons I likewise exempted the Lieutenant Governor. I had also in contemplation to exempt the Judge Advocate (rather however as a courtesy and acknowledgment for his having framed the Proclamation and antecedently rendered

Approval of
policy by Earl
of Liverpool.

Legality of the
levy of tolls.

Public
satisfaction
with the
toll system.

Exemption of
governor,
lieut.-governor
and suites
from tolls.

* Note 3.

1816.
20 Feb.

Refusal of
judge-advocate
to accept
exemption.

me other legal assistance and advice, than from his having any Public Duties to perform which could warrant such Exemption); but, on consultation with him on that point, he very candidly admitted that he had no reasonable Ground for claiming Such Indulgence arising out of the nature of his appointment, and foreseeing that if I were to extend it him, every ordinary Magistrate and other Officers of the Crown would demand the Same as a right, he freely relieved me from the measure, and the exemptions have been confined to the Lieut. Governor and myself, and our respective Families.

Thus I have brought the history of this Road and of the principal circumstances connected with it down to the period of the Arrival of Mr. Justice Bent in this Country in July, 1814; and I have now to inform your Lordship that it has been reserved for that Gentleman to call in question the Legality of the Small Tax laid on the use of the Road, and to be the first and only Person, who has ever shewn the Slightest Inclination to oppose its payment or to remonstrate either against its expediency, Legality, or amount. The first intimation I had from Mr. Justice Bent on this Subject was that in the first letter of the Series which accompanies this; it is dated the 18th Augt., 1815. In it he is pleased to inform me that no Difference exists between the Civil powers of the Governor, the Lieutenant Governor, and Judges of this Colony, and consequently, that he has an equal right with them to be exempt from paying the Toll. Indeed he Subsequently adds that the demand of Toll is Illegal, as I possess no legal power or authority whatever to Levy *Taxes* upon the Subject. A Position which not only goes to the rendering the Tolls so Collected Illegal, but, by its indefinite nature, equally affects all other Duties or Imports, and consequently Strikes at the existence of every Colonial Fund whatever; for all the Duties on Imports or Exports, the Sums levied upon Licences for the keeping of Public Houses, and all others, which constitute and go to the Support of that Fund, have been laid on by the Governors from time to time, and, of course, are fit Subjects by this Doctrine for resistance by all who are required to pay them. The Subsequent part of this letter, filled with false assertions, and malignant Insinuations, and concluding with a threat that unless I remove the cause of his Complaint that he should resist the Payment, drew from me under the same date a short Reply, No. 2, expressing my indignation and Contempt. I had hoped that this mode of Treating his Threat would have at least relieved me from any further communications from him on this Subject; but in this I was disappointed, for on the 25th of the Same Month He addressed me again, complaining of the bad

Legality of
levy of tolls
questioned by
J. H. Bent.

Claim of
J. H. Bent
to exemption
from tolls.

The governor's
power to levy
taxes.

J. H. Bent's
threat to resist
payments.

state of the Road and Bridges, and equally falsely stating that there is only one Trustee* for the Road, altho' in fact there are three Gentlemen in that Situation, and re-iterating that the Toll is contrary to Act of Parliament and Arbitrary; and finally he taxes me in direct terms with having lost sight of my own high Station and totally forgotten the Rank and Office that he holds in this Colony.

To follow Mr. Bent further thro' the Series of Letters into which he has continued to annoy me on this Subject appears to be unnecessary, as the Letters themselves and my answers with the proceedings, which took place before a Magistrate, in consequence of Mr. Bent having Violently forced a Passage thro' the Turnpike gate, are all transmitted herewith, and will fully exemplify the disposition of Mr. Justice Bent to bring my Government into the utmost contempt and ridicule, and these will, I trust, meet your Lordship's most decided Reprobation. It is not for me to expatiate to your Lordship on the dangerous consequences of any Man under a Colonial Government presuming to oppose the ordinary measures of that Government, but more particularly on the extraordinary impropriety of a Law Officer of Mr. Bent's Rank enlisting himself as the Champion of a weak and wicked faction to impede the just measures of Government, to Increase the Taxes on the Mother Country by annihilating all those levied in the Colony itself, and to pronounce on the Illegality of measures which he might possibly have to pass legal Judgment upon in his own Court of Justice, were other persons to be found who would render Such an appeal necessary.

When I inform your Lordship that the total amount of the Tax as it would affect Mr. Bent could not possibly exceed threepence per day, for he has never kept any carriage and only one road horse since, in evil hour, he came into this country; I trust it will thence appear pretty evident that it is not for the sake of Saving that Sum that his opposition is founded. And Altho' he has Stated in one of his Letters that he is actuated in his opposition to the Tax by a Sense of Public Duty only, and a consequent wish to do it away as an Arbitrary and Illegal Tax, oppressive in its operation to the Community, yet he has also Said in those Letters that if he be himself Exempted from it, his opposition to it will cease. Here, My Lord, are two assertions So diametrically at variance, one with the other, that one is at a loss to know what kind of understanding the man is possessed of, who would lend his name and Character to them. Evident however it is that his Public Spirit is not very ardent, when the absolving himself from the payment of a paltry tax, which

1816.
20 Feb.

Criticism
of the road
administration.

J. H. Bent's
refusal to
pay tolls.

Consequences of
J. H. Bent's
action.

Conflicting
reasons given
by J. H. Bent
for his action.

* Note 4.

1816.
20 Feb.

Conflicting
reasons given
by J. H. Bent
for his action.

could only affect him to the amount of three pence per day, He declares himself ready to abandon the good cause in which he had volunteered his manly Struggle with the Deputy Keeper of the Turnpike Gate, and forced his passage thro' it for the purpose of inducing others to follow his example. That I may not be considered as either Straining the Sense or forcing constructions which Mr. Bent's Language does not bear, I beg particularly to refer your Lordship to his letter of the 18th August, passing from the fact of his requiring Exemption from the Toll, merely for himself, without any regard whatever to the Hardship of others being obliged to pay it, and for the declaration of his motives being disinterested without any private Views, and his being actuated by a Sense of Public Duty only, the last passage in his long Letter dated the 2d of October and numbered 8 in the accompanying Series will Show.

Public
degradation
alleged by
J. H. Bent.

I shall now conclude my remarks on Mr. Bent's Conduct in regard to the Turnpike Gate and the payment of Tolls with requesting your Lordship's particular attention to the circumstance, that whilst he expresses himself much Shocked at my not having prevented his being rendered responsible to Justice for the Violence used by him in forcing a passage thro' the Toll Gate, whereby his Rank and judicial character have been in his eyes So much degraded, yet he does not allow himself to consider for a moment that if his feelings be so much violated that mine Should be still with much more reason injured by his Stepping forward thus publickly to call in question my Authority, and threatening to burn or destroy the Turnpike Gates, an Act in itself fully declaratory of his considering himself not merely equal with me in Authority and Privileges, as he had stated in the first letter of the annexed correspondence, but that he was invested with even Superior Authority to mine.

Proposed
absence of
Ellis Bent
on leave.

The next subject of correspondence with Mr. Bent, which I have now to advert to, arose out of the Intention, once entertained by his Brother the late Judge Advocate to return to England for the benefit of his health. On this occasion, under date the 24th October, 1815, I received a Letter from Mr. Justice Bent marked in the Series No. 10, wherein he very justly remarks on the evils which must result from the Suspension of the Court of Criminal Jurisdiction by his brother's absence, unless some other person were nominated to supply his place; and there makes a Tender of his own Services for that purpose under the Sanction of my Warrant, but proceeds to express himself sensible of Incurring thereby a heavy Responsibility, and that he should have great reluctance in passing the Sentence of Death, unless

J. H. Bent's
offer to act as
judge-advocate.

he should be assured that it would not be carried into Effect until the pleasure of His Royal Highness the Prince Regent should be made known.

1816.
20 Feb.

A Tender of Services from a Man, who had so far lost sight of all Respect for me and my Authority, combined as it was with a restriction in regard to the Execution of the Sentence of the Law, which rendered altogether nugatory the purposes of a Criminal Court, would in themselves have been quite Sufficient to prevent me from accepting such paralyzed Services, but objections of a different kind were not wanting. Mr. Jeffery Hart Bent having been appointed the Judge of the Supreme Court, the Functions of which had been distinctly Separated in the New Patent from those of the Governor's Court, or that in which his Brother presided, I conceived that they could not be legally blended again in the Person of any Individual by me, and consequently I considered Mr. Justice Bent as legally incapacitated to fulfil its functions, whilst I felt equal difficulty in relieving him from the Duties of the Supreme Court altogether for the purpose of assigning him those of the Governor's Court, as in that Case if there should be any Question as to my having the right of nominating, pro tempore, to either Court, as Mr. Justice Bent Seems to imply by his qualifying the Terms of his undertaking the Duties of the Governor's Court, that objection would by such management have been doubled, as I should then have to appoint by my own Authority both to the Governor's and the Supreme Court, which latter would be vacated by Mr. Justice Bent's accepting the other. Such were the Reasons on which I declined Mr. Bent's Offer of Services and I trust your Lordship will approve my having done so upon every principle which I have assigned.

Objections to the acceptance of J. H. Bent's services.

Feeling however very Sensibly the Embarrassment which must necessarily arise from the Suspension of the Functions of the Governor's Court, and particularly those of the Criminal Court, which were left without a Head by the Death of Mr. Judge Advocate Bent, I considered it Incumbent on me to supply the deficiency by appointing Mr. Solicitor Garling, ad Interim, to be Judge Advocate (on which Subject I shall address your Lordship more at large in another Dispatch*), and I then communicated his appointment to Mr. Justice Bent, requesting him, as representative of his deceased Brother to deliver over to Mr. Garling the muniments and documents of whatever nature belonging to the former Court of the Judge Advocate, and of the late established Governor's Court; to this letter I received a Short answer, but with which I was perfectly Satisfied, as I conceived from it that Mr. Justice Bent meant to comply fully with my desire;

Appointment of F. Garling as judge-advocate.

Judge-advocate's papers to be delivered to Garling.

* Note 5.

1816.
20 Feb.

J. H. Bent's
refusal to
deliver certain
papers and
statutes.

but several days afterwards I was under the necessity of addressing him again on the Same Subject, being Informed by Mr. Garling that he had refused to deliver up those documents which were of the very first Importance, alledging that they were the private property of his late Brother. In my letter on this occasion, I also requested Mr. Justice Bent to deliver to Mr. Garling the Sett of the Statutes which his Brother had lately received, as I had understood from Mr. Ellis Bent, for the Use of his Court and consequently the property of the Crown. I was the more confirmed in this opinion in consequence of Mr. Ellis Bent having asked me what he should do with the older Sett of the Statutes, which had been delivered over to him as the property of the Crown by his Predecessor, Mr. Judge Advocate Atkins. In this letter I requested that the Old Sett should be sent to the Government Library in Government House, unless Mr. Justice Bent wished to retain it for the use of the Supreme Court. This letter induced a Reply, which was very unnecessarily and unprovokedly replete with unmannerly and insulting language in regard to myself, and virulent Invictive against Mr. Judge Advocate Garling, the latter Circumstance appearing to me the more extraordinary as Mr. Justice Bent had on former occasions boasted much of Mr. Garling's professional Knowledge, taking to himself the merit of having recommended him to His Majesty's Ministers for the Situation of Law Solicitor in this Country. But Mr. Jeffery Bent's Inconsistencies are too numerous to be further dwelt on. Indeed I know of only one part of his Conduct which lays any claim to consistency, and that is the unqualified opposition, and low mean resistance to all and every measure of my Government. Mr. Bent now retains the old Sett of the Statutes for the use of his Court not in consequence of my having given him the liberty to do so, if he wished it, but as he says because it now appertains to the Supreme Court, although he does not condescend to Explain by what authority such Transfer, independent of me, has taken place.

Macquarie's
reasons for
making report.

I have now, My Lord, gone thro' the principal Points on which I have felt it my Duty to Inform your Lordship, respecting the treatment I have experienced at the Hands of Mr. Justice Bent, since my former communications* on the Same disagreeable Subject, and I do feel much regret at being by this means obliged to obtrude myself at Such Length on your Lordship's most valuable and important time, particularly as I am obliged to Involve in this Representation several circumstances, which appear more of a personal nature to myself than of Political Importance; but as the Head of this Government and the Representative of His

* Note 3.

Majesty in it, I cannot but consider all attempts at rendering me, or my administration odious, as a most unwarrantable measure and calling loudly for Redress.

1816.
20 Feb.

In consequence of Mr. Justice Bent not having effected his design of excluding all other Attorneys from acting in the Supreme Court, except the Solicitors, Garling and Moore, no Court has been held by him, nor is it his Intention to hold one until the Point, in regard to the re-admission of Attornies Sent hither as Prisoners, shall be determined agreeably to his own wishes in the Negative.

Suspension
of sittings of
supreme court.

Under all these Circumstances, I have now, my Lord, only to express my fullest and firmest conviction that no Court of Law, wherein Mr. Bent shall preside, will ever render this Colony a Service, and that his Midnight Cabals and petty Factions will render this Government, in whatever Hands it may be placed, a Source of Constant Inquietude and annoyance to its Head.

J. H. Bent's
opposition to
government.

I trust your Lordship will Sympathise with the warmth of my expressions on this occasion, duly weighing the wanton and unwarranted provocations I have received, and that your Lordship will for Similar Reasons excuse the Diffusiveness of the present communication, which, under all the Circumstances, I know not how to compress.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sir,

Sydney, 18th August, 1815.

In consequence of a Demand having been made upon me for Toll, I am induced to address your Excellency upon that Subject.

Since His Majesty's most gracious Charter has made no Distinction between the Governors, Lieutenant Governors, and the Judges of this Colony, but in the Same Clause* conferred equal Civil Powers, I should have hoped that no Distinction in Privileges would have been made in the Colony itself, and that if I had happened to have been arrived in this Country at the time of the Establishment of the Turnpikes, the Same Immunity, which has appeared right to be given to the Lieutenant Governor, would have been extended also to me.

J. H. Bent's
claim to equal
privileges with
governor and
lieut.-governor.

But notwithstanding your Excellency has made so mortifying a Distinction between the Lieutenant Governor and His Majesty's Judges, and notwithstanding I am well aware of the Illegality of the Demand, and that your Excellency possesses no legal Power or Authority whatever to levy Taxes upon the Subject, I

Illegality of
toll system
alleged.

* Note 6.

1816.
20 Feb.

Criticism of the
administration
of the roads.

am so much alive to the advantages arising from good Roads that I should have most willingly contributed my Quota towards their maintenance, had I not from the neglected State of the Road sustained considerable personal risque, and had I not found that, instead of the System general in England with respect to the Turnpike roads being resorted to here, namely the appointment of Trustees for the purposes of collecting the Tolls and seeing to the due application of the Money on the Roads from which it was collected, and who are by Law responsible for the good State and Repair of the Roads, a new and arbitrary mode has been adopted, and only one person* appointed by your Excellency, whose Duty Seems only to be to Sett the Tolls to farm, and who has not the Slightest power to lay out anything upon the Roads, or even to order any the most necessary Repairs, and whose Office and name of Trustee are alike Nugatory and appear to me a mere Blind for those who have not the means for personal information on this point, and had I not also found that the sums levied are carried to a general Account, and no part appropriated to the repair of the Road on which they were collected, or to those purposes which could alone form a Reasonable Pretence for their exaction.

Under these Circumstances I feel myself justified in declining to pay a demand absolutely Illegal, or to Submit to a Burden from which your Excellency has relieved yourself and the Lieutenant Governor, and your respective Families and Suites.

As I must always feel great reluctance to disturb any arrangements of your Excellency, or to impede in any manner the execution of any measures adopted previous to my arrival in this Colony, I thought it proper before my determination became Public to apprise your Excellency, in order that an opportunity might be afforded of removing the necessity that leads to it.

I am, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

[Enclosure No. 2.]

ANSWER TO MR. JUSTICE BENT'S LETTER OF DATE, 18 AUGUST, 1815.

THE Governor has received a most Insolent and disrespectful Letter of this day's Date from Mr. Justice Bent, full of gross misrepresentations and Calumnies, which merits no other answer than his expression of Contempt for the Weak and Ineffectual Efforts of the Writer to disturb the peace of the Colony, and counteract the measures of his administration.

Government House, Sydney, 18th August, 1815.

* Note 4.

Refusal of
J. H. Bent to
pay tolls.

Macquarie's
reply.

[Enclosure No. 3.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

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20 Feb.

Sir,

Sydney, 25 August, 1815.

I have to acknowledge the receipt of your Excellency's note of the 18th Inst., and feel it necessary in my own justification from the Charges which your Excellency has made, to reassert my former Statements, and clear them from the harsh Epithets bestowed upon them.

It is a matter of general notoriety that the Parramatta Road and the Bridges upon it are in a bad state of repair, and it is also a matter of great and general Complaint that so heavy a Toll should be enacted for so bad a Road, the first few miles of which, after the last rains we had, were Scarcely passable. Public dissatisfaction alleged.

I have stated that so far from the System of England being adopted, only one Person was appointed by your Excellency (nominally) as a Trustee, and I find on reference to the Statement of Officers in the General Almanack,* published by Authority, and Submitted to your Excellency's Inspection, that there is only one person of such a description, and I find also from the Quarterly Statement of the Colonial Fund published in the Sydney Gazette that the Treasurer gives credit for the Tolls so paid into his Hands. The management of the roads.

I may state without fear of contradiction that no money is paid out of the Colonial Fund without your Excellency's War- rant, and that the Trustee of the Roads neither considers himself, nor is considered by others, as responsible for their repair; that he has never in fact ordered any, and has not any control over or power of drawing or expending any part of the Tolls whatever, and that his duty is entirely confined to Letting the Tolls to Farm. I may again say that such a System is contrary to that established in England by numerous Acts of Parliament in cases of Turnpike Roads, and that it is (to me at least) both new and arbitrary; I feel justified in the Inference I drew from these Facts that there is no person in England hearing that a Trustee of the Roads had been appointed but would conclude that he has the Same powers and was Subject to the Same Responsibilities as Similar Trustees at Home, and no one could Conceive Such Person was a mere non-efficient, or that your Excellency (as the fact undeniably is) had the sole and entire control of the Repairs of the Roads and as to the expenditure of the Tolls levied from them. Powers of the trustee of the roads.

I have further Stated that from the Burthen of those Tolls your Excellency has thought proper to free yourself, the Lieutenant Governor, and your respective families and Suites, and I think your Excellency will admit that to be a fact that I have not misrepresented. Exemption of governor, lieut.-governor and suites from tolls.

* Note 4.

1816.
20 Feb.

J. H. Bent's
request for an
explanation.

If I have not been correct in these Statements of my letter of the 18th Inst., the means of proving their Incorrectness must be in your Excellency's power, and I think myself fairly entitled to call upon your Excellency to show what I have grossly misrepresented, or wherein I have calumniated, or how a wish to render even an illegal measure Satisfactory to the Public can be construed as a desire to disturb the peace of the Colony.

Appropriation
of tolls levied.

I may now add that your Excellency seems to me to have fallen into the error of considering the Tolls as a Branch of Public Revenue, and not as in England exclusively devoted to the due maintenance and Repair of the Roads from which they are levied.

With respect to the Style and tone of Your Excellency's late Communication to me, I shall restrain myself to observing that no Judge in any part of His Majesty's Dominions was ever before treated with so much indignity, and that your Excellency appears in the Ebullitions of your Violence to have lost Sight of your own high Station and to have totally forgotten the Rank and Office.

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

[Enclosure No. 4.]

ANSWER TO MR. JUSTICE BENT'S LETTER OF DATE, 26 AUGUST, 1815.

Macquarie's
refusal to
reply to
J. H. Bent's
criticism.

THE Governor has received Mr. Justice Bent's letter of yesterday's date, and has only to refer him to his Note of date 18th Inst. in reply to Mr. Bent's letter of that date; his last letter admitting of no other answer from the Governor.

Excepting upon points of Public Duty immediately belonging to or connected with Mr. Justice Bent's Official Situation as Judge of the Supreme Court, the Governor must decline all further Epistolary Correspondence with him.

Government House, Sydney, 26 August, 1815.

[Enclosure No. 5.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sydney, 28th August, 1815.

All previous
correspondence
of official
nature.

THE Judge of the Supreme Court begs to remind Governor Macquarie that all his Relations with this Colony, and his late as well as former Correspondence with His Excellency, have resulted Solely from his Judicial Station, and he has to express his sincere regret that his Correspondence Should have been hitherto principally confined to a Resistance to Governor Macquarie's improper Interference with him as a Judge, and a Remonstrance against Measures trenching in his opinion on the Liberties of the Subject.

Mr. Justice Bent has never as a private Individual had any Knowledge, Acquaintance or Correspondence with Governor Macquarie, and from the mortification he has in his public Station experienced from His Excellency should by no means think such private Knowledge or acquaintance desirable, or feel himself much honored by such correspondence.

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Private
correspondence
not desired.

[Enclosure No. 6.]

[1] Mr. D'ARCY WENTWORTH TO GOVERNOR MACQUARIE.

Sir, Police Office, Sydney, 9 September, 1815.

I have the Honor to Communicate to your Excellency the particulars of a Complaint made at this Office on the 6th Inst. by Messrs. Redman and Cullen, Proprietors of the Tolls arising from the Gates between Sydney and Parramatta, against Jeffery Hart Bent, Esqr., for refusing to pay Such Dues as he was from time to time liable to, and acting forcibly against the payment thereof. I was therefore under the painful necessity of proceeding to take Depositions touching the Matter, but wishing to act with all possible Delicacy towards a person holding So high a Situation in this Colony, and accidentally noticing him passing My house the day following, I thought proper verbally to communicate to him the Substance of the Charge with the View and hope that a little Reasoning on my part would induce him to make Such a Concession as might tend to render the adoption of other Measures unnecessary; but in that expectation I was disappointed, and have to regret that instead of Mr. Bent's appreciating the Compliment paid him on that occasion, he appeared to treat it and the Regulations adopted on that Head with the utmost Disrespect. I was therefore compelled to proceed in the usual way by Summons, to which I received in reply a Letter dictated in Terms highly contemptuous of my Authority and, as I presume, Subversive of Law; but, feeling that I was justified and warranted in my proceedings, I on the Return of the Summons and due proof of the Services thereof proceeded ex parte, and finally adjudged that Mr. Bent had forfeited the Sum of forty Shillings Ster'g, to be appropriated as the Law in Such Cases directs; and, in doing so, I acted with forbearance, for I mitigated to the Smallest Sum in a Case where Strictly Speaking no mitigation was due; but I did so with a further View and Hope that Such forbearance would operate as an indirect Testimonial of my Delicacy in an Affair which was as repugnant to my feelings as its agitation would, I felt persuaded, be to your Excellency's wishes.

Complaint re
J. H. Bent's
refusal to
pay tolls.

J. H. Bent
summoned and
fined for refusal
to pay tolls.

I have respectfully to add that I have not as yet proceeded further, and still entertaining the greatest regret that a Person.

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holding so high a Situation in the Judicial Departments of the Colony, should have so acted, I have considered it adviseable before I do so to transmit for your Excellency's perusal a Copy of the Proceedings so taken. I have, &c.,

D. WENTWORTH, J.P.

[2] PROCEEDINGS BEFORE THE SUPERINTENDENT OF POLICE.

Territory of New South Wales }
County of Cumberland To Wit. }

Before D'Arcy Wentworth, Esqr., one of His Majesty's Justices of the Peace for Said Territory.

THE Examination of MICHAEL WYER Servant in the Employ of Messrs. Redmond and Cullen, Proprietors of the Toll Gate between Sydney and Parramatta, who, being duly Sworn, Depose That he has been stationed for some time past at the Tollgate at the lower end of George Street, Sydney, being one of those held by Said Redmond and Cullen, by whom he has been there placed for the purpose of collecting the Tolls arriving at Said Gate, pursuant to His Excellency the Governor's Proclamation having date the Thirtieth day of March, One thousand Eight hundred and Eleven, creating Such Tolls, and their purchase thereof at Public Vendue for the year, commencing on the first day of June last and ending on the thirty first day of May next, as he this Examinant has heard and Verily believes; and Saith that he this Examinant having some days Since reported to said Redmond and Cullen, in whose Employ he so is, that Jeffery Hart Bent Esqr. had been in the constant Habit of riding and driving through Said Gate without paying the accustomed and established dues, and moreover that he the said Jeffery Hart Bent had refused upon one occasion to pay Same, and further that he had publicly asserted that he never would pay Toll, they the Said Redmond and Cullen in consequence thereof directed this Examinant in future to prevent the Said Jeffery Hart Bent from passing thro' Said Gate unless he paid Such Toll, as he was liable to pay. And Saith that about the hour of Three o'clock in the afternoon of Yesterday, Examinant having perceived the Said Jeffery Hart Bent riding on horseback, accompanied by a Mr. Nicholas also on horseback, coming from Sydney towards the Gate at which Examinant was so stationed, he, this Examinant, therefore Closed the Said Gate and upon the arrival of Said Jeffery Hart Bent and Mr. Nicholas thereat, this Examinant, in the most respectful manner addressing the Said Jeffery Hart Bent, told him that he had orders from his Employers not to let him pass without paying Toll; whereupon the Said Jeffery Hart Bent said "I'll pay no Toll, I am Judge of this

Proceedings
at inquiry re
J. H. Bent's
forcible
resistance to
payment of
tolls.

Colony. I'll pay no Toll whilst I am in it, and if you don't let me pass I'll Send you to Jail." Examinant then informed him that he might do so, but that he, Examinant, would not open the Gate; that the said Jeffery Hart Bent then got off his horse and taking hold of the Gate said he would have it cut down and burned; that he then violently Shook the Gate whereby the Chain was loosened and the Gate opened; that Mr. Bent then passed thro' without paying Toll and Mr. Nicholas whilst waiting to receive Some change due to him observed to Examinant that he was a fool for his pains, for that it was on account of the Governor that he (meaning Mr. Bent) did so; Saith that immediately after said occurrence, Examinant reported the Circumstance herein stated to Mr. Patrick Cullen, one of the Proprietors, who in consequence thereof directed that Examinant might attend at the Police Office this morning.

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at inquiry re
J. H. Bent's
forcible
resistance to
payment of
tolls.

MICHL. WYER.

Sworn before me this 6th day of September, 1815:—

D. WENTWORTH, J.P.

PATRICK CULLEN being sworn deposeth that on the first day of June last he, in conjunction with Edward Redmond of Sydney Dealer, became proprietors of the Tolls arising from the Turnpike Gates between Sydney and Parramatta for one year, and saith that having some days Since been informed by Michael Wyer the last Examinant, who has been stationed at the Tollgate at Lower end of George Street for the purpose of collecting the Tolls arising at Said Gates, that Jeffery Hart Bent Esqr. was in the Constant habit of passing Said Gates without paying Toll, and peremptorily refused to pay any, he, this Examinant, in consequence thereof personally attended at the said Gate for Some days afterwards in order that he might have an opportunity of enquiring into the particulars or cause of such refusal, and Saith that on Thursday last having gone a short distance from the Gate the Said Jeffery Hart Bent accompanied by a Mr. Nicholas in a Gig happened to pass through the Gate before Examinant noticed them; but after proceeding a few yards Examinant followed and demanded of the Said Jeffery Hart Bent, who held the Reins on that occasion, that he might pay the Toll he was then liable to; whereupon he the said Jeffery Hart Bent Stood upon the Gig and said "You damned Scoundrel, who are you, do you Know who I am?" Examinant answered "Yes," but that he Examinant was one of the Proprietors of the Toll Gates, and that he would not be robbed by him or any one else; that the Said Jeffery Hart Bent then made use of the Epithets "Scoundrel and Rascal" towards Examinant, and

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at inquiry *re*
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forcible
resistance to
payment of
tolls.

peremptorily asserting that he never would pay Toll, in a most angry manner threatened that he would commit Examinant to Jail for his Natural life and called to Samuel Champness, a constable then Standing near, to take Examinant into Custody; Whereupon Examinant Said he would not be taken into Custody by him or any body else, as he was only doing his Duty; that Mr. Bent then proceeded on without paying Toll, in consequence of which Examinant directed Michael Wyer before named to Shut the Gate in future upon Mr. Bent and not let him pass unless he paid Toll.

PAT. CULLEN.

Sworn before me same time:—D. WENTWORTH, J.P.

SAMUEL HOCKLEY being Sworn deposeth that he was at the lower end of George Street near the Turnpike about the hour of Three o'clock on Tuesday Evening last and witnessed the Transaction Stated in the deposition of Michael Wyer the first Examinant.

This Examinant Saith that upon the approach of Mr. Bent and another gentleman, Wyer shut to the Gate and hung on the Chain. He then went towards Mr. Bent, whom he respectfully addressed, and told him that his Master directed him to shut the Gate against him till the Toll was paid. Mr. Bent replied that he would put him to Jail. He then got off his horse, took hold of the Gate and Shook it violently, till it flew open; he then Said he would have the Gate Cut down and burned, for that he would be damned if he would pay any Illegal Toll whilst he was in the Country; after which he mounted his horse again, threatened he would have Wyer put to Jail, and rode away without paying the Toll.

his
SAMUEL X HOCKLEY.
mark

Sworn before me this 7th day of September, 1815:—

D. WENTWORTH, J.P.

Fined in the Mitigated Penalty of 40s.

Summons issued
to J. H. Bent
by police
magistrate.

[3] SUMMONS ISSUED TO MR. JUSTICE BENT.

Cumberland }
to Wit. }

To Jeffery Hart Bent, Esqr., &c., &c., &c.

WHEREAS Complaint and Information hath been made upon Oath Before me D'Arcy Wentworth Esqr. one of His Majesty's Justices of the Peace for the Said County by David Wyer and Patrick Cullen (the former Collector and the latter one of the Proprietors of the Tolls arising and payable at the Toll Gate Stationed at the Lower end of George Street Sydney in the

County) that you the Said Jeffery Hart Bent Esquire about the Hour of Three o'clock in the afternoon of Monday last, and at divers other times theretofore, did forcibly and against the will and consent of the said Michael Wyer, as Such Collector of said Tolls, and of the Said Patrick Cullen as Such proprietor, pass through Said Gate without paying the usual accustomed and established Dues, to which you were on those occasions liable under and pursuant to His Excellency the Governor's Proclamation on that head, bearing date the thirtieth day of March, one thousand eight hundred and Eleven, and also that you the Said Jeffery Hart Bent Esqr. had publickly declared on those occasions that you never would pay any Toll at Said Gate, and threatened that you would commit the said Michael Wyer and Patrick Cullen to Gaol for attempting to demand the same.

These are therefore to require you personally to appear before me at my Office in George Street, Sydney, in the Said County, at the Hour of Eleven o'clock in the forenoon of Saturday next, the ninth day of September, To stand to answer the Said Complaint and Information made by the Said Michael Wyer and Patrick Cullen, who are likewise directed to be then and there present to make good the Same.

Herein fail not.

Given under my Hand and Seal this 7 day of September, 1815:—
D. WENTWORTH, J.P.

[4] MR. JUSTICE BENT TO MR. D'ARCY WENTWORTH.

Sir,

Sydney, 8 September, 1815.

I have to express my great astonishment that you have thought it proper to send a Summons under your Hand and Seal to me.

I must observe that you have omitted my designation as Judge of the Supreme Court; and Seem entirely to have forgotten that I have the Honor to hold that Office.

As Judge of the Supreme Court, I am by no means amenable to any Criminal Jurisdiction in this Territory, and you must not expect any attention will be paid by me to your Summons, a Proceeding of great Indignity towards myself and exceeding the Bounds of your Duty.

It seems to me very extraordinary that such a measure should have been adopted on your own Authority towards one of His Majesty's Judges, without any avowed Communication with His Excellency the Governor.

I am, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

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Summons issued
to J. H. Bent
by police
magistrate.

Refusal of
J. H. Bent
to obey
summons.

1816.
20 Feb.

Warrant for
fine imposed
on J. H. Bent
by default.

[5] WARRANT FOR FINE IMPOSED UPON MR. JUSTICE BENT.

Cumberland }
to Wit. }

BE it remembered that on the Sixth day of September, in the year of Our Lord one thousand eight hundred and fifteen, at Sydney in the County aforesaid, Michael Wyer and Patrick Cullen came Before me, D'Arcy Wentworth, Esqr., one of His Majesty's Justices of the Peace of the Said County, and informed me that Jeffery Hart Bent Esquire on the fourth day of September now last past, and at divers other times theretofore, at Sydney in the said County, did forcibly and against the Will and Consent of the Said Michael Wyer, whilst acting as Collector, and of the Said Patrick Cullen as one of the Proprietors of the Tolls arising and payable at the Toll gate Stationed at the lower end of George Street Sydney in the County aforesaid, pass thro' Said Gate without paying the usual accustomed and established Dues to which he, the Said Jeffery Hart Bent, was at the day and at the time before mentioned liable under and pursuant to His Excellency the Governor's Proclamation on that Head, bearing date the thirtieth day of March, one thousand eight hundred and eleven. Whereupon the Said Jeffery Hart Bent after being duly Summoned to answer the Said Charge did neglect and refuse to make any defence against the Said Charge; but the Same being fully proved upon the oaths of the Said Michael Wyer and Patrick Cullen and of Samuel Hockley, credible witnesses, It manifestly appears to me the Said Justice that the Said Jeffery Hart Bent is guilty of the Offence charged upon him in the Said Information. It is therefore considered and adjudged by me the Said Justice that the Said Jeffery Hart Bent be convicted, and I do hereby declare and adjudge that he the Said Jeffery Hart Bent hath forfeited the Sum of Forty Shillings of lawful money of Great Britain for the offence aforesaid to be Distributed as the Law directs.

Given under my Hand and Seal this 9th day of September, 1815.

D. WENTWORTH, J.P.

[6] GOVERNMENT AND GENERAL ORDERS.

Civil Department.

Government House, Sydney, Saturday, 9th September, 1815.

General orders
re the collection
of tolls.

THE Governor has been officially Informed with much Surprize and Regret that an Officer of very high Rank in the Civil Service of this Colony has refused to pay the Toll ordered, in the

Proclamation under date the 30th March, 1811, to be levied on all Persons travelling on Horseback or in Carriages on the Turnpike Road Established by that Proclamation, and Subsequently approved of by His Majesty's Ministers.

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General orders
re the collection
of tolls.

Whilst the Governor laments that any person should be found in the Colony so wanting in public Spirit as to wish to evade contributing his Mite towards the Support of so useful and beneficial an Establishment for the Country and the Community at large, He cannot allow any person whatever, however high his Rank may be, to break through or Set at defiance the Established Regulations of the Colony; and he thus publicly declares that no Person whatsoever can or shall be exempted from paying the Tolls in question, excepting those few already Specified in the Government Orders.

The Farmers of the Several Tolls throughout the Colony are hereby accordingly authorized to Instruct and Direct their respective Toll Gate Keepers to enforce the Orders and Regulations contained in the Proclamation herein alluded to, under date the 30th March, 1811, on the Subject of Tolls, and not to permit any Horse or Carriage to pass through them without the Owners or Riders paying the Dues therein prescribed. And in the Event of any Person or Persons attempting to use Force or Violence to evade paying such Tolls or Dues, the Toll Gate Keepers are hereby directed to call for Assistance from the Police to enforce the established Regulations of the Colony in this particular Instance.

The Police Magistrate at Sydney and also the Several District Magistrates in the Interior, when so called upon, are accordingly hereby authorized and directed to afford the necessary aid of Peace Officers to assist the Said Toll Gate Keepers in enforcing the established Regulations of Government in the manner prescribed by the Said Proclamation bearing date the 30th March, 1811, as well as to preserve the Public Peace from being violated and the Government from being insulted in the just exercise of its authority.

Altho' the Governor forbears, from motives of Delicacy and out of respect for the high Office he holds, to name the Officer herein alluded to, he cannot help expressing thus publicly his astonishment and Regret that he Should be the first and only Person in this Colony, who has openly and avowedly attempted to break thro' and counteract the Regulations the Governor has deemed it necessary to establish for the Benefit and Improvement of the Country. From a Person at the Head of so High an

Censure passed
on J. H. Bent.

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20 Feb.

Office the Governor had just reason to hope and expect every degree of reasonable Support instead of opposition and violent resistance to his public measures.

By Command of His Excellency the Governor,
JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 8.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sir, Sydney, 2nd October, 1815.

On account of the extraordinary Transactions which have lately taken place, I am under the necessity of again addressing your Excellency.

Having in pursuance of my opinion of the Illegality of Tolls declined paying the Same, I have been Subjected to a personal outrage by the Farmer of the Tolls in a State of Intoxication, and also been obstructed when coming into Sydney and returning to my place of abode, which obstructions, in order to obtain a passage, I have been obliged to remove.

In consequence of my so doing, without any communication either from your Excellency or Mr. Wentworth on that Point, that Gentleman has thought proper to take Depositions, and also to issue a Summons calling upon me to appear personally before him to answer to Such Complaints; an Indignity, I will venture to say, never before offered to any Judge even in this Colony; and which was the more Indecent as the Authority, so to act towards even a private Individual, is founded Solely on the Proclamation, the Legality of which I dispute.

It will be proper for me to mention that the Office Mr. Wentworth holds of Superintendent of Police is one which of itself confers no authority, being a mere Title and utterly unknown to the Law, and that all that Gentleman's authority is derived from his appointment as a Magistrate under your Excellency's Precept. When he ceases to be a Magistrate he ceases to have Such authority, and he can have no Power which does not equally belong to every other Magistrate in this Territory.

As one of His Majesty's Judges, I have the same Privilege with your Excellency of exemption from the ordinary jurisdiction of the Magistrates, or from any criminal jurisdiction within this Territory excepting in a case of Treason or Felony; and the reason of Such exemption is very obvious, for were it otherwise, any magistrate in any part of the Colony upon the most frivolous pretext, or most malicious accusation might issue his Summons and in default of appearance proceed to conviction against His Majesty's Judges, and by that means not only degrade the Office in public Estimation, but a Subject would be assuming a power

The issue of
a summons to
J. H. Bent.

Powers
exercised by
Wentworth.

J. H. Bent's
claim to
exemption from
jurisdiction of
a magistrate.

to Suspend His Majesty's Commission and also to put a period, at his pleasure, to the Courts of Civil and Criminal Judicature, and thereby virtually abrogate His Majesty's Charter under His Great Seal.

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Such an assumption of Jurisdiction is too glaring an absurdity to be justified by any reasonable person, and I must confess my Surprise that Mr. Wentworth, who is confessedly Ignorant of the Law, who cannot in many ordinary cases proceed without consulting His Majesty's Law Officers, should, when acting with regard to one of His Majesty's Judges, proceed with so much precipitancy, and that no avowed communication should have taken place with your Excellency, or any from your Excellency to me, on such a Subject.

Surprise expressed at Wentworth's action.

A Report has reached me that Such a Measure had been undertaken by your Excellency's Orders, or by your concurrence, and I certainly neither did, nor could have, credited Such an assertion, had not an Order issued by your Excellency on 9th September, and forwarded to me by your Secretary, appeared to confirm it. The public censure which Your Excellency has thought proper by that Order to pass upon my conduct, I may be bold to Say Your Excellency is unauthorized in doing in any manner, or at any time, and still less to print your reprimands in a Public Gazette, or to insert them in the Order Book of any Regiment in Garrison here. Your Excellency has there considered me as an Officer under your Command, and not as a Judge Holding a Commission from His Majesty, and who is not bound by any Instructions, or, by the tenor of his Commission, to take any Orders from your Excellency, and whose Commission was so given for the express purpose of rendering him independent of the Governor of this Colony.

Macquarie's concurrence in Wentworth's action.

J. H. Bent's claim for freedom from Macquarie's control.

But the Principal Grounds of my Complaint and Remonstrance against that Order is that your Excellency has therein evidently expressed a Design to Subject His Majesty's Judges to a jurisdiction of your own creating, and has given power by what is called a Government Order not only to Magistrates acting under your Excellency's Authority to proceed against Judges acting under the King's Commission, but has also extended that Authority to the meanest Persons and their Convict Servants, and by the allusion to me throughout the whole of that Order, your Excellency has held out encouragement to Persons, convicts or otherwise, to offer me every Insult or even personal Violence, being Secure that under that Order it may be done at least with Impunity.

Effects of Macquarie's general order.

I will not enlarge upon the Contumely and Disrespect with which I have been treated in this Instance, nor upon your

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26 Feb.

J. H. Bent's
decision for
future action.

Excellency's Endeavours to reduce His Majesty's Judges to the Scale of Inferior Officers on the Establishment, and to Subject them to a Jurisdiction to which they are not amenable; nor upon Your Excellency's holding me up as a mark for the insults and personal Violence of those who have, I may Say a natural antipathy to the character of a Judge, but will merely add that it is not my intention to oppose the force to which your Excellency has thought proper to have Recourse or to court any personal violence or disrespect to myself, but content myself with taking care not to become liable to any payments Established by your Excellency, and which I contend are Illegal Exactions.

Macquarie's
alleged
interference
with the judges
and the legal
administration.

I must however deprecate the continued System of mortification which your Excellency has adopted towards His Majesty's Judges in this Colony. Very soon after my arrival here, it was Signified to me that your Excellency's Resolutions, even on a point immediately concerning my own Station and Comfort, went to preclude all Remonstrance. The Courts of Justice have been held of so little importance that I have seen the private Interests and Convenience of inferior Officers on the Establishment preferred to their Suitable accommodation. In a matter of peculiar professional Practice and Feeling, wherein a Judge might be supposed to be entitled to have a Deference paid to his opinion, So far at least as to leave the Question at Rest till the Sentiments of His Majesty's Ministers were Communicated, I have met with unexpected and I may add, unjustifiable Interference, and an endeavour to oblige me to give up my Judgment of the Law and the practice of Courts of Justice to the Crude Ideas of those, who are uninformed upon those Subjects, and to the furtherance of a System hastily adopted by your Excellency and which is unexampled in any other part of His Majesty's Dominions. I am required to admit that to be Legal and founded on a due Authority which I know to be otherwise; and to acknowledge that your Excellency's will, expressed by Proclamation, by what is termed a Government Order, or a Government Notice, has the force and Validity of Law, a proposition so Startling that I cannot conceive any Person in England, much less any Lawyer, could have the Slightest notion that it would ever be maintained even in argument, far otherwise that it would be attempted to be carried out to its fullest extent in practice. The attempt of Mr. Wentworth to assume a jurisdiction over me (an attempt not only over-stepping the bounds of his authority, but which from its mode would be considered Indecent towards a Magistrate acting under similar authority with himself, and which is grossly so towards a Judge Holding His Majesty's Commission) has been countenanced by your

Validity of
general orders
questioned.

Wentworth's
action approved
by Macquarie.

Excellency, and farther, an Order has been issued in which your Excellency has thought it proper to publickly censure my conduct without a right So to do, has attempted to strip me of the Respect and Authority, my Due by virtue of my Commission, and held me up as a Mark for the personal outrage of the meanest Individual in the Colony.

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Macquarie's
public censure
of J. H. Bent.

Those who entertain a just Idea of the Judicial character and functions, how necessary a part persons who fill that Station are of any Executive and how Important to the welfare of any Community, will be at a loss to comprehend by what reasoning your Excellency can justify the System So pursued towards His Majesty's Judges in this Colony, or upon what grounds your Excellency has withdrawn your Support from them, and has diminished the respect so much on every account and, I may venture to Say, so deservedly their due. Such a System will be always considered as contrary to every principle of Sound policy and every maxim of good Government.

As my relations with this Colony have arisen Solely from the Judicial Station I have the honor to hold, as my conduct has throughout been disinterested, unconnected with any views of private Interest, and according to my Sense of public Duty, I shall entertain no fears from submitting the whole of my Conduct with regard to the late Transactions to His Majesty's Ministers, and to whom your Excellency, as well as myself, is amenable.

Reference to
be made to
secretary of
state.

I am, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

[Enclosure No. 9.]

ANSWER TO MR. JUSTICE BENT'S LETTER OF DATE 2ND OCTOBER, 1815.

THE Governor has received the Letter addressed to Him by Mr. Justice Bent under this day's date, which, being like all his former ones, of a highly disrespectful nature to him, as Governor in Chief of this Territory, is not deemed worthy of any particular Reply.

Macquarie's
refusal to reply.

Government House, Sydney, 2nd October, 1815.

[Enclosure No. 10.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sir,

Sydney, 24 Octr., 1815.

As in the Event of the Departure of my Brother for Europe it may be necessary that some person should be appointed to fulfil the functions of Judge Advocate in this Colony during his absence, In order to prevent those Evils which must arise

Qualified tender
of services as
judge-advocate.

1816.
20 Feb.

Qualified tender
of services as
judge-advocate.

from any Suspension of the Court of Criminal Jurisdiction, I beg to tender my Services to your Excellency, and to express my readiness to undertake those duties under the Sanction of your Excellency's Warrant. At the same time I must state that I am aware of the heavy responsibility I incur, and should feel considerable Scruples and great reluctance in passing Sentence of Death, unless it was previously understood that the execution of Such Sentence should be delayed until the Pleasure of His Royal Highness the Prince Regent was communicated.

I have, &c.,

JEFFERY HART BENT, Judge of S.C.

[Enclosure No. 11.]

ANSWER TO MR. JUSTICE BENT'S LETTER OF OCTOBER 24TH, 1815.

Sir, Government House, Sydney, 26th October, 1815.

Macquarie's
refusal of
J. H. Bent's
services.

I have the honor to acknowledge the Receipt of your Letter under date 24th Inst., tendering your Services to fulfil the Functions of Judge Advocate of this Colony during the absence of your Brother Mr. Ellis Bent, in the event of his departure hence for Europe.

The disposition you have so openly manifested to counteract my public measures, and treat my Authority with marked disrespect, would of itself be a Sufficient objection to my appointing you to that Office; but independent of So Strong an objection, I should consider it as highly Irregular as well as Illegal, your officiating as Judge Advocate, the Duties of that Office being in my opinion quite incompatible with those of the Supreme Court of Civil Judicature.

On these Grounds I must decline accepting your proffered Services to act as Judge Advocate.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 12.]

GOVERNOR MACQUARIE TO MR. JUSTICE BENT.

Sir, Government House, Sydney, 18th Decr., 1815.

Official
papers of the
judge-advocate
to be delivered
to F. Garling.

Having appointed Frederick Garling, Esq., to the Situation of Deputy Judge Advocate of this Territory, in the room of your Brother Ellis Bent Esqr. deceased, until His Majesty's Pleasure shall be made known thereon, and presuming that you as Brother to the late Judge Advocate have been left in charge of the Official documents belonging to the Department of the Judge Advocate, I have to request that you will be pleased to give the necessary Instructions for all the Books, Records and Documents, of whatever kind belonging to that Department,

being delivered over to Mr. Garling, together with Such Documents as may belong to the lately instituted Court, termed the Governor's Court, to which your Brother Stood appointed.

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20 Feb.

Official papers of the judge-advocate to be delivered to F. Garling.

As it is of much importance that Mr. Garling should receive the charge of the foregoing Documents previous to the assembling of a Criminal Court, and the Dispatch of Business requiring that Such a Court should be Speedily convened, I have now only to add the further request that you will cause the Delivery of them with the least possible Delay.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 13.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sir, Sydney, 20th Decr., 1815.

I have the Honor to acknowledge the Receipt of your Excellency's Letter of the 18th Inst., and in Reply I have to State that all those muniments and records I consider Strictly belonging to the Civil or Criminal Courts in which the Judge Advocate presided, I have given up to the custody of Mr. James Foster, Clerk to my Brother the late Judge Advocate, who holds himself ready to deliver the Same to any person properly authorised to make the Demand. I have, &c.,

Official papers awaiting delivery.

JEFFERY HART BENT, J.

[Enclosure No. 14.]

GOVERNOR MACQUARIE TO MR. JUSTICE BENT.

Sir, Government House, Sydney, 6th Jan., 1816.

By a communication from Mr. Judge Advocate Garling, I am informed that, in consequence of the Letter I had addressed to you on the 18th Ulto., He has received Various Documents and papers from you relating to the Court of Criminal Jurisdiction, but I also learn that there are Proceedings of that Court (perhaps the most material of all others) which you have not delivered, under the opinion that they are the private property of your late Brother. Of this Description Mr. Garling particularly mentions "the Records of the Convictions of the Court." As these Records have been always Subscribed in due form by all the members of the Court previous to being Submitted to me, or otherwise acted upon, they are consequently public Documents of Office, and I trust you will see the particular propriety in, and necessity for, their being handed over to the present Judge Advocate. Some of the Inconveniences that might result from their being withheld as private property, or under any other consideration, having been put in what I consider a very clear light by Mr. Garling in his letter to me, I shall quote them; "In prosecuting an accessory, it is material to prove the previous conviction of the Principal." "If a man should happen

Retention of certain official papers by J. H. Bent.

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20 Feb.

to be prosecuted a Second time for the Same offence the proof of his former conviction may be most material possibly to save his life." These two instances, one on the part of the Crown, and the other on the part of the Prisoner, will, I trust, Suffice to mark the propriety of those documents being in the Court of the Judge Advocate.

Records of the
criminal court

Allow me therefore to call your attention to the last passage in my letter of the 18th Ulto. on this Subject, and to repeat that I request that you will Cause delivery of the Book containing the convictions and Sentences of the Criminal Court to be made to the present Judge Advocate with the least possible Delay.

and a set of
statutes to be
delivered to the
judge-advocate.

There having been a Sett of Statutes at large sent out by His Majesty's Ministers for the use of the Judge Advocate, which was received by your late Brother, I have to request that you will put the present Judge Advocate in possession of it, agreeably to the Intention with which it was Sent hither. Another Sett of Statutes having been handed over to your Brother on his arrival here by his predecessor Mr. Atkins, I request you to send to me, in order to their being deposited in the Government Library, which it was the avowed Intention of the late Judge Advocate to have done on his receiving the new Sett, tho' (possibly owing to Inadvertency) that did not take place. It may not however be amiss to say here that if you should, in your official Capacity as Judge of the Supreme Court, wish to retain this latter Sett in your Possession, I have no objection to your retaining it in your Office.

Chambers to be
surrendered
to the judge-
advocate.

The Chambers originally assigned to you in the new General Hospital (but which you signified your wish to relinquish, preferring the apartments belonging to the Public Court House formerly occupied by your Brother) being now much required for the use of the present Judge Advocate, I trust I need not urge any thing further to induce you to deliver them to him as soon as you possibly can, so that he may have the accommodation of them at the approaching Sitzings of the Criminal Court and the Governor's Court.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 15.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sir,

Sydney, 9th Jany., 1816.

Papers
delivered to
judge-advocate's
clerk.

I have received your Excellency's Letter of the 6th Inst., and in reply have to state that I delivered all the Documents, which I conceived to belong to the Governor's Court and the Criminal Court, to Mr. Foster, clerk to my late Brother; and tho' I might have retained them till a Person was legally entitled

by the holding His Majesty's Commission to demand them, I have not thrown any obstacle in the way of those Measures which your Excellency has thought proper to adopt.

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20 Feb.

Your Excellency has been misinformed as to the fact of my retaining the Records of the Convictions of the Criminal Court. I could not do so for the best of reasons, viz. because no Convictions have ever been recorded. The Books alluded to are the Judge's Notes of the Evidence, which made no part of any Record that I am acquainted with, and his minute of the Conviction thereupon. It was Scarcely necessary to quote the words of so Inferior a Person in the Profession to me, who am a Barrister of ten Years Standing and to whom the High Office of Judge has been confided by the *Crown*; and more especially when the Cases Stated have not arisen, nor are likely to occur; and Should Cases of that Kind arise, it cannot be Supposed that I Should refuse any Paper in my Possession that could in any way be necessary. Ignorance of the Duties which have been undertaken, together with a wish to adapt the method of another Person, from incapacity to frame any other, is the real motive of the application to your Excellency. But as your Excellency appears to think these Books requisite, I have no wish to retain them, and will give directions for their being given up to Mr. Foster accordingly; at the same time I may say that the Documents which have already been delivered up are not yet removed.

Books
containing
judge's notes.

Your Excellency is also in an error with regard to the copies of the Statutes. An old copy formerly belonging to the Court of Civil Jurisdiction now appertains to the Supreme Court; and I shall retain the Same for the use of that Court till I receive other directions from His Majesty's Ministers. Another copy in my late Brother's Library forms a part of his private property, and is marked by him as such with his private mark; and I believe that it will be allowed that he was not a man to appropriate to himself what was the property of others. He acquired this Copy by Gift from the Crown, it being the Present usually made to all persons accepting Judicial Offices on their first appointment, and it was his absolute, unconditional and private property, and it will be delivered to no person who shall not first purchase it. If your Excellency has any wish of that Kind, it is at your Excellency's Service at a fair and reasonable price.

Statutes
retained for
use of supreme
court.

Statutes
belonging to
estate of
Ellis Bent.

I mentioned in my late Interview that I should be ready to give up my Chambers at the Hospital at any time, and Should have done it Sooner had your Excellency not told me there was no immediate necessity and that I might Suit my own time and convenience. In the Course of the week I will take care that it shall be done.

Chambers to be
surrendered to
F. Garling.

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20 Feb.
The judge-
advocate's office.

But I must observe your Excellency mentions my Brother's Office as "apartments belonging to a Public Court House." I know of no such apartments. The Office belonging to my Brother consisted originally of only one room for his use and his Clerks, to which another room for his Separate accommodation was afterwards added, and not at the expence of Government, and they are appendages to no Court House.* This Office he was obliged to use as a Court Room, and I am astonished at the mode of expression used, when your Excellency must be aware that a Serious difference arose between my late Brother and yourself about the providing a Suitable Court House, and that previous to my arrival, no Court House, or even Court Room existed, and my Brother declared to me at that time that he had contracted a Disease (tho' he was mistaken in its nature) that would carry him to his Grave in Consequence of Sitting for so long a continuance in so miserable a place, and so unfit for the decent or even Healthy accommodation of a Court of Justice, and his Sentiments on this point continued the Same to his Dying Hour.

I am drawn into these observations from the peculiar expression in your Excellency's Letter, and I must add that I prefer my late Brother's Chambers to my own, not because they belong to any (or to the) Public Court House, but because they form a part of the premises now occupied by his Widow, with whom I am residing.

I have, &c.,
JEFFERY HART BENT,
Judge of the Supr. Court.

[Enclosure No. 16.]

Regulations
for the
management
of the turnpike
road.

[A copy of Governor Macquarie's proclamation for the management of the turnpike road was forwarded as enclosure No. 11 to his despatch, dated 18th October, 1811; see page 417 et seq., volume VII.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Surrey; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

24 Feb.
Recommend-
ation of
Henry Kitchin
as a settler.

Sir, Downing Street, 24th February, 1816.

I am directed by Earl Bathurst to acquaint you that he has granted permission to the bearer, Mr. Henry Kitchin, to proceed as a Settler to New South Wales, and I am to desire you

* Note 7.

will make him a grant of Land proportioned to the means he may possess of bringing it into Cultivation and extend to him the other Indulgences usually granted to Settlers.

1816.
24 Feb.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 2 for 1816," per H.M. brig Emu*; acknowledged by Earl Bathurst, 30th January, 1817.)

My Lord, Government House, Sydney, 24th February, 1816.

In my Despatch No. 1 of the present year, and by the present conveyance, I had the Honor to announce to your Lordship, the lamented death of Mr. Judge Advocate Bent, and also that I had appointed Mr. Solicitor Garling to perform the Duties of Judge Advocate until His Royal Highness the Prince Regent's Pleasure should be made known thereon.

Appointment of
F. Garling as
judge-advocate.

I have now the Honor to inform your Lordship that I was determined in the choice of Mr. Garling to supply the Vacancy occasioned by Mr. Bent's Death by the Circumstance of his professional experience and qualifications rendering him better Suited for it than any other Person in this Country, whom I had it in my power to Select; for I do not conceive that I would have been warranted in removing Mr. Justice Bent from the Supreme Court to fill the Situation of Judge Advocate, and could not think of uniting the two Courts in his Person from the consideration that they had so lately been rendered distinct by His Majesty's Patent. These circumstances combined with the Imperious necessity for a Judge Advocate to dispatch the great accumulation of business, more especially in the Court, determined me on calling to my aid one of those Gentlemen who had been lately Sent hither as Solicitors, and it required little Penetration to give a decided preference to Mr. Garling over Mr. Moore the other Solicitor.

Reasons for
selection of
Garling.

I had some difficulty, notwithstanding, in procuring Mr. Garling's Acceptance of the Situation. Motives of Delicacy on his part towards Mr. Justice Bent, and diffidence in his own Qualifications, arising out of his not having been bred up a Barrister, leading him to wish to decline undertaking So very important a Trust as that of Judge Advocate. Indeed, Mr. Garling's objections were urged So Strongly that I could only overcome them by assuring him that I should hold myself altogether responsible for the measure.

Diffidence of
Garling in
accepting
appointment.

Without interfering with Mr. Garling's Salary as a Solicitor. I have engaged to allow him as Judge Advocate a Salary of

* Note 2.

1816.

24 Feb.

Salary and
allowances given
to Garling.

Proposed
confirmation
of Garling's
appointment.

£800 pr. annum, and in lieu of a house (the present one being still occupied by the widow of the late Judge Advocate) to pay him at the rate of £100 pr. Annum. for House hire, until he shall get into the one attached to the Department of Judge Advocate.

As Mr. Garling, in the acceptance of the Appointment of Judge Advocate, necessarily relinquishes his Practice as a Solicitor and might be eventually a Sufferer by his so doing, were he to return to the Situation of a Solicitor, I feel it due to him to recommend him most Strongly to your Lordship's Kind consideration, and to request that your Lordship will be pleased to recommend to His Royal Highness the Prince Regent to be graciously pleased to confirm him permanently in that Situation for which I consider him very well qualified.

Correspondence
and orders
re Garling's
appointment.

The correspondence I had with Mr. Garling on the Subject of his undertaking the Office of Judge Advocate, together with a copy of the Government and General Orders announcing his appointment, and his letter in regard to the Documents belonging to the Judge Advocate's Court, received from or withheld by Mr. Justice Bent, with my Reply, accompany this Dispatch.

Circumstanced as this Country has been by the Death of Judge Advocate Bent, I trust my nomination of Mr. Garling and the allowances, I have engaged to make him, will meet His Royal Highness the Prince Regent's fullest approbation, and that of your Lordship. If however your Lordship should consider the Situation of Judge Advocate as one for which Mr. Garling is not fully Qualified in consequence of his not being regularly brought up as a Barrister, and that he cannot therefore be confirmed in it, I take the liberty of recommending to your Lordship's Notice a Gentleman who I am well assured will, in the event of his being appointed, render the fullest Satisfaction to the Colony. This Gentleman, whose name is James Moody, is a Lawyer of 15 or 16 years Standing at the Irish Bar, and has been confidentially represented to me as not only perfectly regular in all the Circumstances of College and Temple Education, but also of well approved Legal abilities and Knowledge, and of most amiable Dispositions. If Your Lordship should be pleased to accept of this Gentleman's Services, I am convinced he will be a credit to my recommendation in the double capacity of a faithful and upright Judge, and a good Law Adviser to whomever may be in charge of this Government. On these principles I shall feel myself much personally obliged by his receiving the appointment, Mr. Moody's Address is "James Moody Esqr. Barrister, Dominick Street, Dublin."

Alternative
recommendation
of James Moody
as judge-
advocate.

Having thus recommended this Gentleman to your Lordship's consideration, I hope your Lordship will excuse him if he should

1816.
24 Feb.

Majesty's Ministers and recommend to their favorable consideration the expediency of moving His Royal Highness the Prince Regent to be pleased to confirm you in the Office of Judge Advocate of this Territory with the increase of Salary latterly allowed to the late Mr. Bent.

No provision established for vacancy in office.

I have now only to add that my appointing a Person to perform the functions of Judge Advocate is in consequence of the late Patent for the holding Law Courts here not having specially provided for the Supply of any Vacancy, such as the present lamented one (indeed it is altogether silent on that Subject), and of Course the right to do so remaining with me as Governor in Chief for the time being.

Garling to be indemnified if appointment informal.

Should any irregularity or informality be hereafter found in the Measure of my appointing a Judge Advocate *ad interim*, I beg you to understand that I shall hold myself altogether and exclusively responsible for it and its consequences, being fully persuaded that the urgent necessity of the Case would, independent of all other considerations, amply justify the measure, and Secure to me the full approbation of His Royal Highness the Prince Regent and His Majesty's Ministers.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 2.]

MR. FREDERICK GARLING TO GOVERNOR MACQUARIE.

Sir, Sydney, New South Wales, 11th Decr., 1815.

I beg to acknowledge the receipt of your Excellency's letter of Saturday, the 9th Inst., wherein you are pleased to call upon me, in the most flattering and encouraging manner, to accept the high and Important Office of Judge Advocate of this Territory, Vacant by the much lamented death of the late Ellis Bent Esqr., and to exercise the functions thereof until His Royal Highness the Prince Regent's Pleasure shall be Known thereon.

It is impossible to be insensible of the Honor your Excellency thus confers upon me, and whether I consider the Offer itself or the liberal way in which that Offer is made I cannot but feel the most grateful Impressions.

Diffidence in accepting appointment.

Recollecting the enlightened mind, profound erudition, and vast legal Knowledge that distinguished the late Judge Advocate, whose persuasive eloquence and peculiar Sauvity of manners adorned his character in the Judicial Seat, and endeared him to all ranks of Society in this Colony, and contemplating my own inferior acquirements, I should hesitate to accept (under Such disadvantages) the appointment you have deemed it proper to offer me, but the urgent necessity your Excellency suggests of the Office being promptly filled, in order to the immediate

dispensation of Justice in this Territory, and feeling that the allegiance I owe to His Majesty under the Sacred Oaths I have taken renders it incumbent on me to aid and Support His Government in every way my limited Powers may be considered capable of doing, I am induced, therefore, by a Sense of Public Duty to accept the appointment of Judge Advocate on the Terms and Conditions expressed in your Excellency's Letter of the 9th Inst., and I can only give you, Sir, an assurance that my best endeavours shall be exerted to discharge the arduous Duties of the Office.

1816.
24 Feb.

Garling's
acceptance
of office.

I request your Excellency's Acceptance of my best thanks for the promise your letter contains of recommending me favorably to His Majesty's Ministers, with a view to my being confirmed in the Office of Judge Advocate. Your Excellency is no doubt prompted in a great measure to make this recommendation in my behalf from an impression that it would not only be painful to my feelings but derogatory to become a Practitioner of those Courts in which I shall have presided.

Suggested
confirmation of
appointment.

Altho' I apprehend from the wording of the Patent the Power would not vest in your Excellency to appoint a Judge of the Supreme Court in the event of a Vacancy in that Department, I am inclined to an opinion, from the Silence of the Patent as to the appointment of Judge Advocate, that your Excellency as Governor in Chief is invested with the Authority to appoint in the latter case, and (besides the Precedents for the exercise of such a power in this Colony) I am strengthened in my opinion by the course recommended by the late Mr. Bent to be pursued as to the performance of the Functions of Judge Advocate on that Gentleman's intended departure for England, and the proposal of his Brother the present Judge of the Supreme Court to hold the Office and exercise the Duties of it during his absence. However, as your Excellency has liberally undertaken to bear the entire and exclusive responsibility of giving me the appointment *ad interim* I hope and trust the Measure will be sanctioned with the approbation of His Majesty's Government at Home.

Governor's
powers of
appointment
under the
patent.

I beg to repeat the due Sense I feel of the Honor Your Excellency has conferred upon me in selecting me to fill the vacant Office and assure you that I am, &c.,

FREDERICK GARLING.

[Enclosure No. 3.]

GOVERNMENT AND GENERAL ORDERS.

Civil Department.

Secretary's Office, 16th Decr., 1815.

His Excellency the Governor having been pleased by Commission dated the 11th Instant to appoint Frederick Garling Esqr. to be a

1816.
24 Feb.

General orders
appointing F.
Garling deputy
judge-advocate.

Justice of the Peace and Magistrate throughout the Territory of New South Wales and its Dependencies, and having been further pleased by Commission dated 12th Instant to nominate and appoint him, the Said Frederick Garling, Esqr., to be Deputy Judge Advocate of the Settlements in New South Wales, in the room of Ellis Bent Esqr., deceased, until His Majesty's Pleasure shall be made Known thereon; and he having this day duly qualified for the performance of the Duties of those Offices by taking and Subscribing the usual Oaths and Declarations before His Excellency the Governor at Government House, and in the presence of His Honor the Lieutenant Governor, the Magistrates resident at Sydney, the Provost Marshal, and Mr. Solicitor Moore, he is to be from this date respected and obeyed accordingly.

Mr. Garling is to receive a Salary of Eight hundred pounds Sterling per annum, as Deputy Judge Advocate, to be paid him half yearly from the Police Fund, commencing from the Date of his Commission.

By Command of His Excellency,

J. T. CAMPBELL, Secretary.

[Enclosure No. 4.]

JUDGE-ADVOCATE GARLING TO GOVERNOR MACQUARIE.

Sir,

Sydney, 4th Jany., 1816.

As your Excellency has been pleased to advertize the Assembling of a Criminal Court, I beg leave to enclose a Precept for Summoning Such Officers of His Majesty's Forces as Your Excellency shall think proper to compose that Court in pursuance of the Letters Patent of the 2nd April, 27th George 3rd.

I beg leave also to enclose a Precept for Summoning two fit and proper persons of this Territory, whom your Excellency may be pleased to appoint for the purpose of assisting me in holding the Governor's Court, as I have advertized a Meeting of the latter Court on Monday the 13th Inst.

I avail myself of this opportunity to acquaint your Excellency that I have received from Mr. Justice Bent various Documents and Papers relating to the Court of Criminal Jurisdiction, but there are proceedings of that Court (perhaps the most material of all others) which he objects to deliver to me under an opinion that they must be considered the private property of his late Brother, I mean the Records of the Convictions of the Court. It appears that the practice of the late Judge Advocate was to unite with the Convictions and Sentences the Evidence as taken at the Trial. This he certainly need not have done, and if he had not, the evidence so taken down might be considered as his

Criminal court
to be assembled.

Members of
governor's court
to be assembled.

Papers retained
by J. H. Bent.

private minutes; but having incorporated them with the other proceedings, it cannot Surely be held that the Convictions and Sentences, Subscribed as they are in form by all the Members of the Court, are therefore not to be delivered to a Succeeding Judge Advocate to be preserved as public documents in his Office. I need not enumerate all the Inconveniences that may result from these records being withheld, one instance as well on the part of the Crown as of a prisoner will Suffice.

1816.
24 Feb.Documents
retained of
an official
character.

In prosecuting an Accessory it is material to prove the previous conviction of the Principal. If a man should happen to be prosecuted a second time for the Same offence, the proof of his former conviction may be most material (possibly to save his life). I beg to suggest also the probability that reports may again be required by the Government at Home of the Various convictions and Sentences in this Colony; allow me to request therefore that your Excellency will have the goodness to instruct Mr. Justice Bent to transfer to me the Documents I have alluded to, and I shall be obliged if at the Same time Your Excellency will do me the favour to ask when it will Suit his convenience to relinquish the Chambers intended to be appropriated for the Judge Advocate's Office.

Necessity for
production of
documents.

I understand Mr. Justice Bent desires to have a Specific requisition from your Excellency previously to his delivering up the Several Volumes of the Statutes at large which the late Judge Advocate found in the Office on his arrival in this Colony. May I request Your Excellency to make an application to him for them? And as I am informed the late Mr. Bent was Supplied by Government with a Complete Set of the Statutes, I suppose they are the Set alluded to in a Letter I received from the Secretary of State on the 2nd June, 1814, wherein he informed me that a Set of the Statutes had been then lately sent from England for the use of this Settlement. These books it seems are considered the private property of the late Mr. Bent. Your Excellency will best judge whether or not it will be proper to allude to them in your application to Mr. Bent.

Copies of the
statutes for
use of the
judge-advocate.

Having adverted to the Several Public matters that at present occur in my Department, I presume now to engage your Excellency's consideration on a Subject more immediately applicable to myself. I allude to the Privileges usually extended to Officers holding those Commissions with which your Excellency has been pleased to honor me—namely a House and Government Men on the Stores. In mentioning residence I wish it to be distinctly understood that I have not the most remote View to interfering with either Mrs. Bent and her family or Mr. Justice Bent; their Comforts, Conveniences, and feelings, I am as anxious to consult

Request for
residence and
government
servants.

1816.
24 Feb.

Request for
residence and
government
servants.

in every respect, as I know Y^r Excellency is desirous they should be consulted; and in referring to these Privileges I am principally actuated by a desire that any Indulgences, peculiar to my Appointment as calculated to support the rank of it, may not be considered forfeited by Any Omission on my part, but whatever Your Excellency may think proper to determine on in these respects cannot but be perfectly Satisfactory to Myself.

I have, &c.,

FREDERICK GARLING, J.-A.

[Enclosure No. 5.]

GOVERNOR MACQUARIE TO JUDGE-ADVOCATE GARLING.

Government House, Sydney,

Saturday, 6th Jany., 1816, 3 P.M.

Sir,

I have the honor to acknowledge the receipt of Your Letter of date 4 Inst. which was delivered to Me Yesterday afternoon. I now do myself the pleasure of enclosing to You herewith the Precepts for assembling the Criminal Court and the Governor's Court, the Members' Names appointed for each of these Courts being inserted respectively.

I have Written this day to Mr. Justice Bent on the Subject of delivering to You without delay the Books of Records of the Convictions of the Criminal Court, and also the Statutes at large, which were sent by Govt. for the use of the Judge Advocate of this Colony, and I conclude he will Comply with the Requests made to him on both these Points.

I have also written to Mr. Bent respecting relinquishing, and giving up to You as Soon as he possibly can, the Keys of the Chambers originally designed for him in the New General Hospital, and trust he will also Comply with my Request on this head without further delay.

In reply to that part of Your Letter respecting Yourself, I have only to observe that as the House and Offices occupied by the late Judge Advocate cannot be assigned for Your Accommodation at present, nor until I hear from Home on this Subject, I shall take upon myself the responsibility of paying You at the Rate of £100 per Annum from the Colonial Fund, in lieu of House Rent, from the Date of Your Appointment as Judge Advocate, till I receive further instructions from Home on this particular point. No Civil or Military Officer is allowed any Govt. Men on the Store, this indulgence having been withdrawn from them by Orders from home some time Since.

I have, &c.,

L. MACQUARIE.

True Copy :—JNO. THOS. CAMPBELL, Sec.

Precepts for
criminal and
governor's
courts.

Documents and
books to be
handed to
Garling.

Allowance for
house rent.

GOVERNOR MACQUARIE TO EARL BATHURST.

1816.
28 Feb.

(Despatch marked "No. 3 for 1816," per H.M. brig Emu*;
acknowledged by Earl Bathurst, 24th January, 1817.)

My Lord, Government House, Sydney, 28th February, 1816.

1. I am Concerned to be under the disagreeable Necessity of Reporting to Your Lordship that Captain (now Major) John Murray of the 1st Battalion of the 73rd Regt., Whilst Commandant of Hobart Town in Van Diemen's Land in the Year 1811, Ordered the Deputy Commissary, Mr. Fosbrook, at that Settlement to purchase a House for Government from a Mrs. Grove, for Which the Deputy Commissary paid, by his Order, the Sum of £135, and charged the Same to Government in the Colonial Police Fund there; this House was for Some time Occupied as a temporary Barrack by Officers of Government, but was Afterwards Converted by Capt. Murray to his Own Use, And Subsequently Sold by him as his own private Property to a Mr. Fisk at Hobart Town, and No Account Whatever rendered of the Amount to Government. Captain Murray is Consequently Indebted to Government at this time in the Sum of £135, the original Price of the Said House which he has repeatedly been Called on to pay, but has Always evaded doing so on Various frivolous Excuses. Herewith I transmit Your Lordship Certain Documents relative to the purchase of the House in Question, Which Will Clearly Shew that Captn. Murray has in this Transaction Acted in a fraudulent Manner, and that he is Indebted to Government for the Amount.

Purchase of house by commandant at Hobart.

Sale of house by captain Murray.

Indebtedness of Murray to government.

2. In Lieu of a regular Circulating Medium, it has been a Practice with many persons in this Colony and its Dependencies to Issue And Send into Circulation their own private promissory Notes. Captn. Murray, Whilst Command't at Hobart Town, Adopted this bad practice, Ostensibly for paying "the Subsistence of his Company," but in reality to answer his Own private purposes; and on his Departure from Hobart Town in May, 1814, for Ceylon, he Neglected to Call in and Consolidate those Notes, as in Honor and Justice he was bound to do, Whereby Notes to the Amount of £162 10s. 0d. Continued in public Circulation; the Holders afterwards paid them in to Government for Duties, &c. to the Naval Officer, Who, Considering them as having been Issued under the Sanction of Government, Very improperly received them in payment for such Duties.

Issue of promissory notes by captain Murray.

Amount of notes held by government.

3. These two Sums, Vizt. £135 for the House and £162 10s. 0d. for Notes, Amount Altogether to the Sum of £297 10s. 0d. due by Captn. Murray to the Crown; And I have therefore respectfully to request Your Lordship to be pleased to Move His Royal Highness the Commander in Chief, and also the Secretary at War,

Total indebtedness of Murray to government.

* Note 2.

1816.
28 Feb.

Proposed
recovery of
debt from
Murray.

to Write to the Governor of Ceylon, Where Major Murray is Now Serving with his Corps, to Call Upon and Compel that Officer to pay the Debt due to Government, as herein Specified, and in the Event of his declining to do so, to Order his Pay to be Stopt, or his Commission to be Sold for that purpose. Herewith is Enclosed A List of the Dates, Numbers and Amounts, respectively, of the Notes left by Captn. Murray in Circulation at Hobart Town on his Departure from that place for Ceylon.

4. I should not have troubled Your Lordship on Such a Subject but from the Impracticability of recovering this Money by any other Means from Captn. Murray, as by his Removal to Ceylon, he is now out of my Jurisdiction.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 1.]

WARRANT FOR PURCHASE OF MRS. GROVE'S HOUSE.

By John Murray, Esqre., Commandant of His Majesty's Settlement Hobart Town, River Derwent, Van Diemen's Land, and Captain in the 73rd Regt of Foot, etc., etc.

HAVING deemed it expedient to Purchase on account of Government the Dwelling House of Mrs. Susan Grove situate near the Rivulet in this Town for an Officer's Barrack;

You are hereby required and directed to Pay the Sum of One Hundred and thirty five Pounds Sterling for the same, out of the Money you have in hand belonging to the Colonial Fund, taking proper Receipts for the Same. And for which this shall be Your sufficient Authority herein.

Given under my Hand at Government House, Hobart Town, this 7th day of February, 1811.

J. MURRAY, Capt. 73 Regt., Comm't.

To Mr. Leonard Fosbrook, Depy. Commy.

True Copy :—Revd. ROBT. KNOPWOOD, J.P.

[Enclosure No. 2.]

MRS. GROVE'S RECEIPT FOR PURCHASE MONEY.

Hobart Town, River Derwent, Van Diemen's Land,

7th Feby., 1811.

RECEIVED from Mr. Leonard Fosbrook, Treasurer of the Colonial Fund, the Sum of One Hundred and Thirty five Pounds Sterling, being the Amount of the purchase Money of my House by Government for Officers Quarters, And for which I have signed three Receipts of this tenor and Date.

£135.

SUSANNAH GROVE.

Warrant for
purchase of
Mrs. Grove's
house.

Receipt
for purchase
of house.

[Enclosure No. 3.]

1816.
28 Feb.

DEPUTY COMMISSARY FOSBROOK'S EXPLANATION respecting a House Purchased by Him from a Mrs. Grove at Hobart Town in the Year 1811, for the Use of Govt. as an Officer's Barrack by Order of Captain Murray, Commandant.

Report by Fosbrook on purchase of house from Mrs. Grove.

ON receiving Captain Murray's Written Order to Pay £135 for the House in Question, I informed him I had no Government Money in my Hands but Store Receipts, which could not be consolidated before the end of the Quarter, and, as Mrs. Grove was going to Port Jackson, that sort of Payment would be of no use to her there. Captain Murray said he would take Government Receipts to that Amount and Accommodate Mrs. Grove by giving her a Bill in lieu thereof on the Paymaster; this was accordingly done. Captain Murray received Store Receipts from me to the Amount of £135.

The House was first occupied by Capt'n. Smith and family as a Government Barrack, until they left the Derwent, when Captain Murray sold it to a Mr. Ayers; it has since become the Property, and is now occupied by Mr. Fisk.

The Sum of £135 was paid by me for the Purchase of the House for the use of Government with the Public Money, which Government has never been reimbursed in any Way Whatever.

LEONARD FOSBROOK, Dy. Comm'y.

Sworn before me at Sydney, New S'h Wales, this 12th day of October, 1814. S. LORD, J.P.

[Enclosure No. 4.]

NOTES issued by Cap'n. Murray 73rd Regt. at Hobart Town.

Numbers and dates so far as they are legible.

Return of promissory notes issued by captain Murray.

[This return specified the particulars of one note issued for the sum of £10, nine for £5, nine for £2, seventy-two for £1, thirty-three for 10s., one for 7s. 6d., two for 5s., and one for 2s. 6d.; the dates were in the years 1810, 1811, and 1813.]

		£	s.	d.
56 Notes	Amo't	70	17	6
64 Do.	Do.	70	0	0
8 Do.	Do.	21	12	6

In all 128 Notes Total Amo't £162 10 0 { for Subsistence
of the 73rd Regt.

All signed,—J. MURRAY, Cap'n, 73rd Regt.

True Copy:—JNO. THOS. CAMPBELL, Secy.

1816.
2 March.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Willerby; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 2d March, 1816.

Recommendation of Richard Barker as a settler.

I am directed by Lord Bathurst to acquaint you that he has granted permission to the Bearer, Mr. Richard Barker, to proceed with his Family to settle at New South Wales, and I am to desire you will make him a Grant of Land proportioned to the means he may possess of bringing it into Cultivation, and extend to him the other Indulgences usually granted to Settlers.

I am, &c.,
HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 4 for 1816," per H.M. brig Emu*; acknowledged by Earl Bathurst, 6th February, 1817.)

8 March.

My Lord, Government House, Sydney, 8th March, 1816.

Restoration of trade with America.

I had hoped that the late Treaty of Peace with America Would have enabled me on the first Communication on that Subject to make a favorable Report to Your Lordship in regard to the Restoration of that Trade which had been formerly Carried on by American Shipping With this Port; but that Hope has been frustrated by A Circumstance as Extraordinary as Unexpected, which has taken place, and having for its Object the total Extinction of All foreign Trade with this Place, and the Subversion of that Harmony which the Treaty of Peace had given the happy Assurance of; I have now the Honor to lay the Circumstances, herein Alluded to, before Your Lordship with such Remarks as the Occasion has suggested.

Arrival of the schooner Traveller.

An American Schooner, Called "The Traveller," Commanded by Captain William French, and having on board an American Gentleman, Called Mr. J. J. Wilcocks, as Part Owner and Supercargo, Arrived here on the 19th Ulto. from Canton, being partly freighted by Mr. Walter Davidson, Agent and Merchant there, to Carry Some Teas and other Articles of Merchandize for Account of Merchants of Sydney.

Papers carried by the schooner.

This Vessel was Cleared out in the Usual Form from Canton, and had a regular Pass Signed by the Select Committee of Supercargoes of the East India Company, the Clearance and Pass being both for this Port. Pleased with the Prospect of a beneficial Intercourse being thus renewed by this first Arrival of an American since the Treaty of Peace, and not foreseeing that any Doubt or Difficulty Could be started in regard to the Legality of the Voyage, I did not hesitate a Moment to grant the *Traveller* the same Liberty of Entry as I should have done had She been a British Vessel. The Entry and Permission for Landing the

Entry granted to the schooner.

1816.
8 March.

Goods Consigned hither, on the regular Duty being paid, or Whatever Other part of her Cargo the Owner or Master Wished to dispose of, were granted in the Usual and Accustomed Form by Me to the Naval Officer. It is almost Unnecessary to add that the Transaction had the fullest Publicity.

A few Days after this took place I had Occasion to go on a Tour of Inspection into the Interior from Whence I returned on the 26th Ult., and on My Arrival learned with Much Surprise that the American Schooner, Whilst in the Discharge of her Freightage at the Public Government Wharf, had during my Absence been Seized as a lawful Prize under the Navigation Act; and this Surprise was Not a little increased When informed that the Seizure had been made by the Reverend Benjamin Vale, One of the Assistant Chaplains, Supported and Abetted by W. H. Moore, One of the Solicitors lately sent out by Government on a Salary of £300 a Year to Encourage him to become A practising Attorney in this Colony under the New Patent.

Seizure of the schooner as a lawful prize.

A Representation having been made to Me by the Supercargo and Owner the Day after My Return, I removed the Arrest or Restraint, which had thus been laid on the Discharge of the Cargo, and Continued the Permission of Landing which I had Originally granted, Conceiving that there was no Law prohibiting such Trade, and knowing that the Constant Usage and Custom of this Place, from its first becoming A British Settlement, has been Invariably (in Times of Peace) to Admit American Ships and Cargoes to come to Entry in every Respect as if they Were British Property.

Removal of arrest and restraint on schooner by Macquarie.

The *Traveller* is the forty Second Vessel under American Colours which has been brought to Entry and Cleared out from Port Jackson since the Formation of this Colony under Governor Phillip; Eight of which from Various Ports and Places took place within the Period of my own Government, and no Illegality or Objection was ever Suggested to Me from any Quarter to such Trade, Altho' Were there any just Ground of Objection I had a Right to expect that the late Mr. Bent, as Judge Advocate, and the only Legal Adviser I had in the Colony, would have pointed it out to Me, and thus have guarded Me against an Error Which I might otherwise be liable to. Since the Demise of Mr. Bent, I have Not required on any particular Occasion to Make a reference to any living Law Authority, for I have Not Considered that any Difficulty has arisen in this Interval that required Such Advice; but had this been otherwise I should have felt the Utmost Reluctance in resorting to Mr. Justice Bent, Whose Every Measure has been Calculated to Obstruct and Embarass even the plainest Measures and most Obvious Duties

Previous entries of American shipping.

No legal objections taken formerly.

1816.
8 March.

Retention of
statutes by
J. H. Bent.

of my Administration. Whilst on this Subject I have to Add that I have been debarred from Reference to the Statutes themselves by Mr. Bent retaining both the Setts which Government had at different times Assigned for the Use of the Law Court, as I have more particularly Mentioned to Your Lordship in my Dispatch, dated the 22d Ulto.

Possible
informality of
Macquarie's
action.

If the Measures, I have pursued on this Occasion in regard to the American Vessel, should prove to be at Variance with the Laws of the Land, which Fact I do not profess Myself Able to determine, the Constant Usage of the Port being Precedents Altogether in favor of their Legality, and the no less Important Consideration that I have not had the Benefit of any Law Advice, or even the Opportunity of Appealing to the Statutes themselves, Will, I trust, when Combined, fully Absolve Me from Every Blame or Censure, that under other Circumstances might be Imputed to Me.

Practice of
former
governors.

That the Uniform Practice of my Predecessors in this Government has been to Admit American Ships to Entry here, will be Obvious to Your Lordship from the List of American Vessels that have resorted hither in former times which I transmit for Your Lordship's Information; And I have to remark that as my Predecessors Were all Officers in His Majesty's Navy, a Class of Gentlemen Who are Generally Supposed to be Well Informed on the Law of Prizes, and to be tenacious Also of Enforcing them, I trust, if it Should be deemed an Error, that such Precedents will Exculpate Me from the Consequences.

Viewing the Case in this Light, I have the fullest Reliance on Your Lordship's liberal Construction of My Motives and that in the event of the Law having been in this Instance Unknowingly Violated that Your Lordship will protect me from the Risk of Malicious Prosecution by those whose sordid Expectations have been frustrated by my Means.

Advantages of
the cargo on
the schooner.

If I were even Sensible of having Interrupted the regular Course of the Law, I might be justified in pleading on this Occasion that the existing Scarcity of those most Important Articles of Consumption, namely Tea and Sugar, Which Could Scarcely be procured at any Price, formed a Ground of Necessity for the Measure that Would Warrant My having Adopted it on that principle Alone. But, My Lord, Altho' the Scarcity in those Articles of prime Importance to the great Mass of the People Might be Worthy of Some Consideration, particularly as No regular Commercial Intercourse is Yet established between Us and the Mother Country, Yet I do Not by any Means wish to rest my Conduct on Such Circumstances, or to make any Plea from thence to justify what might otherwise prove to be Illegal.

The Uninterrupted Usage of the Port, and My Not knowing of any Law being thereby Infringed, are the Basis on which I found with the Utmost Confidence My Reliance on Your Lordship for Protection on this Occasion, if what I have done Should Not be Conformable to the Law of the Land or any existing Treaties.

1816.
8 March.

Macquarie's
reliance on
previous
precedents.

The Obstinacy and Contumely with which Mr. Vale and his Abettors persevere on this occasion leave Me no Room to doubt that He and they Will prosecute the Business elsewhere against Me with All possible Virulence, and thence I beg to submit, to Your Lordship's Superior Wisdom and kind Consideration, the Expediency of Obtaining *An Act of Indemnity for Me*, in the Event of the Navigation Act having been thus Unknowingly Violated, My Motives having been altogether pure and disinterested.

Request for
an act of
indemnity.

Mr. Vale's Conduct and that of Mr. Moore (both Officers receiving the Pay under this Government) being highly disrespectful, Insolent and Insubordinate, in Making Seizure of a Vessel during My Absence, which they were fully Aware had received My Sanction for Entry and Discharge, I felt it my Duty to remark so much to Mr. Vale, Whom I sent for on the 27th Ulto. and Admonished him on the Impropriety and great Indelicacy of his Conduct in this Instance towards Me as His Governor and Commander in Chief. The Circumstances of his Conduct were so Glaringly Offensive, that I had entertained a Hope that my Observations to him would have Induced a Suitable Apology and Submission for the Insult so offered to My Authority; but I am sorry to say that such Expectation was Altogether disappointed: for instead of any Expression of Regret, He even Attempted by Argument to Vindicate the Measure. Under these Circumstances I felt it due to the Necessary Support and Maintenance of My own Authority to mark such Obstinate Resistance (especially in A Person whose sacred Profession should have taught him a very different Line of Conduct) with a proportionably Strong Reprobation, and for that purpose I ordered him into a Military Arrest, his Commission as Assistant Chaplain Specifically rendering him Amenable to Martial Law, in order to his being brought to a Court Martial. In pursuance of this Arrest I ordered a Court Martial for the Investigation of the Conduct of Mr. Vale on the Specific Charges which I preferred against him. A Copy of which I transmit Your Lordship herewith.

Criticism of
Vale's conduct.

Vale ordered
into military
arrest.

Charges
preferred
against Vale.

This Court was Assembled Yesterday and the Trial has been proceeded upon in the Usual Way. When the Proceedings shall be Concluded I shall do Myself the Honor to Inform Your Lordship of them in a future Dispatch.

1816.
8 March.

Criticism
of Moore's
conduct.

Withdrawal
of salary and
indulgences
from Moore.

The Conduct of Mr. Moore, the Solicitor in Acting as the Law Agent of Mr. Vale on this Occasion, being equally Insulting and Insubordinate as that of Mr. Vale himself, I have deemed it Necessary to Mark my Sense of it in Such a Manner as I Considered his Insolence Merited, and for this purpose I have given Directions for his Salary of £300 to be discontinued to him from the Police Fund from the day of his Assisting Mr. Vale (23rd February) in making the Seizure, and I have Ordered him not to be Continued on the Government Stores; at the Same time With-holding every other Indulgence from him, Which I might under other Circumstances have been disposed to Extend to him. I trust, My Lord, that the Indignation I have felt at the Conduct of Mr. Vale and Mr. Moore, and the Measures I have founded thereon Will Meet Your Lordship's Sanction and Approbation; and that no part of my Conduct, in regard to them, will be deemed either Irregular or Stronger than their Insulting Efforts to bring My Authority into Contempt fully Warranted, and demanded at my Hands.

Participation of
J. H. Bent in
the seizure.

I have to State to Your Lordship that Mr. Vale and Mr. Moore, on the Occasion of the Seizure, proceeded direct from the House of Mr. Justice Bent (with the Notifications of a Seizure ready drawn Up) on board the Traveller, and I have besides much Reason to Apprehend that their Proceedings herein were under the private Advice and Recommendation of that Law Officer; hence I am persuaded that Your Lordship will Agree with Me in the Opinion that the Measure has been Undertaken and persevered in upon the most Factious and Illiberal Principles in regard to Me. Indeed, when Your Lordship shall have Viewed the Business in all its Bearings, and Considered the Difficulty of preserving Peace and Good Order in a Colony, at once so remote and peculiarly Circumstanced as this is, I trust the Measures I have Adopted Will be Considered More Lenient than the Occasion required, or the Persons Concerned deserved at my Hands, particularly when it is taken into Consideration that the highest Law Officer of the Colony, Whom I should Expect to Advise and Assist Me in any Occurrences of legal Difficulty, is the Root of this and every Faction and Cabal that takes place in the Colony.

Permission for
Vale to return
to England.

A Considerable time previous to the Seizure of the Traveller, I had Complied with Mr. Vale's Earnest request to be permitted to return with his Sickly Wife and family to England, and he had in Consequence engaged a Passage on board The Governm't Brig Emu, now about to be dispatched thither. His Conduct throughout, Since his Arrival in this Country, has been that of a discontented or disappointed Person; Altho' on my part, I have

rendered him every Accommodation and Comfort within my Power to Extend, and Consistent with his Situation to receive. This discontented Turn of Mind and Dislike to his Situation Induced Me to Accede the more readily to his Wish of returning to England, And I mean still to permit him to Avail himself of the Opportunity of going by the Emu, as soon as the Proceedings on his Trial shall be Closed, being fully Convinced that he will be no further Serviceable here in His Clerical Profession.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

LIST of Forty One American Ships which have at different times come into, and Sailed out of, the Harbour of Port Jackson since the Establishment of that Settlement to the close of the Year 1813.

Return of
American
shipping at
Port Jackson.

No.	Ship or Vessel's Name.	Where from.	Date of Arrival.	Sailed for
1	Hope	Rhode Island	1792	Rhode Island.
2	Philadelphia	Philadelphia	1792	China.
3	Fairy	Boston	1793	N. W. Coast.
4	Halcyon	Rhode Island	1794	China.
5	Hope	Do Do	1794	China.
6	Mercury	Do Do	1794	back home.
7	Abigail	Do Do	1796	China.
8	Grand Turk	Boston	1796	Do.
9	Otter	Do	1796	Bengal.
10	Mercury	Manilla	1797	China.
11	Semiramis	Rhode Island	1798	Fishery.
12	Resource	Do Do	1799	China.
13	Belle Sauvage	Do Do	1800	Home.
14	Betsey	America	1800	Fishery.
15	Diana	America	1800	China.
16	John Jay	Rhode Island	1800	China.
17	Susan	Do Do	1800	China.
18	Caroline Schooner	America	1801	Home.
19	Follingsby	America	1801	China.
20	Hope	River Plate	1801	China.
21	Missouri	America	1801	Do.
22	Weltha Ann	New York	1803	Fishery.
23	Fair American	Manilla	1804	Manilla.
24	Mary Ann	Boston	1804	Manilla.
25	Ceolus	New York	1805	China.
26	Eliza	Buenos Ayres	1807	Fejees.
27	Grand Sachelm	Boston	1807	Fishery.
28	Hannah and Sally	Rio	1807	America.
29	Hope	New York	1807	America.
30	Jeannette	Boston	1807	Fejees.
31	Amethyst	America	1808	Fishery.
32	Hero	New Mexico	1808	Chili.
33	Anne	America	1809	Fishery.
34	Active	Mauritius	1810	Fejees.
35	Aurora	Virginia	1810	Fishery.
36	Aurora	Fishery	1810	Fishery.
37	Hunter	Cape of Good Hope	1810	Derwent.
38	Aurora	Macquarie Island	1811	Bengal.
29	Millwood	New York	1811	Fejees & Canton.
40	Sally	Mauritius	1811	China.
41	Anne	America	1812	Fishery.

True Extract:—JNO. THOS. CAMPBELL, Secy.

1816.
8 March.

Reasons for
granting leave
to Vale.

1816.

8 March.

Charges
preferred
against the
Reverend
Benjamin Vale.

[Enclosure No. 2.]

CHARGES PREFERRED AGAINST THE REVEREND BENJAMIN VALE.

THE Reverend Benjamin Vale, Assistant Chaplain under the Government of New South Wales, Ordered Under Arrest by His Excellency The Governor and Commander in Chief on the Undermentioned Charges, Vizt:—

First Charge.—For Conduct highly Subversive of all good Order and discipline in taking upon himself unauthorized to make a Seizure of the American Schooner Traveller in Sydney Cove on Friday, the 23d of February, 1816, after His Excellency The Governor and Commander in Chief of this Territory had permitted and regularly sanctioned the said Schooner to be entered at this Port with leave to land certain parts of her Cargo.

Second Charge.—For insolent, disrespectful and insubordinate Conduct towards His Excellency The Governor and Commander in Chief in making the Seizure adverted to in the first Charge, in Contempt of His Authority, thereby tending to weaken the Powers of the Executive Government of the Country and bringing Odium and disrepute on the Public Measures of the Governor, whom the Reverend Mr. Vale is bound to obey and respect as his Commander in Chief.

Third Charge.—For disgraceful and ungentlemanly Conduct highly derogatory to his Sacred Character as Assistant Chaplain and Clergyman serving under this Government, in so far stepping out of the proper line of his Duty as to make the Seizure of the said American Schooner Traveller in his own Person, and from apparently Seditious unworthy and Sordid Motives.

Fourth Charge.—For highly disrespectful insolent and insubordinate Conduct in having Authorized his Agent, Mr. William Henry Moore, an Attorney in Sydney, to address certain Papers and Letters written in very improper and inflammatory language to His Honor Lieutenant Governor Molle (in the Absence of the Governor on Public Duty in the interior) on the Subject of the Seizure of the American Schooner Traveller.

Government House, Sydney, N. S. Wales, 2nd March, 1816.

By Command of His Excellency The Governor and Commander of the Forces. H. C. ANTILL, Major of Brigade.

True Copy:—JNO. THOS. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 5 for 1816," per H.M. brig Emu*; acknowledged by Earl Bathurst, 30th January, 1817.)

12 March.

My Lord, Government House, Sydney, 12th March, 1816.

I have been honored with a Letter from Mr. Adam Gordon of the Colonial Office (Written by Your Lordship's Command)

* Note 2.

dated 9th November, 1814, and enclosing the Copy of one from S. R. Lushington, Esqr., Secretary of the Treasury, relative to the Accounts of the Commissariat Department of the Settlement on Van Diemen's Land for the Years 1807 and 1808, and requiring to be Informed Why the Expences of the former Year should so much exceed those of the latter, being Upwards of double the Amount, with Such other Information or Suggestions as I might be enabled to furnish.

1816.
12 March.
Expenditure in
Tasmania.

I am Sorry to Acquaint Your Lordship that the Means of Information within My Power on this Subject are so very limited that I am not enabled to give any Satisfactory Explanation of the Cause of the Expences of Van Diemen's Land having been so Very Great in the Year 1807; No Accounts or Records for that Year or the two Ensuing Ones being forthcoming in the Public Offices here, the Whole having been either destroyed or Mislaid during the time of the Insurrection and Consequent Overthrow of Gov'r Bligh's Authority in 1808.

Impossibility
of supplying
information.

From such Information as I have been enabled to Collect, I am of Opinion that the Extraordinary Expences of 1807 must have been Incurred by the partial Evacuation, which took place that Year, of the Settlement of Norfolk Island, and the Inhabitants of the latter place having been removed to, and Settled by Government in Van Diemen's Land, the Expences were Charged in the Accounts of that Settlement.

Possible
explanation of
expenditure.

Not being in Possession of the Documents Necessary to Explain distinctly all the Causes of the Increased Expences of 1807, I Cannot take upon Me to say that so great a Difference in the Expences of that Year, from those of the Subsequent Ones, is altogether Owing to the partial Evacuation of Norfolk Island, but the Compensations made to the People so removed must have been Considerable.

The late Deputy Commissary at Hobart-Town, Mr. Leonard Fosbrook, who is now in England, should be able to explain to the Lords of the Treasury All the Circumstances of the Expences of the Settlements in Van Diemen's Land, and I therefore beg Leave to recommend that Mr. Fosbrook be Called Upon to do so. I believe this Gentleman's Residence is at No. 19, Vale Place, Hammersmith, in Middlesex.

Reference
suggested to
Leonard
Fosbrook.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 6 for 1816," per H.M. brig Emu*; acknowledged by Earl Bathurst, 30th January and 21st April, 1817.)

My Lord, Government House, Sydney, 13th March, 1816.

13 March.

The terms, in which some of the Sentences of Transportation are expressed for Prisoners who are sent here under

1816.
13 March.

Convictions in Scotland, exciting considerable uncertainty as to their construction or meaning, I beg to state the circumstances and to request Your Lordship's instructions thereon.

Method of
recording
sentences on
convicts in
Scotland.

Interpretation
of the sentence.

In the Indents sent hither with Convicts, the Sentences from the Scotch Court run not unfrequently in the following terms: "For Life, the Contractors to have his (or her) services for — years from — date." This qualification, or double Sentence of *Life and Years*, creates the difficulty in question, and renders it doubtful whether a Prisoner under such Sentence shall, after the term of years have expired for which His Services are enacted to the Contractor, become ipso facto Free, in like manner as a Prisoner under Sentence for a limited Period only; or whether He shall, on the expiration of the term of years so enacted to the Contractor, be then *only* entitled to an exemption from that Service to the Contractor, or to this Government, but still remain, under the other part of the Sentence, An Exile here *for Life*. I am rather inclined to put the former Construction on the Sentence, and in this case it appears to me that there is no occasion for the other part, expressing Transportation *for Life*, which being omitted would do away the present Ambiguity.

Application
from a Scottish
prisoner.

An Application, lately received from a Prisoner in the predicament now stated, is the immediate occasion of My addressing Your Lordship at this time on the Subject. This Person, whose Name is *Andrew Stewart* and resides at the Derwent, states that He was tried at Edinburgh in January, 1809, and received Sentence of Transportation for Life, but that his Services were enacted *to the Contractor and his Assigns for Seven Years*, and he thereon lays claim to his freedom at the expiration of that limited Period. Having caused examination to be made in the Indents of the Indian, which is the Name of the Vessel he arrived in, I find the chief Circumstances of his statement Correct, his Sentence being "*for Life*," "The Contractors to have his Services for Seven Years from the 5th day of July, 1810." By this Extract it appears that Stewart's Sentence, even supposing it to terminate with the years above mentioned, will not be at an end until the 5th of July, 1817.

By reference to Your Lordship's Letter No. 48, dated the 28th July last, and that of Mr. Beckett to Mr. Goulburn, I find that the person I have mentioned is the same Andrew Stewart, who had made an application on his case to Mr. Beckett, the Under Secretary of State for the Home Department, And I should be glad if Your Lordship would instruct me on the subject, as it respects him and the other Persons mentioned in the Abstract transmitted by Your Lordship.

In regard to the Case of Robert Shreeves, a Copy of whose Memorial* to His Royal Highness The Prince Regent I have received from Your Lordship, I beg to state that I have no recollection of the Circumstances stated in his Memorial; they may however be correct as to his having Surrendered an Absolute Pardon to me which He had obtained from Colonel Paterson; for on my taking charge of this Government, I called in All the Free and Conditional Pardons, which had been granted by Colonel Paterson and others during the Period of their Usurpation of this Government on the Arrest of Governor Bligh, not deeming them legal, and Ordered those who possessed them to be considered and treated as Persons still under their Original Sentences. Several of those Persons who had good Conduct to plead, I afterwards granted either Conditional or Free Pardons to, according to their respective Periods of Servitude and general Behaviour. The Petitioner Shreeves not having mentioned by what Ship He arrived in this Country, I am not enabled to say whether or no He has correctly represented his Sentence of Transportation, as I do not know to what Indents I should make a reference in his Case.

1816.
13 March.

The memorial
of Robert
Shreeves.

Cancellation
and renewal
of certain
pardons.

William Dockerell, whose case is also mentioned in the List* transmitted Me by Your Lordship, appears in the Joint Indents of the Ships Fortune and Alexander to have been tried at Cambridge Assizes on the 12th of March, 1805, and to have been Sentenced to Transportation for Fourteen Years, but as it is stated in the remarks on the List or Memorandum above referred to (transmitted by Mr. Beckett from Lord Sidmouth to Henry Goulburn Esquire), that the Sentence of William Dockerell, on the Books was only *Seven Years*, I shall of course correct the error in the Indents and give him a Certificate of his term of Transportation having expired on the 12th of March, 1812.

Error in
indent papers
re William
Dockerell.

Being on the Subject of Convicts I avail myself of the occasion to repeat to Your Lordship that *no Indents* came out with the Convicts in the *Ship General Hewitt* in 1814, neither have any arrived for them since that time. I have also to inform Your Lordship that the Male and Female Convict Ship Francis and Eliza, which arrived last Year, having been Captured by an American Privateer on the Passage hither, the Indents for the Convicts together with the Register and all the Valuable Papers Connected with the Ship herself were totally destroyed.

Request for
indent papers
of convicts *per*
ships General
Hewitt, and
Francis and
Eliza.

The Indents of Convicts being of constant and important reference here on various Occasions, I request Your Lordship to

* Note 8.

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have the goodness to Order correct Copies of those for the *Ships General Hewitt and Francis and Eliza* to be made out and sent hither by an early opportunity.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 7 of 1816," per H.M. brig *Emu**; acknowledged by Earl Bathurst, 30th January, 1817.)

Government House, Sydney, New South Wales,

18 March.

My Lord,

18 March, 1816.

Transmission
of despatches.

1. My last general Dispatch to Your Lordship's Address was dated the 24th June 1815, and was transmitted to England per the Ship "*Sydney Packet*" Which Sailed hence on the 3rd of July last. I send the Duplicate by the present Conveyance, namely, His Majesty's Colonial Brig *Emu*, Commanded by Lieut. G. B. Forster, now under Dispatch direct for England.

Acknow-
ledgment of
despatches.

2. Since the departure of the *Sydney Packet* I have had the Honor to receive Your Lordship's and the Under Secretary of State's several Letters as Specified in the Margin:† to all which the most respectful and pointed Attention will be paid. I have much to Lament that I have not Yet been Honored with any Communication from Your Lordship on Several Very Interesting and important Points relative to the Colony and my general Administration of its Government as Contained in My Several Dispatches‡ Addressed to Your Lordship in the Years 1813, 1814, and 1815 per the Ships *Minstrel*, *James Hay*, *Seringapatam*, and *Wellington*. Many of these Points being of the Greatest possible Importance to the future Prosperity Welfare and Improvement of the Colony, I take the Liberty Most Respectfully to solicit Your Lordship's early Consideration of them, and that Your Lordship Would be kindly pleased to honor Me with Your Commands and Sentiments thereupon, As soon as Your Lordship's more important Avocations Will Admit.

Request for
instructions.

3. I have the Pleasure to report to Your Lordship that this Colony continues in a progressive State of Improvement. The Very Extraordinary and Unprecedented Droughts, We have Experienced for the last three Years, have, as might be Expected, Occasioned a very great Mortality amongst the Horned Cattle and Sheep throughout the Colony, as well as greatly Injured the

General
condition of
the colony.

Loss of
live stock
by drought.

* Note 2.

† 30th & 31st Jany.; 2d, 21st, 24th, & 25th March; 18th & 30th April; 8th May; 24th & 26th June; 7th, 12th, 22d, 27th, & 28th July, and 9th, 17th, 22d, and 31st Aug., 1815.

‡ Note 9.

Crops of Wheat, Maize, Oats, Barley and Potatoes; which consequently occasioned a Considerable Rise in the price of Animal Food and Grain during that Period tho' never Amounting to an Actual Scarcity. But as the last harvest promised to be a very indifferent one, I deemed it a necessary Measure of precaution to Commission One Hundred and fifty Tons of Wheat from Bengal for the Use of this Government, and this Quantity together with a Supply of Sugar and Spirits at reasonable prices for the Use of the King's Stores, Arrived here a few days Ago, Which proves a Very Seasonable Supply as it will be the Means of preventing Monopolizers from raising the Prices of those Articles on the poorer Classes of the People. By the latest Accounts from the two Settlements on Van Diemen's Land, the Harvest there has promised to be a Most Abundant one; the Droughts We had here not extending to that Island, and besides the Soil being Infinitely Superior to that of the Settlements of Port Jackson excepting Immediately on the Banks of the Rivers Hawkesbury and Nepean Where the Lands Are Occasionally Flooded and Consequently much enriched; there is now, I am happy to say, every Reason to expect that We shall have more favorable Seasons for the time to Come, as We have lately had very Copious and Seasonable Falls of Rain throughout every part of the Colony, which were greatly Wanted, the Lands every Where being quite parched and burnt up, Affording Neither Grass nor Water for the poor famished Cattle, which Were dying in Hundreds 'till this favorable Change took place in December last. About the latter End of that Month, the Rain fell in such Torrents that We were threatened with a Flood, the River Hawkesbury having risen in the Course of a few Days No less than twenty two Feet above its Usual Level. The Rains however soon Moderated, and We are again relieved from the Apprehension of a Flood for this Season.

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Importation
of wheat
from Bengal.

Prospects of
harvest in
Tasmania.

Break-up of
the drought.

Rainfall in
December.

I am much Concerned to be under the Necessity of Reporting to Your Lordship that the Native Blacks of this Country, Inhabiting the distant Interior parts, have lately broke out in Open Hostility against the British Settlers residing on the Banks of the River Nepean near the Cow Pastures, and have Committed most daring Acts of Violence on their Persons and Depredations on their Property, in defending which no less than five White Men have been lately Killed by the Natives, who have not been known to Act in such a ferocious Sanguinary Manner for many Years past. I have Uniformly made it my Study since my first Arrival in the Colony to do every thing in my power to Conciliate the Native Tribes by Shewing them on all Occasions much

Murders and
depredations
committed
by natives.

Macquarie's
policy towards
the natives.

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Macquarie's
policy towards
the natives.

Kindness, and frequently Supplying them with Provisions and Slops. Indeed I had entertained Very Sanguine Hopes of being enabled to Civilize a great proportion of them in a few Years by the Establishment of the Native Institution and School at Parramatta for their Children, and Settling Some few Grown up Men and Women on Lands in the Neighbourhood of Sydney; but I begin to entertain a Fear that I shall find this a More Arduous Task than I at first Imagined, tho' I am Still determined to persevere in My Original Plan of endeavouring to domesticate and Civilize these Wild rude People. In the mean time it will be Absolutely Necessary to Inflict exemplary and Severe Punishments on the Mountain Tribes who have lately exhibited so Sanguinary a Spirit against the Settlers. With this view it is my Intention, as soon as I shall have Ascertained What Tribes* Committed the late Murders and Depredations, to send a Strong Detachment of Troops to drive them to a Distance from the Settlements of the White Men, and to Endeavour to take some of them Prisoners in order to be punished for their late atrocious Conduct, so as to Strike them with Terror against Committing Similar Acts of Violence in future. Many of the Settlers have entirely Abandoned their Farms in Consequence of the late Alarming Outrages. In Order, however, to Induce them to return to their Farms, I have sent some small Parties of Troops as Guards of Protection for those Farms which are Most exposed to the Incursions of the Natives; but these have of late become so very Serious that Nothing Short of Some Signal and Severe Examples being made will prevent their frequent Recurrence. However painful, this Measure is Now become Absolutely Necessary.

Punitive
measures to be
taken against
marauding
natives.

Troops detached
for protection
of settlers.

Leniency
formerly used
to natives.

Unwilling hitherto to proceed to any Acts of Severity towards these People, and if possible to Conciliate and Keep on friendly Terms with them, I have forgiven or Overlooked Many of their Occasional Acts of Violence and Atrocity, exclusive of Numberless petty Thefts and Robberies Committed by them on the defenceless remote Settlers for the last three Years.

I do myself the Honor to report to Your Lordship the arrival of the following Male and Female Convict Ships at this Port from England and Ireland, subsequent to the Date of my Dispatch of the 24 June last, viz. :—

1st. The Ship Canada, Commanded by Captn. John Grigg, Arrived on the 5th of August with 156 Male Convicts from Ireland guarded by a Detachment of the 1st (or Royal Scots) and 46th Regts. under the Command of Lieut. Suckling of the former

Arrival of the
ship Canada.

* Note 10.

Corps, the Convicts being a good deal Afflicted with Scurvy, owing to the great Length of the Voyage, but the Troops were quite healthy.

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Mr. Martin Tims, Provost Marshal of the Settlements on Van Diemen's Land, together with his family, Arrived Passengers in the Canada.

Arrival of
Martin Tims.

2nd. On the 8th of August, the Ship, Francis and Eliza, Commanded by Captn. William Harrison, Arrived from Ireland (having Sailed in Company with the Canada from that Country) having 52 Male and 65 female Convicts on board, Guarded by a Detachment of the 1st (or Royal Scots) and Royal African Corps Under the Command of Ensign Daniel Alt of the latter Corps, the Troops and Convicts being in pretty good health. This Ship had been Captured by an American Privateer* off the Island of Madeira, but was afterwards released by the Commander of the Privateer and permitted to prosecute her Voyage to this Country. She touched at the Island of Teneriff, and afterwards at Sierra Leone, Where Captn. Brown, Commander of the Ulysses, Man of War, thought proper, for the greater Security of the Francis and Eliza, to Order a Detachment of the Royal African Corps from that Station to be put on board her.

Arrival of the
ship Francis
and Eliza.

Frederick Garling Esq. Solicitor, with his family and a Mr. Richard Lewis, A Free Settler, Came out as Passengers on board the Francis and Eliza.

Arrival of
Garling and
Lewis.

3d. On the 7th of September, the Ship Baring, Commanded by Captn. John Lamb, Arrived from England, having 298 Male Convicts on board, guarded by a Detachment of the 34th and 46th Regts. under the Command of Captain Sanderson of the latter Corps. The Whole of the Convicts and Troops on board Arrived in perfect good Health; it appeared that the Commander and the Surgeon and Agent (Mr. David Reed) paid every possible Attention to the Health and Comfort both of the Convicts and Soldiers during the Voyage, No less than 300 of the former having Embarked and only two having died on the passage hither. A Mr. Parker and a Mr. Puckley, Free Settlers, Arrived as Passengers on board the Baring.

Arrival of the
ship Baring.

4th. On the 17th of January, the Ship Fanny, Commanded by Captain John Wallis, Arrived from England, having 171 Male Convicts on board, guarded by a Detachment of the 56th Regt., the whole of the Convicts Arrived in perfect good Health, owing to the very humane and Vigilant Attention of the Commander and Surgeon and Agent (Doctor Macdonald); three Convicts only died during the Voyage.

Arrival of
Parker and
Puckley.

Arrival of the
ship Fanny.

5th. On the 19th of January, the Ship Mary Anne, Commanded by Captain J. K. Arbuthnot, Arrived from England,

Arrival of the
ship Mary Anne.

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 Arrival of the
 ship Mary Anne.

having 101 female Convicts on board, All of whom Arrived in good Health, one Convict Woman only having died on the passage out of 102 Originally Embarked on board this Ship. Doctor Bowman of the Royal Navy Came out as Surgeon and Agent of the Mary Anne, and Appears to have paid most Assiduous and humane Attention to the Health and Comfort of the Convicts and other passengers on board that Ship. Fifteen free Women, Wives of Convicts, Arrived in this Ship to join their Husbands here. Captn. E. Bunker, Who proceeded to England some time since in the Command of the recaptured Ship, Seringapatam, returned on board the Mary Anne as a Passenger.

Arrival of the
 ship Ocean.

6th. On the 30th of January, the Ship Ocean, Commanded by Captn. Alexr. L. Johnston, Arrived from England, having 218 Male Convicts on board, guarded by a Detachment of the 46th and 56th Regts. under the Command of Ensign Bullivant of the former Corps. All the Convicts, and also the Troops Arrived in Excellent Health and appeared to have been treated with the greatest Kindness and Attention by both the Commander and the Surgeon and Agent, Doctor Bromley of the Royal Navy, one Convict only died on the passage hither. The Reverend John Youl, Assistant Chaplain for Port Dalrymple, Lieut. Nepean of the 46th Regt., who had lost his Passage on the Ship Fanny (in Which he had Embarked Originally in Command of the Guard), and Mr. John Wentworth (Son of Mr. Wentworth, the principal Surgeon here) Came Passengers in the Ocean.

Passengers on
 the Ocean.

Advantages of
 the appointment
 of naval surgeons
 to transports.

6th. The good and beneficial Effects of the recently adopted System of Appointing respectable and Skilful Surgeons of the Navy to be Surgeons and Agents of the Convict Ships, are eminently Conspicuous in the four last Instances, namely, The Baring, the Fanny, the Mary Ann, and the Ocean, of which Vessels Doct'r Reed, Doct'r McDonald, Mr. Bowman, and Doct'r Bromley were the respective Surgeons; these four Gentlemen Are all Naval Surgeons, Well experienced in their Profession and Very respectable Characters, the Consequence of which has been that the Convicts on board these four Ships Arrived, as I have Already Stated, in Excellent Health, and Without any Complaints against the Commanders. Whereas, previous to this Arrangement, Very few Ships Arrived without a Long List of Grievances from the Convicts against their Commanders for bad Treatment and Short Provisions. I mention these Circumstances to Your Lordship, in Justice to the Merits of those Naval Surgeons Who have been lately sent out in the Capacities of Surgeons and Agents of Convict Ships According to the New

1816.
18 March.Applications
from surgeons
for quarters
and passage
money.

System,* and Also to prove to Your Lordship the great Advantage resulting from its Adoption. All the Gentlemen, thus sent out by the Commissioners of the Transport Board, as Surgeons and Agents of Convict Ships, have made Application to Me on their Arrival here to furnish them with Quarters to live in While on Shore, and Also with a free Passage to England at the Expence of the Crown, these being, as they State, the Terms of their Agreement with the Commissioners of the Transport Board. But, as I have never been Honored with any Instructions from Your Lordship relative to this Subject, I have declined either furnishing them with Quarters on Shore to live in, or with Passages to England at the Expence of the Crown; referring them to the Commissioners of the Transport Board for such Remuneration on these Heads as they should deem them entitled to receive. The only Allowance, I have made to these Officers during their Residence here, has been Rations from the King's Stores, Which have been Issued to them According to the Rules of the Royal Navy. I respectfully request to be Instructed by Your Lordship how I am to Act in future in regard to the Surgeons and Agents of Convict Ships, or Whether I am to be guided by the Instructions of the Commissioners of the Transport Board relative to them.

Good behaviour
of convicts
when captured
by the enemy.

7. On the Occasion of the Capture of the Ship Francis and Eliza Transport by the American Privateer† off the Island of Madeira on her passage hither last Year, it has been Stated to me by the Commander and Surgeon of that Ship, as well as by Mr. Garling, the Solicitor, that both the Male and Female Convicts on board of her, Conducted themselves with great Discretion Moderation and Decency at the time of the Capture, and Whilst the Vessel remained in the Possession of the Enemy, as well as subsequent to her being restored; and those Gentlemen, in Consequence of such Correct Conduct on the part of the Convicts, recommended them very Strongly to my Favor and good Offices on their Arrival here in August last. I therefore respectfully submit to Your Lordship's favorable Consideration that I may be Authorized to grant *Conditional Pardons to All the Male and Female Convicts*, Who Came out in the Francis and Eliza Transport, Whose Conduct since their Arrival in the Colony has Continued to be Correct, as a Reward for their good Behaviour on the Occasion of the Capture of that Ship. This Marked and Special Indulgence Will in All probability have a good Effect on the future Conduct of the persons Who Immediately benefit therefrom, and will also serve to Stimulate others on any Similar Occasion to Act with Equal Forbearance, Discretion and Loyalty.

Proposed
conditional
pardons for
convicts.

* Note 12. † Note 11.

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18 March.
Arrival of
settlers without
recommend-
ations.

8. Several persons having within the last Six or Eight Months Arrived in the Colony as Passengers on board of private Merchant Ships, As well as in some few of the Convict Ships, with the Intention of Settling in this Colony as Merchants, Mariners, Tradesmen or Farmers, Without any Letters or Permission from Your Lordship or other Authority for Coming here from any Department of His Majesty's Government in England, I feel greatly at a Loss how to treat or Act towards those people on their Arrival, More especially in respect to those of them who have no Means of Maintaining themselves, and of this Description there are occasionally a few. I shall however only Mention One of this last Class in particular to Shew Your Lordship the Necessity of Adopting some steps to prevent Similar Occurrences in future. A Mr. Parker (who I have heard is of An Affluent and genteel Family in England) Arrived here in the Baring Transport in September last, Calling himself a Free Settler, but without any Letter from Your Lordship's Department Announcing him to me as such. This Unfortunate Gentleman (for I Understand he had been An Officer in One of the Regiments of Foot Guards) from his own Folly and Extravagance in England, had Incurred the Displeasure of his family and Friends there, and they, in Order to get rid of such a Burthen, procured a Passage for him and sent him out to this Colony to do the best he Could for himself with only thirty or forty pounds in his Pocket. This he very soon spent, and Was for some little time supported by Voluntary Subscriptions from a few Military Officers and other Humane Persons, but, as he is an incorrigible Drunkard and addicted to low Company, these Subscriptions Were soon discontinued; and therefore to prevent his Starving, I was Under the Necessity of Ordering him to be Victualled from the King's Store, which is the only Means of Support now left him.

The case of
Parker.

Mr. Parker is too dissipated and drunken ever to be able to do anything for himself in this Country; and I think it a great Hardship that Government should be obliged thus to support such Idle and Useless Characters. I therefore take the Liberty of strongly recommending that Instructions should forthwith be given by His Majesty's Government to the Commissioners of the Customs (more particularly at all the Out Ports) never to permit any Person whatever, Whether Male or Female, to embark or Sail in any private Trading Ships or Vessels bound for this Colony, Unless they produce properly Authenticated Passports from your Lordship's Office, Authorizing them to Come to this Colony and Specifying in what Capacity. Similar Instructions

Proposed
prohibition of
unauthorized
immigrants.

ought also to be given to the Transport Board not to Order a Passage for any Person Whatever in any of the Convict Ships without a Written Order from Your Lordship's Department for that purpose. Whilst on this Subject I beg leave to report to Your Lordship that, in the Month of August last, a Person named Samuel Leigh Arrived here on board the Ship Hebe, Merchantman, Without any Letter or Pass from Your Lordship's Office; this Person is a Methodist Preacher and was sent out at the Expendence of that Society to preach the Gospel in this Colony. This Man has Conducted himself Very quietly and Inoffensively since his Arrival, and I have no fault to find with him as he is no Expendence to the Crown. But tho' Mr. Leigh's Conduct has been hitherto very Correct here, Still I should Strongly recommend that no Persons of his Description should in future be permitted to Come out to this Colony. We require regular and pious Clergymen of the Church of England, and not Sectaries, for a new and rising Colony like this.

1816.
18 March.

Arrival of
Samuel Leigh.

Prohibition of
admission of
dissenting
preachers.

9. I beg leave to report to Your Lordship that I have made the following Appointments since the Date of my Dispatch of 24th June last:—

1st. Mr. Major West, late Surgeon of the Francis and Eliza Transport, to be Assistant Surgeon in the Room of Assist. Surgeon Younge, removed to the Settlement of the Derwent in Van Diemen's Land, the Appointment of Mr. West bearing Date 8th August, 1815.

Appointment of
Major West
vice Younge;

2nd. Senior Colonial Assistant Surgeon Edward Luttrell to be Acting Colonial Surgeon at the Settlement of the Derwent in Van Diemen's Land, in the Room of Acting Colonial Surgeon Hopley, deceased; Mr. Luttrell's Appointment bearing date the 25th of August, his Predecessor having died on the 24th of the same Month at Hobart Town.

and of Edward
Luttrell *vice*
Hopley.

I trust Your Lordship will Approve of these Appointments, and that You will have the Goodness to Move His Royal Highness the Prince Regent to be graciously Pleased to Confirm them.

10. I also beg leave to report to Your Lordship that I have Appointed Mr. Andrew Allan (Eldest Son of Mr. Allan the Deputy Commissary General), A Young Man of Seventeen Years of Age, at the particular Recommendation of Deputy Commy. General Allan, to be a Clerk on the Commissariat Establishment of this Colony, there being now a Vacancy of a Clerkship at Hobart Town; Mr. Allan's Appointment as Clerk bears date the 12th of the present Month of March. I trust Your Lordship will Approve of my making this Appointment, and that You will be pleased to Move the Lords of the Treasury to Confirm it in the Usual Manner.

Appointment of
Andrew Allan
to the
commissariat.

1816.
18 March.

Report
on Evans'
expedition to the
Lachlan river.

11. Pursuant to my Promise Contained in My Dispatch No. 9 of 1815, I now do myself the Honor of transmitting herewith for Your Lordship's Information and Observance the Chart of the Second Tour* made by Mr. Evans, the Deputy Surveyor, in the New discovered Country to the Westward of the Blue Mountains in New South Wales in the Months of May and June last. This Chart, together with the Journal (both of which are transmitted in Duplicate) Kept by Mr. Evans, sent in My Dispatch above adverted to, Will be sufficient to give Your Lordship a tolerable good Idea of the Value and Importance of the Countries thus recently discovered, and I have No Doubt they will prove a Most Valuable Acquisition to the Mother Country, as well as to this rising Colony in particular, Whatever time it shall be the Pleasure of His Majesty's Ministers to sanction My sending Settlers to them. Having Still only the Small Establishment at Bathurst I reported to Your Lordship in a former Dispatch, The Accounts I have lately received from that Country are highly favorable, and give the Strongest Reason to suppose the Soil to be most productive and of the best Quality, both for the purposes of Agriculture and Grazing. In Order to ascertain the former I had Ordered the Superintendent at Bathurst to Cultivate and Sow with Wheat Seven or Eight Acres of Ground, and also to form a Small Garden for Vegetables. Both these Experiments have Exceeded even my most sanguine Expectations, these small pieces of Cultivated Land and Garden Ground producing most Abundant and excellent Crops of Wheat and Vegetables Without the Ground being Manured excepting in a very trifling Degree.

Specimen of
wheat grown
at Bathurst.

Herewith I do Myself the Honor to transmit for Your Lordship's further Information and Observance, A small Phial† full of the Wheat produced at Bathurst this last Harvest, and which is Considered here by the best Judges to be of a Very superior Quality to the Wheat Generally Grown on this Eastern Side of the Blue Mountains.

Cattle sent
west of Blue
Mountains.

In Consequence of the Very great Mortality which had taken place in the Government Herds, as well as in those of Individuals, during the last three Unfortunate Years of Droughts, I was Induced to grant Permission to several of the great Stock-Holders in the Colony to send their Horned Cattle‡ across the Blue Mountains to Graze in the New discovered Country and I also sent Some Herds of the Government Cattle thither as an Experiment. I have now the Pleasure of reporting to Your Lordship that both the Government Cattle, and those belonging to Individuals, have greatly benefitted Already by the Change, and the Whole

* Note 13. † Note 14. ‡ Note 15.

Wonderfully Improved both in Size and Appearance owing to the Abundance of rich Grass and Water to be Met with in all parts of that Country.

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18 March.

Deeming the Services of Mr. Evans, the Deputy Surveyor, as both Useful and Meritorious in his recent Tours of Discoveries to the Westward of the Blue Mountains, during Which he had to Contend with many Difficulties, Hardships and Privations, I took upon Myself the Responsibility of Making him a Remuneration on the part of Government from the Colonial Police Fund of One Hundred Pounds Sterling, as a Reward for his great personal Fatigues, extra Expences, and important Discoveries.

Remuneration
of Evans for his
discoveries.

13. The Salary of Mr. Drummond, some time since Appointed from Home to be Naval Officer at the Derwent, having been Ordered by Your Lordship not to Commence 'till his Arrival at that Station, and no Opportunity having Occurred of Conveying him thither for Some Months After his Arrival here from England on the 27th of January, 1815, he represented to Me the great Hardship of his being Obligated to live so long at Sydney without receiving any Pay, having a Wife and Family to Support at a Considerable Expence. Feeling the peculiar Hardship of Mr. Drummond's Situation, and reflecting at the Same time on the Smallness of his Salary, I took on Myself the Responsibility of paying him equal to the Amount thereof, Namely five Shillings per diem, from the Colonial Police Fund from the Date of his Arrival here up to the Day of his Departure to Assume his Office at Hobart Town. I trust Your Lordship will Approve of my having made this Payment.

Extra
payments made
to Drummond.

14. After an Absence of Nine Months and Seventeen days in performing her Voyage, His Majesty's Colonial Brig Kangaroo, Commanded by Lieut. Jeffreys, returned to this Port on the 5th of last Month from the Island of Ceylon, Whither She had been sent from hence with the remaining Detachment of the 73rd Regt. in April, 1815, and where She landed that Detachment on the 25th of July following. The great Length of time Lieut. Jeffreys took in performing this Voyage, and the Very great Expence he has put the Government to in provisioning his Vessel with Stores While at Ceylon, Serve to Confirm Me in the Opinion that I had formerly expressed that Neither the Kangaroo nor her Commander are at all fit for, or calculated ever to render any important Service to this Colony, at least in No degree to Compensate for her Very Great Annual Expence to the Crown; I have therefore fully resolved on sending the Kangaroo to England in January next, in Case I receive no Orders to the Contrary from Your Lordship in the Intermediate time in reply to My former Dispatch* on this Subject.

Return of the
brig Kangaroo
from Ceylon.

The Kangaroo
to be sent to
England.

1816.
18 March.

Survey and
condemnation
of the brig
Emu.

Employment
of the Emu.

The Emu to sail
for England.

Completion
of the brig
Portland.

Loss of
the schooner
Estramina.

15. In My Dispatch of 24th June last, I reported to Your Lordship the very decayed State of His Majesty's Colonial Brig Emu, Commanded by Lieut. Forster, and Informed Your Lordship at the same time that that Vessel, After being Minutely Examined and Inspected by a Competent Committee of Survey, was reported to be Unfit to be Continued in the Service of this Colony from the rotten and decayed State of her Timbers; and, in Consequence of her having been thus Condemned, I also Informed Your Lordship that it was my Intention, with the Concurrence of her Commander, to send her to England in January last. But in the long and Unexpected Absence of the Kangaroo, I was Obligated to employ the Emu in Making some few Trips to the Settlements of the Derwent and Port Dalrymple in Van Diemen's Land with Troops, Convicts, Provisions, and Stores, for the Use of those Settlements and in effecting the Reliefs of the Military Detachments Stationed at those places. These Voyages were performed with the greatest alacrity by Lieut. Forster and within Very short periods, so as to entitle him to my Thanks and fullest Approbation. The Services of the Emu Can now however be very well dispensed with here, in Consequence of the recent Return of the Kangaroo from Ceylon, and the Emu will accordingly now be dispatched for England in the Course of a very few days to be disposed of on her Arrival there as Your Lordship may deem Most adviseable to direct. I have Addressed A Letter by this Same Conveyance to the Commissioners of the Transport Board relative to sending Home the Emu, enclosing them a Copy of the Report of the Committee of Survey held here on her.

16. The Brig* belonging to Government, which has been many Years on the Stocks here, is at length Nearly Completed in her Hull and I hope to have her ready to be Launched in two Months from this Date at farthest. She is Likely to prove a very Useful Vessel for the Service of Government, as well for the Importation of Coal, Lime and Timber from Newcastle, as for transporting Troops and Stores to Van Diemen's Land. This New Brig, when Completed for Sea, will, in Co-Operation with the Brig Lady Nelson, be fully Adequate in my Opinion to the Service of the Colony for many Years to Come; so that the Services of both the Emu and Kangaroo can Very easily be dispensed with entirely, Which will be a very great Saving to Government.

17. I am Concerned to have now to report to Your Lordship that His Majesty's Colonial Schooner, the Estramina, many Years employed in the Service of the Colony, was Unfortunately entirely lost on the 19th of January last in Coming out of Hunter's

* Note 17.

River laden with Coals and Cedar for the Use of Government from the Settlement of Newcastle on that River, having in a Gale of Wind been driven on Shore on a Sand Bank Where She soon went to pieces; fortunately No Lives were lost, and Most of her Rigging and Furniture were saved After she became A Wreck. The Estramina was very Old and Worn out in the Service, Not having been Considered Sea worthy for a long time past. It was therefore My Intention to have Sold her the Moment the New Brig now on the Stocks should have been Completed; being So very much decayed, the Loss to Government on this Occasion is Comparatively Very trifling.

1816.
18 March.

Loss of
the schooner
Estramina.

18. I shall not fail to pay the earliest Attention to Your Lordship's Commands* relative to Building a small Vessel here for the King of the Sandwich Islands, and shall send her to His Majesty as soon as Completed and fit to Undertake the Voyage to those Islands. On Making Enquiry I find it will be much better to build this Vessel here than to send her in Frame to the Sandwich Islands as probably the King there might not have People that Could put her together properly. The Moment the Government Brig is launched and Completed, I shall have the Vessel for the King of the Sandwich Islands Commenced Upon.

Vessel to be
built for the
Sandwich
Islands.

19. The New Form of Return of Convicts required in Your Lordship's Dispatch of Date 2d March, 1815, to be sent Home Annually in Alphabetical Order, I am not enabled to transmit for this Year by the present Conveyance, as the Making out of the *first* of this Description and Form in a Correct Way is attended with much Difficulty and Trouble. There has been a Clerk for the last three Months exclusively employed in Making Up this Alphabetical Return, and I do not expect it will be Completed in less than three Months more. As soon as Completed I shall not fail to transmit it to Your Lordship by the first Opportunity. In the Mean time I send the Annual Returns of Convicts as formerly required, but Shall discontinue so doing After the New Return is Once Completed, Which will enable me to send Home succeeding Annual ones of the Same Description made upon the first of January of each Year.

Preparation of
alphabetical
return of
convicts.

20. In Reply to the Enquiry made by the Under Secretary of State in his Letter of date 2d March, 1815, relative to the Fate of Joseph Boneham, tried at the Assizes at Northampton, and Sent out a Convict to this Country on board the Ship Indian in 1810, I beg to Inform Your Lordship that he is now Alive, and in the Service of a Mr. Samuel Terry, A Wealthy Merchant

Report on
Joseph
Boneham.

* Note 18.

1816.
15 March.

and Farmer in this Colony, and bears a Very good Character from his Master. I sent for and Spoke to Joseph Boneham lately, and he was then in good Health.

Report on
David Linley.

21. The Convict Named David Linley, Mentioned to Me in Your Lordship's Dispatch under date 31st January last, and respecting Whom Lord Sidmouth had Addressed a Letter to Your Lordship, I have only lately discovered to be Alive, and now in the Service of A Mr. Jonathan Griffiths, a respectable Settler in the District of Richmond. On Enquiry I find David Linley bears a Most Excellent character from his Master and other persons who have known him during his Residence in the Colony. I shall therefore in pursuance of Your Lordship's Commands grant David Linley a Free Pardon Immediately.

Arrival of
Walter Lang.

22. I shall not fail to pay all due Attention to Your Lordship's Commands* relative to Mr. W. Lang, lately returned to this Colony on board the private Merchant Ship, Dowson, with a large Cargo of Goods; but as Your Lordship leaves Me at liberty to exercise my own Judgment as to Complying with the Demand made by this Gentleman to Your Lordship for a Grant of 3,000 Acres of Land, I shall Certainly Avail Myself of the discretionary Power left in respect to the Quantity of Land to be further granted to him in Addition to what he has Already received in this Colony. Mr. Lang has Very improperly practised a gross Imposition On Your Lordship by Stating that he only received One Hundred Acres of Land in the Colony before he Went Home, Whereas he Actually received a Grant of Eight Hundred Acres, Seven Hundred of which were located to him on the Banks of the South Creek near Windsor (and of which Lands he took possession) and the remaining One Hundred Acres Were some time Afterwards given to him at his own particular Request at the Derwent in Van Diemen's Land; so that I think if Mr. Lang should get 1,200 Acres more on that Island in Order to make up his whole Quantity, here and there, to 2,000 Acres he will get full as Much as he deserves, or Will Make any good Use of.

Land to be
granted to
Lang.

23. In Reference to Major General Bunbury's Letter Under date the 25th March, 1815, Conveying to me Your Lordship's Commands relative to a Mr. John Ingle, A Merchant and Settler at the Derwent, and referring to my Consideration a Memorial Addressed to Your Lordship by Mr. Ingle Soliciting further Grants of Land as well as other large Indulgences from Government; I have to State to Your Lordship that this Mr. Ingle is a low Vulgar Man Who has Accumulated a Considerable Property by Carrying on Trade at the Derwent, but has no just Claims whatever on Government for any particular Indulgences, And,

Adverse
criticism of
John Ingle.

* Note 18.

1816.
18 March.

having Already received Eight Hundred Acres of Land by Grants from the Crown, he ought to be perfectly Satisfied with that Quantity. I cannot help expressing My great Surprize and Regret at Lieut. Governor Davey's so far Committing himself as to sign a Certificate for Mr. Ingle, which he must have Well Known at the time was Incorrect, No Individual in Van Diemen's Land possessing 730 Head of Horned Cattle. Such an Assertion Was a gross Attempt at Imposition in Mr. Ingle, and evidently With the View of establishing a Claim for large Additional Grants of Land. It is a Common Trick with many Traders in this Colony to receive Cattle in payment of their Goods, which they Sell again as Soon as they Can, So that these Cattle are Constantly fluctuating from one person to another, being seldom Many Days in the possession of any one person. Consequently to give all the Traders or Merchants under these Circumstances large Grants of Land would be extremely Injudicious and prove ruinous to the Agricultural Interests of the Colony.

Custom of
bartering
in cattle.

24. I have lately received Several pressing Applications from Persons now residing in England, and in India, to Confirm to them Certain Grants of Land given to them in this Colony by the late Colonel Paterson, during the Usurpation of the Colony and the Arrest of Govr. Bligh, and which were all Cancelled* by Me as Illegal by Command of His Majesty on my taking Charge of this Government on the 1st of January, 1810. Such of those Grants, as Appeared to Me to have been given Impartially and to well behaved People then Actually residing in the Colony, I afterwards Confirmed; but I uniformly resisted All Applications made to me for Confirming the Grants of Absentees.

Applications for
confirmation of
lands granted
after the arrest
of Governor
Bligh.

Col. Paterson, who was a Simple good Natured Man, was frequently so far Imposed on that he gave Grants of Land indiscriminately to all persons that Chose to ask for them. It was a Common practice with him to give Grants of Land to Commanders of Ships, who at any time brought Goods for Sale here either from England or India, who perhaps only remained here a few Weeks Without any Intention of ever again returning to the Colony. Such persons Merely Obtained those Grants for the purpose of Selling them again or transferring them to some Friend.

Paterson's
policy of
making land
grants.

All the Officers of His Majesty's Ship Porpoise received Grants of Land from Col. Paterson during his Usurpation of the Government, and these Grants I Cancelled Along With All the others given at that time. I have lately received an Application from Captn. Kent of the Navy who was here as Lieutenant on board the Porpoise during the Usurpation of the Government,

Lands granted
to naval officers.

1816.
18 March.

Refusal
of Kent's
application for
confirmation of
land grant.

and who with the other officers received a Grant of Land from Colonel Paterson, which he now Calls on Me to Confirm as a Reward for his Services in this Country, and in Consequence of a Correspondence he has had on the Subject with Your Lordship's Department in which he is referred to Me. As I think it would be very bad Policy to Confirm any Grant of this Description, I shall decline doing so, unless I receive a positive Order to that Effect from Your Lordship. I do not know any Services performed by Lieut. Kent in this Colony that Can possibly entitle him to a Grant of Land, for it Would be extremely Invidious to Confirm his Grant in particular, and not those of the other Officers of the Porpoise, All of Whom may Consider themselves entitled equally with Lieut. Kent to Similar Rewards for their Services in this Colony. I am however decidedly of Opinion that No Naval or Military Officers should have their Services rewarded in this Way, and that No Person Whatever should receive A Grant of Land in this Colony, Unless he Comes here to reside on and Cultivate it for the purpose of Increasing the Internal Resources of the Colony.

Applications
from Mell and
Burton also
refused.

Similar Applications to Captn. Kent's have recently been Made to Me by Pay Master Mell of the 102 Regt. in England and by a Mr. Campbell Burton in India for Confirmation of Grants of Land given them by Col. Paterson during the Usurpation of the Government. Mr. Burton was Commander of an Indian Vessel which brought Supplies from that Country to this during the period adverted to, and it was on that Occasion he got his Grant of Land. This Man Came here Afterwards on a Mercantile Speculation and I then refused to Confirm his Grant, and shall do so still Unless I receive positive orders from Your Lordship to the Contrary. Mr. Burton being a Very bad Man and Very Unworthy of receiving any Mark of favor from this Government on Account of his Very Insolent and ungrateful Conduct towards it. I shall also decline to Confirm Pay Master Mell's Grant as I am not aware that he has any Claim Whatever for any particular Indulgence More than any other Officer of the 102d Regt. present here during the Usurpation of the Government. I have deemed it necessary to be the more diffuse on this Subject of Confirmation of Grants with a View of possessing Your Lordship of the real Facts, so as to enable Your Lordship to answer any further Applications that may be made by the persons herein Alluded to.

25. I shall pay respectful Attention to Your Lordship's Instructions relative to Theodore Walker, as Conveyed to Me in Your Lordship's Letter under date the 12th of July last, by

sending Home that person to Stand his trial in England as Soon as the necessary Witnesses for his Conviction Can be Collected here, in Case they Can be prevailed Upon to go to England for this purpose; for it Appears to be the Opinion of Messrs. Garrow and Shepherd that these Witnesses Cannot legally be Compelled to go to England; but at all Events they are at present dispersed in different parts of the Colony and Cannot now be Collected in Sufficient time for the purpose of being Sent Home in the Emu.

26th. Herewith I do myself the Honor to transmit for Your Lordship's favorable and Indulgent Consideration a Memorial from Mr. Jacob Mountgarrett, Surgeon on the Civil Medical Establishment of Port Dalrymple on Van Diemen's Land; this Gentleman has lately had the misfortune to lose his left Arm as stated in his Memorial, and is Consequently entirely disqualified for exercising any longer the Duties of his Profession as Surgeon in His Majesty's Service. I therefore take the Liberty to Solicit in Consideration of his long Services and Misfortunes that Mr. Mountgarrett may be permitted to retire from the Service With such Pension or Half pay as Your Lordship may deem him entitled to in Consideration of his past Services. I regret that I am Unable to bear Testimony to the good private Character of Mr. Mountgarrett, having been some time ago Under the disagreeable Necessity of removing him from the Magistracy of Port Dalrymple on Account of his Carrying On a Clandestine Trade and Conniving at Very improper Proceedings at that Settlement. Mr. Mountgarrett and Mr. Smith, the Assistant Surgeon at Port Dalrymple, Were lately Accused and Tried here by the Criminal Court on a Charge of being Concerned in Stealing Government Cattle at Port Dalrymple, but the Charge Not being proved, they Were Acquitted. Nevertheless very Strong Suspicion of the Guilt of both those Officers Still rests on the public Mind. It would therefore be desirable that they Were both removed from their present Situations as Medical Officers under Government, as they Never Can be respected at that Settlement Where So Strong a Suspicion exists of their Delinquency. But as Mr. Mountgarrett has served so long and No Immediate Guilt proved against him, I think it would be hard to remove him from his professional Situation Without Allowing him an adequate Pension. On these Grounds I hope your Lordship will be pleased to Move His Royal Highness the Prince Regent to grant him such Pension as his Services may Merit.

As to Mr. Smith, the Assistant Surgeon, he has no Claims Whatever on Government, and his Appointment being Only a Colonial One he may be removed at Pleasure without Injustice to himself or Injury to the Public.

1816.
18 March.

T. Walker to
be sent to
England for
trial.

Recommendation of
memorial of
Mountgarrett.

Removal of
Mountgarrett
from
magistracy.

Trial of
Mountgarrett
and Smith.

Proposed
dismissal of
Smith.

1816.
18 March.

Adverse
criticism of
Edward
Luttrell.

Proposed
retirement
of Luttrell.

Applications of
Bowman and
Bromley for
colonial
appointments.

Recommend-
ation of
Bowman and
Bromley for
appointments in
Tasmania.

27. Altho' I have lately been under the Necessity of Appointing Senior Colonial Surgeon Luttrell to Act as Surgeon at the Derwent in the Room of Mr. Hopley, deceased, from the Want of a better Qualified person to fill that Situation, Yet I am Sorry to add that Mr. Luttrell is a Very Unfit person to be any longer trusted with the Care of Administering Medical Relief to the Sick of any description; for Altho' he is not deemed deficient in professional Skill, he is Very Unfeeling and Criminally inattentive to his Patients, Added to Which he is extremely Irritable and Violent in his Temper and Very Infirm from Dissipation. In fact he is Completely Superannuated as to further Services. Under all these Circumstances I strongly recommend that Mr. Luttrell should be entirely removed from the Civil Medical Establishment of this Territory, and placed on Half Pay, or allowed such Pension or Annuity from the Colonial Police Fund as Your Lordship may be pleased to order him. Mr. Luttrell is Advanced in Years, with a large family, and Altho' his Services have not been such as to entitle him to any Strong Mark of favor, Yet in Commiseration of his Age and Infirmities, as Well as in Consideration of his having a large family to Support, it Would bear rather hard upon him to remove him from his present Situation without making some Provision from Government for his Support.

28. I do myself the Honor of transmitting to Your Lordship herewith Copies of Letters lately Addressed to Me by Doctor Bromley and Doctor Bowman (the former late Surgeon and Agent of the Ship Ocean Transport, and the latter late Surgeon of the Ship Mary Anne Transport) Applying for the Situation of Surgeons at Port Dalrymple and the Derwent respectively, in the Event of those Appointments becoming Vacant, Both these Gentlemen having been for Several Years Naval Surgeons and of Unblemished Characters as Well as Skilful in their professions. I should Consider them as very great and Valuable Acquisitions to the Medical Establishment of Van Diemen's Land. I therefore respectfully recommend that Dr. Bromley May be Appointed to Succeed Mr. Mountgarrett as Surgeon of the Settlement of Port Dalrymple, and that Doctor Bowman may be Appointed Surgeon of the Settlement of the Derwent on the Removal of Mr. Luttrell. During the late Residence of Doctors Bromley and Bowman here I had an Opportunity of Seeing a good deal of them, and from their Mild Gentleman-like Manners and Accomplishments and respectable Deportment, I think they Would prove a Most Valuable Acquisition to the Colony both in their professional and private Capacities. I should Consequently

feel Much gratified by those two Gentlemen being appointed to the Situations they have respectively Solicited, and I earnestly recommend their Requests to Your Lordship's Most favorable Consideration.

1816.
18 March.

The Senior Assistant Surgeon now at the Derwent is Mr. St. John Younge, Whom I sent thither some short time ago to succeed Mr. Hopley on the promotion of the latter to be Surgeon; but Mr. Younge is a very trifling dissipated Young Man and very Ignorant of his Profession, so that it would be doing Great Injustice to the Public Service to promote him to any higher Situation than the One he holds at present. Neither Mr. Younge at the Derwent, nor Mr. Smith, the Assistant Surgeon at Port Dalrymple, have any Claim from Character or professional Skill for Succeeding to the Surgeoncies at those Stations on their becoming Vacant; and the two Senior Assistant Surgeons at Port Jackson, vizt. Messrs. Mileham and Redfern, preferring to remain Where they are at present, Wave all Claims to Promotion at Van Diemen's Land, which has hitherto been considered a distinct Establishment from that of Port Jackson; and thus all Objections that Might be supposed to Exist on the Plea of Succession are removed to the Appointing of Doctors Bromley and Bowman to be Surgeons there. I beg further to State that in the Event of these Gentlemen not being Appointed, it will be necessary to send out from England two other properly Qualified Medical Gentlemen to fill the Vacancies at the Derwent and Port Dalrymple.

The medical
staff in
Tasmania.

29. An Application having lately been made to Me by Memorial from Daniel and Sarah O'Neill, Prisoners of the Crown, to Solicit Your Lordship to be so good as to order a Passage to be granted in One of the Convict Ships for their Children, now in England to Come out to them in this Country, I now take the Liberty to transmit herewith for Your Lordship's Indulgent and favorable Consideration the Memorial of the Said Daniel and Sarah O'Neill. I beg to add that these poor People have Conducted themselves With Strict Propriety since their Arrival in this Colony.

Petition from
prisoners for
passages for
their children.

30. I am happy to have it in my power to report to Your Lordship that the Military Barracks, and other more immediately and essentially necessary Public Buildings now in progress (more particularly detailed in my former Dispatches) are Nearly Completed, and I trust will be entirely finished before the 1st of January next, on Which Occasion I shall do Myself the Honor to transmit Your Lordship a regular Return or Schedule of them; there are also Several New Lines of Road Marked out

Progress of
public works.

1816.
18 March.

Progress of
public works.

Report on the
condition of
government
house.

and now Constructing in the Interior Districts of the Colony for the purpose of facilitating the Intercourse between the remote parts of the Colony and the Capital, as well as for the greater Security and Accommodation of Travellers passing from One part of the Colony to the other; all these New Lines of Roads, I trust and expect Will be Completed by the 1st of January Next.

31. From my Anxiety to get the other More essentially Necessary Public Buildings Erected and Completed at Sydney, I have hitherto postponed doing Any thing to render the Altogether Inadequate Accommodations of Government House, in respect to Quarters for Myself, Family, and Domestics at Sydney, More Comfortable and Commodious than What I have found them on My Arrival, with the Exception of three Rooms which I was under the Necessity of getting built soon after My Arrival immediately in the Rear of the Old House to Answer the purposes of a Dining Room, An Office, and a Family Bed Room. The old Government House* and Offices, Originally built by Governor Phillip twenty-Eight Years ago, remain exactly as I found them; and upon late Inspection they have been found so Much decayed and rotten as to render them extremely Unsafe any longer to live in, Whilst from the same Circumstances it is Impossible to give them any thing like a thorough Repair. Indeed, if it were possible to repair them, they are in point of Size Altogether Inadequate to the Residence and Accommodation of even a private Gentleman's Family and Much less that of the Governor in Chief. All the Offices, exclusive of being in a decayed and rotten State, are ill Constructed in regard to Plan and on Much too Small a Scale; they now Exhibit a Most ruinous Mean Shabby Appearance. No private Gentleman in the Colony is so Very ill Accommodated with Offices as I am at this Moment, Not having Sufficient Room in them to lodge a Very Small Establishment of Servants; the Stables, if possible, are still worse than the other Offices, it having been of late frequently Necessary to prop them up with Timber Posts to prevent their falling, or being blown down by the Winds. Exclusive of this decayed State of the Old Government House and Offices Which I have here described, their Situation is extremely bad and ill Selected, being built on the Declivity of a Hill Which rises Abruptly in rear of the Dwelling House; this Hill is full of Springs which Occasion a Constant Dampness in every Room in the House, And All Attempts to remove it have proved Ineffectual. So that No New House built on the Same Site, or any Addition Made to the present One, Could ever be rendered free from Damp. Under Your Lordship's liberal Consideration of all these Circumstances,

* Note 20.

I entertain the fullest Assurance that Your Lordship Will Approve of My Building a suitably Spacious and Comfortable Government House with Corresponding good Offices on a New Site in a More eligible part of the Government Domain. I am persuaded Your Lordship Will not Consider it reasonable, or at all Suitable to their relative Ranks, that the Governor of this Country and his Family should be many degrees Worse Accommodated than the Lieutenant Governor, or may I add than any respectable Civil or Military Officer in the Colony, Which is literally the Case at the present time. Presuming therefore that Your Lordship will not disapprove of a Measure so essentially Necessary for the personal Comfort of the Governor of this Country and for the Dignity of the Rank he has the Honor to hold in it, I shall take the Liberty to Commence Erecting a New Government House and Offices as soon as the Military Barracks and other more Immediate Necessary public Buildings now in progress shall be Completed. I shall take the Utmost Care that the New Government House and Offices shall be built on as Economical a Plan as possible, and that No part of the Expence Shall be drawn for on England but that they shall be entirely built by the Government Mechanics and Labourers, and that All Materials, required to be purchased here for Constructing them, shall be paid for from the Colonial Police Fund. In respect to the three new Rooms herein Already Adverted to, and Which were added to the Old House soon After My Arrival here, the Expence Incurred thereby Will not be by any means thrown away, as in the Arrangement I have Made I intend to Convert them into a Suit of Public Offices for Myself, my Secretary, and the Clerks employed in his Department, A Building of this Description being Very much required and essentially Necessary in the present Improved and rapidly Increasing State of the Colony in the point of Trade and general Importance. These Rooms are also admirably Well Calculated for Government Offices in point of Situation being Close to the Town at the Eastern Extremity of it. I trust therefore that this part of the General Arrangement will also be Honored with Your Lordship's Sanction and Concurrence.

1816.
18 March.
Proposed
erection of a
new government
house.

32. Exclusive of the Documents herein Already Alluded to I Have now the Honor of transmitting herewith for Your Lordship's Information and Notice, the following Returns, Reports and Accounts, Including the Annual Musterly Statements of the Colony for the last Year Vizt:—

Returns, reports
and accounts
transmitted.

1st. The Accounts Current of the Expences of the Colony from 25th April to 24th December 1815, both Inclusive.

2nd. List of Bills drawn by Depy. Commy. General Allan on the Lords of the Treasury and Colonial Agent, from do. to do.

3d. Statement and Return of Provisions remaining in His Majesty's Magazines on 24th December, 1815.

4th. Demand for the Annual Supplies for the Use of the Colony for the present Year.

5th. Reports of the Naval Officer Containing the Arrivals and Departures of Ships and Vessels from the 1st of April to the 31st of December, 1815, Inclusive; together With the Accounts of Duties Collected by him Within that Period.

6th. The Accounts of the Colonial Police Fund from the 1st of April to the 31st of December, 1815, Inclusive.

7th. Statement and Return of the Result of the Annual Muster for last Year, Including that of Van Diemen's Land.

8th. Return and Report of Prisoners tried by the Criminal Court at Sydney from the 1st of June, 1815, to the 29th of February, 1816, Inclusive.

9th. Returns of the Names of Male and female Convicts Arrived in the Colony from England and Ireland from the 1st of January to the 31st of December, 1815, both Inclusive.

10th. Returns of Marriages, Births and Deaths in the Colony from the 1st of January to the 31st December, 1815, both Inclusive.

11th. Nominal Return of Officers holding Civil and Military Employments in the Colony of New South Wales on 1st January, 1816.

33. This Despatch will be delivered to Your Lordship by Lieutenant G. B. Forster of the Royal Navy, Commander of His Majesty's Colonial Brig Emu, Whom I take the Liberty of Strongly recommending to Your Lordship's Favor and Protection. During this Officer's Residence in this Country he has Conducted himself in so extremely Correct and Gentlemanlike a Manner as to attract general Esteem and regard, and I have particular Reason to be well pleased with his public Conduct as an Officer. The steady attention and Zealous Alacrity, he has ever Manifested in Meeting and Complying with all my Wishes for forwarding the Public Service in the Department he filled, Merit My Warmest Thanks and highest Commendation. From the Very high Opinion I have formed of the Strict Honor, Integrity Activity and Judgment of Lieutenant Forster, I think he would be a Very Great Acquisition to this Colony in any office Your Lordship Might feel disposed hereafter to Nominate

1816.

18 March.

Returns, reports
and accounts
transmitted.

Transmission
of despatch.

Commendation
of lieutenant
Forster.

him to, Which I the More Willingly dwell on, as I believe it is his Wish to return again to this Country in the Event of his not getting Promotion in the Navy soon After his Arrival in England.

1816.
18 March.

As Lieut. Forster is a Very Intelligent Well Informed Young Man, and has been Observant of the General Progress of this Colony and the Improvements now Carrying on both here and on Van Diemen's Land, I take the Liberty of referring Your Lordship to him for any particulars you might wish to be Informed of relative to the present State of this Country.

Reference
to be made
to Forster.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

[The chart of the expedition of G. W. Evans to the Lachlan river will be found in the volume of charts and plans.]

[Enclosure No. 2.*]

[A] DR. BROMLEY TO GOVERNOR MACQUARIE.

Sir, Sydney, New South Wales, 4th March, 1816.

From the late Accident sustained by Mr. Mountgarrett, the Surgeon at Port Dalrymple, Van Diemen's Land, it is most probable he may not be Enabled to perform the Operative Part of his Profession; should that be the Case, I shall feel myself much obliged by Your Excellency's recommending me to His Majesty's Secretary of State for the Colonies as his successor.

Application of
Bromley for
appointment at
Port Dalrymple.

I have, &c.,

E. J. BROMLEY, M.D., Surgeon, R.N.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[B] MR. JOHN BOWMAN TO GOVERNOR MACQUARIE.

Sir, Sydney, 29th Feby., 1816.

Understanding there is a Vacancy for a Surgeon at the Derwent in consequence of the death of the late Mr. Bowden, the Principal Surgeon there, I have to request Your Excellency will be pleased to appoint me to that situation.

Application of
Bowman for
appointment
at Hobart.

Should this interfere with Your Excellency's Arrangements, I shall feel greatly obliged if You will have the goodness to recommend me to His Majesty's Secretary of State for any other Vacancy that may Occur.

I have, &c.,

J. BOWMAN.

True Copy:—JNO. THOS. CAMPBELL, Secy.

1816.
18 March.

Memorial of
Jacob
Mountgarrett
for permission
to retire on a
pension.

[Enclosure No. 3.]

THE MEMORIAL OF JACOB MOUNTGARRETT.

To the Right Honorable Earl Bathurst His Majesty's Principal Secretary of State for the Colonies, &ca., &ca., &ca.

THE Memorial of Jacob Mountgarrett, Surgeon at the Settlement of Port Dalrymple in Van Dieman's Land, One of the Dependencies to His Majesty's Territory of New South Wales,

Most humbly represents,

That Your Lordship's Memorialist has been for a period of upwards of twenty one Years in His Majesty's Service as Surgeon, was appointed to His Majesty's Sloop Sincere, Captain Bradby, by Warrant dated 16th July, 1798, confirming one given to Memorialist by Admiral Hotham, Commander in Chief of His Majesty's Ships and Vessels in the Mediterranean, dated 17th July, 1795; Afterwards to His Majesty's Ship La Minerve, Captain George Cockburn, by Warrant dated 16th July, 1798, confirming one given to Memorialist by Admiral Sir John Jervis, K.B., Commander in Chief of His Majesty's Ships and Vessels in the Mediterranean, dated 31st October, 1796, in which Duty Memorialist continued 'till the Year 1802, when that Ship was paid off at Deptford; and had been in One Action in the Mediterranean against the Spanish Frigate Sabina in 1796, and in the General Action on the 14th February with Lord St. Vincent against the Spanish Fleet off Cape St. Vincent; That Memorialist came to the Colony of New South Wales with four hundred Male, and two hundred female Convicts.

That on Memorialist's Arrival in this Colony, he Volunteered his Services with Captain John Bowen R.N. to go in his Medical Capacity to a new Settlement then about to be formed at the Derwent in Van Dieman's Land, and after that Settlement had been established and Memorialist had resided there about twelve Months, Memorialist went as Surgeon and a Magistrate with the late Colonel Patterson of the 102nd Regiment to the Settlement of Port Dalrymple, where Memorialist continued to exercise his professional Duties, and the Office of a Magistrate with Fidelity, Zeal, Promptitude and Attention.

That Memorialist came to Head Quarters at Sydney in New South Wales early in the Year 1815, and there had the misfortune to be obliged to undergo the Amputation of his Arm, in consequence of the exercise of his Duty as a Surgeon at Sydney.

That Memorialist is therefore led to cherish a Hope that his long Services and Sufferings and his present shattered and incapacitated State will plead with Your Lordship in his behalf,

when Memorialist humbly Solicits Permission to retire from the Service on such a Pension or Allowance as Your Lordship in your Wisdom and Humanity may deem equivalent to his long Services and Sufferings.

1816.
18 March.

Memorial of
Jacob
Mountgarrett
for permission
to retire on a
pension.

That Memorialist is desirous to pass the remainder of his days as a Settler on Van Dieman's Land, and therefore most humbly Prays Your Lordship will approve of his receiving such Indulgencies from the Government in that behalf, as are usually extended to Settlers of that description.

May it therefore please Your Lordship to take Memorialist's Case into gracious Consideration, and to allow him to retire from the Service with the Indulgencies herein humbly Solicited.

And Memorialist will ever pray, &ca.,

JACOB MOUNGARRETT, Surgeon.

Sydney, February 6th, 1816.

I beg leave to recommend the Prayer of the foregoing Memorial to the favorable Consideration of Earl Bathurst.

L. MACQUARIE.

[Enclosure No. 4.]

[*A copy of the memorial of Daniel and Sarah O'Neill is not available.*]

[Enclosure No. 5.]

THE ACCOUNTS Current of the Expences of the Colony from 25th April to 24th December, 1815, both Inclusive.

Accounts and
statements
transmitted.

[Enclosure No. 6.]

LIST of Bills drawn by Depy. Commy. General Allan on the Lords of the Treasury and Colonial Agent from 25th April to 24th December, 1815.

[Enclosure No. 7.]

STATEMENT and Return of Provisions remaining in His Majesty's Magazines on 24th December, 1815.

[Enclosure No. 8.]

DEMAND for the Annual Supplies for the Use of the Colony for the present Year.

[*Copies of these four enclosures will be found in a volume in series II.*]

1816.
18 March.
Return of
shipping:
inwards.

[Enclosure No. 9.]

REPORT of Ships and Vessels entered Inwards at Port Jackson in His Majesty's Colony of New South Wales from the 1st day of April to the 30th day of June, 1815.

Date of Entry.	Vessel's Name.	Master.	Build.	Number of		Where Built.	Registered.	Name of Owner.	From whence.	General Cargo.	Duty and Fees of Entry.
				Tons.	Guns.							Men.
April 13	Union	J. Schultz	Plantation	280	250	Calcutta	Calcutta	J. Sarkis & Co.	Calcutta	See Appendix	£ s. d. 542 3 6
" 26	Frederick	J. Williams	Do	210	420	Java	Do	Palmer & Co.	Do	Do	5234 8 7½
" "	Indefatigable	M. Bowles	British	529	1245	Whitby	Whitby	Atlys & Co.	London	Do	22 17 9
May 9	Catherine	R. Graham	American	304	824	America	London	D. Bennett & Co.	Fishery	Do	2 0 0
" 17	Cochin	Rt. Pearson	Foreign	203	433	Cochin	Calcutta	R. Hogue & Co.	Calcutta	Do	359 11 4½
" "	Eliza	R. Murray	Plantation	200	832	Calcutta	Do	H. Murray	Do & Derwent	Do	4 15 0
June 20	Northampton	J. A. Tween	British	561	1449	Rotherhithe	London	Tbbutt & Co.	London	See Appendix	65 19 0
										£	6231 6 2¾

Spirits imported.—*Union*: Rum, 32 Casks, 1,871 Gallons. *Frederick*: Rum, 191 Casks, 19,373 Gallons (3,805 Gallons Bonded). *Cochin*: Rum, 119 Casks, 10,768 Galls. (Bonded); Brandy, 24 Casks, 430 Gallons. *Eliza*: Rum, 1 Cask, 112 Gallons (Bonded).

Wine imported.—*Union*: 1 Cask, 10 Gallons. *Frederick*: 10 Casks, 280 Gallons. *Indefatigable*: 14 Casks, 403 Gallons.

APPENDIX OF CARGOES.

Union.—3,300 Bags of Wheat.

Frederick.—200 Bags of Rice, 200 Maunds of Flat Iron, 79 Boxes of Candles, Tea, Paper, Glass Ware and Sundries, 12 Casks of Soap, and 24 Bales of Piece Goods.

Indefatigable.—10 Hhds. of Ale and Porter, and 27 Packages of Sundries.

Catherine.—100 Tons of Sperm Oil for the London Market.

Cochin.—1,359 Bags of Wheat, Sugar and Rice, 314 Bundles of Iron Hoops, 85 Bolts of Canvas, 10 Bales of Twine, 71 Chests of Soap, 39 Bales and Cases of Sundries, 3 Casks of Iron Ware, 42 Casks and Cases of Oil Man's Stores, 1 Bale of Flannels, 20 Casks of White Lead, 8 Cases of Tobacco and Snuff, 20 Jars of Oil, 38 Hhds. of Porter, and 12 Cases of China Ware.

Northampton.—67 Cases of Sundries, 17 Casks of Do., 2 Chests of Rash'y Brandy, 2 Boxes of Tools, 93 Bundles of Plate and Bute Hoops, 2 Hampers, 2 Jack Screws, 9 Boxes of Tin Plates, 21 Barrels of Tar, Pitch and Rosin, 9 Trunks Books, &c., 3 Bales of Shoes and Slops, 40 Firkins of Butter, 1 Box of Jewellery, 54 Baskets of Cheese, 9 Botts. of Turpentine and Varnish, 1 Crate of Earthen Ware, 1 Bale of Prints, and 400 Baskets of Tobacco.

[Enclosure No. 9]—continued.

Report of Ships and Vessels cleared Outwards from Port Jackson in His Majesty's Colony of New South Wales from the 1st Day of April to the 30th Day of June, 1815.

Date.	Name of Vessel.	Master.	Number of		Build.	Where Built.	Registered.	Owners Name.	Where bound.	General Cargo.	Clearance Fee.
			Tons.	Men.							
April 2	Marquis Wellington	Geo. Beetham	653	1270	Plantation	Calcutta	London	McCallum & Co. . .	Canton	See Appendix	£ s. d. 8 5 0
" 24	Eliza	Robt. Murray	200	826	Do ..	Do ..	Calcutta	R. Murray	Batavia & Calcutta	Ballast	0 5 0
" "	Union	J. A. Schultz	280	247	Do ..	Do ..	Do ..	Sarkis & Co.	Do ..	Do	0 5 0
June 8	Frederick	J. T. Williams	210	441	Do ..	Do ..	Do ..	Palmer & Co.	Madras & Do ..	See Appendix	0 5 0
" 30	Catherine	R. Graham . .	304	824	American	America	London	Di. Bennett	Whale Fishery	Do ..	0 5 0
" "	Sydney Packet	J. Wilkinson	273	420	Do ..	Do ..	Do ..	Birnie and Walters	London	Do ..	0 5 0

APPENDIX OF CARGOES.

Marquis Wellington.—102 Tons of Sandal Wood and 62 Tons of Coals.
Frederick.—Troops for Madras and 77 Tons of Coals.
Catherine.—100 Tons of Sperm Oil for the London Market.
Sydney Packet.—188 Casks and Bales of Wool, 99 Casks and 542 Seal Skins, 14 Casks of Oil, 2 Casks and 276 Bullock Hides.

Errors Excepted.

Naval Office, Sydney, New South Wales, 30th Day of June, 1815.

JOHN PIPER, Naval Officer.

Return of shipping: outwards.

1816.
18 March.

[Enclosure No. 9]—*continued.*

1816.
18 March.
—
Account of fees
and duties
collected by
naval officer.

ESTIMATE of Duties collected by the Naval Officer from the 1st day of April to the 30th day of June, 1815.

Union	£542	8	6
Frederick	5,234	13	7½
Indefatigable	22	17	9
Catherine	2	5	0
Cochin	359	11	4½
Eliza	5	0	0
Northampton	65	10	0
Marquis of Wellington	8	5	0
Sydney Packet	0	5	0
Entries of Colonial Vessels Pr. Abstract	229	10	0
Sailing of Do. Do.	6	11	0
Duty on 3,941 Gallons of Spirits issued from H.M. Bonded Store to Individuals @ 7s.	1,379	7	0
	7,856	4	2¾
Deduct Nav. Officer's Commission of 5 pr. Cent.	392	16	2½

Balance due to Government £7,463 8 0½

Naval Office, Sydney, New South Wales,
30th day of June, 1815. Errors Excepted.

JOHN PIPER, Nav'l Off'r.

App'd:—L. MACQUARIE.

EXPLANATION of the within Estimate of Duties.

<i>Union</i> —	£	s.	d.	£	s.	d.
To Entry and Port Clearance	5	0	0			
Duty on 1,871 Galls. rum less issued to Kangaroo 400 1,471 @ 7s.	514	17	0			
Duty on 10 Galls. wine 9d.	0	7	6			
wharfage on 762 Packages 6d. ...	19	1	0			
Mooring chains 3 weeks	3	3	0			
				542	8	6
<i>Frederick</i> —						
To Entry and Port Clearance	5	0	0			
Ad. Val. on £6,047 1s. 11d. @ 5 pr. Ct.	302	7	0¾			
Duty on 10,066 Galls. rum @ 7s. 3,523	2	0				
Do. 9,307 do. remains unissued 3,805 in Bond'd Store 5,502 @ 5s.	1,375	10	0			
Duty on 280 Galls. wine 9d.	10	10	0			
wharfage on 639 Packs. 6d.	15	19	6			
Do. 7½ Tons Iron 6s. 2 5 0				18	4	6
				5,234	13	6¾

[Enclosure No. 9]—continued.

1816.
18 March.

EXPLANATION of the within Estimate of Duties—continued.

<i>Indefatigable</i> —	£	s.	d.	£	s.	d.	Account of fees and duties collected by naval officer.
To Entry	6	15	0				
Duty on 403 Galls. wine 9d.	15	2	3				
wharfage on 41 Packs.	1	0	6				
	<hr/>			22	17	9	
<i>Catherine</i> —							
To Entry and Port Clearance				2	5	0	
<i>Cochin</i> —							
To Entry	4	15	0				
Duty of 430 Galls. Brandy @ 7s.	150	10	0				
Ad. Val. on 3,644 Galls. 8s. @							
5 pr. Ct.	182	4	4½				
wharfage on 884 Packs. 6d.	22	2	0				
	<hr/>			359	11	4½	
<i>Eliza</i> —							
To Entry and Port Clearance				5	0	0	
<i>Northampton</i> —							
To Entry	6	15	0				
Ad. Val. on £925 @ 5 pr. Ct.	46	5	0				
Wharfage on 500 Packs.	12	10	0				
	<hr/>			65	10	0	
<i>Marquis Wellington</i> —							
To Clearance	0	5	0				
Mooring Chains	8	0	0				
	<hr/>			8	5	0	

ENTRIES of Colonial Vessels at the Naval Office, Sydney, from the 1st day of April to the 30th day of June, 1815. Entries of colonial vessels.

Date.	Vessels Name.	From Whence.	Bus's.		Feet of Cedar.	Tons of Coals.	General Cargo.	Duty.
			Wheat.	Maize.				
April 6	Windsor	Hawky.	400	60	.. ..	.....	£ 0 2 0
7	Improve't.	Do	100	400	.. ..	.....	0 2 0
..	Mary Anne.	New Castle ..	.. ..	2499	14	.....	42 2 3
..	Hawky. Packet..	Do .....	.. ..	.. ..	18	.....	13 15 0
12	Recovery	Hawky.	200	.. ..	.. ..	.....	0 2 0
24	Mary Anne.	New Castle ..	.. ..	.. ..	22	.....	16 15 0
..	Mary	Broken Bay ..	.. ..	.. ..	.. ..	2000 Bus's. of Lime	0 2 0
..	Hawky. Packet..	New Castle ..	.. ..	.. ..	18	.....	13 15 0
29	Henrietta	Derwent .....	.. ..	.. ..	.. ..	1500 Kango. & Seal Skins (duty paid at Derwent).	0 5 0
May 3	Betsey	Hawky.	100	130	.. ..	.....	0 2 0
..	Windsor	Do .....	.. ..	200	.. ..	.....	0 2 0
4	Union	Do .....	.. ..	100	.. ..	.....	0 2 0
..	Recovery	Do .....	.. ..	200	.. ..	.....	0 2 0
6	Hawky. Packet..	New Castle ..	.. ..	.. ..	18	.....	13 15 0
23	Mary Anne.	Do .....	.. ..	253	21	.....	19 3 3
24	Mary	Do .....	.. ..	5995	10	Duty free	0 5 0
26	Improve't	Hawkesy.	2160	.. ..	.. ..	.....	0 2 0
..	Betsey	Do	160	.. ..	.. ..	.....	0 2 0
31	Hawkesy. Packet	New Castle ..	.. ..	.. ..	18	.....	13 15 0
June 3	Whale	Hawkesy.	50	150	.. ..	.....	0 2 0
5	Windsor	Do .....	.. ..	300	.. ..	.....	0 2 0

[Enclosure No. 9]—*continued*.ENTRIES of Colonial Vessels, &c.—*continued*.1816.
18 March.
Entries of
colonial vessels.

Date.	Vessels Name.	From Whence	Bus's.		Feet of Cedar.	Tons of Coals.	General Cargo.	Duty.
			Wheat.	Maize.				
June 6	Recovery	Hawkesy. ..	200	..	..	..	£ s. d.	
11	Union	Do	80	350	..	..	0 2 0	
20	Hawky. Packet ..	New Castle ..	..	..	18	..	0 2 0	
23	Elizt. & Mary	Macq. Isld. ..	..	..	..	4700 S. Skins, 25½ Tons Oil.	13 15 0	
27	Anna Maria	Hawky.	50	250	..	..	0 2 0	
27	Edwin	Do	600	..	..	..	0 2 0	
								£ 229 10 0

Naval Office, Sydney, 30th June, 1815.

E.E.

JOHN PIPER, Nav'l Off'r.

Sailings of
colonial vessels.SAILINGS of Colonial Vessels from the Naval Office, Sydney, from
the 1st day of April to the 30th day of June, 1815.

Date.	Vessels Name.	Where Bound.	General Cargo.	Duty.
April 3	Union	Hawky.	Ballast	£ s. d.
4	Whale	Do	Do	0 2 0
4	John Palmer	Port Dalrymple ..	Sundries for that Place ..	0 5 0
4	Hope	Hawky.	Ballast	0 2 0
10	Elizt. & Mary	Macquarie Isd.	Do	0 5 0
11	Hawky. Packet	New Castle	Do	0 5 0
12	Windsor	Hawky.	Do	0 2 0
13	Mary Anne	New Castle	Do	0 5 0
14	Endeavour	Society Isds.	Do	0 5 0
17	Recovery	Hawky.	Do	0 2 0
21	Improvement	Do	Do	0 2 0
27	Active	New Zealand	Do	0 5 0
27	Hawky. Packet	New Castle	Do	0 5 0
28	Mary Anne	Do	Do	0 5 0
29	King George	South Sea Isds.	Do	0 5 0
29	Edwin	Hawkesy.	Do	0 2 0
May 2	Mary	New Castle	Do	0 5 0
5	Governor Bligh	New Zealand	Do	0 5 0
9	Hawky. Packet	New Castle	Do	0 5 0
9	Hope	Hawkesy.	Do	0 2 0
9	Betsey	Do	Do	0 2 0
9	Recovery	Do	Do	0 2 0
9	Union	Do	Do	0 2 0
13	Windsor	Do	Do	0 2 0
18	Anna Maria	Do	Do	0 2 0
23	Henrietta	Derwent	Do	0 5 0
23	Trial	Marquesas	Do	0 5 0
24	Brothers	New Zealand	Do	0 5 0
30	Mary Anne	New Castle	Do	0 5 0
June 2	Betsey	Hawky.	Do	0 2 0
3	Hawky. Packet	New Castle	Do	0 5 0
10	Whale	Hawky.	Do	0 2 0
9	Elizabeth	Port Dalrymple ..	Sundries for that Place ..	0 5 0
13	Recovery	Hawky.	Ballast	0 2 0
16	Cumberland	Macq. Isld.	Do	0 5 0
23	Hawky. Packet	Hawky.	Do	0 2 0
24	Windsor	Do	Do	0 2 0
				£ 6 11 0

Naval Office, Sydney, 30th June, 1815.

E.E.

JOHN PIPER, Nav'l Off'r.

[Enclosure No. 9]—continued.

REPORT of Ships and Vessels entered Inwards at Port Jackson in His Majesty's Colony of New South Wales from 1st July to 30th Septem'r, 1815.

Date of Entry.	Vessel's Name.	Master.	Build.	Number of			Where Built.	Registered.	Name of Owner.	From Whence.	General Cargo.	Duty and Fees of Entry.	
				Tons.	Guns.	Men.							
July 8th	Brig Udney	Sl. Ashmore	Calcutta	160	433	Calcutta	Calcutta	Scott & Co.	Calcutta	See Appendix	£ 1202	s. 1	d. 3
" 23	Phoenix	Wm Parker	Foreign	341	822	France	Calcutta	W. Bennett & Co.	Fishery	See Appendix	4	15	0
Aug. 7	Canada	Jno. Grigg	British	403	828	North Shields	Do	Jos. Reeve & Co.	London	See Appendix	5	15	0
" 9	Francis & Eliza	Wm. Harrison	Do	377	424	London	Do	Herring & Hutclins	Do	See Appendix	4	15	0
" 11	Hebe	Jas. Porter	Do	416	1324	Hull	Do	Stamforth & Blunt	Do	See Appendix	32	17	0
" 30	Spring	Wm. Bunster	Plantation	150	619	Bermuda	Do	Laird & Co.	Derwent	See Appendix	3	15	0
Sept. 8th	Cretan	Jos. Moore	Foreign	356	828	Isle of Crete	Do	Birnie & Co.	London	See Appendix	17	0	0
" "	Baring	Jno. Lamb	British	830	1462	Deptford	Do	Buckle & Co.	Do	See Appendix	366	13	11½
											£1637	12	2½

Spirits imported.—Brig *Udney*: Rum, 66 Casks, 9,837 Galls. *Hebe*: Rum, 4 Casks, 459 Galls.; Brandy, 7 Casks, 899 Galls.; Gin, 12 Casks, 1,369 Galls. *Cretan*: 93 Casks, 11,376 Galls.; Brandy, 47 Casks, 5,688 Galls.; Gin, 48 Casks, 5,688 Galls. *Baring*: Rum, 16 Casks, 1,655 Galls.; Gin, 2 Casks, 240 Galls.

Wine imported.—Brig *Udney*: 46 Casks, 5,214 Galls. *Hebe*: 1,150 Galls. *Cretan*: 10 Casks, 1,396 Galls. *Baring*: 18 Cases, 497 Galls.

APPENDIX OF CARGOES.

Brig *Udney*.—36 Bales Piece Goods, Canvas Bags, and Canvas, 2 Trunks Sundries, 410 Bags Sugar and Salt Petre, 181 Boxes Tallow Candles, Soap, Window Glass, and Crockery Ware, 66 Cwt. Bar Iron, 1,000 Bundles Rattan, 36 Cwt. Catia, 3 Packs. Tea, 1 Case Ginger, 2 Shawls. *Phoenix*.—42 Tons Sperm Oil.

Canada.—Prisoners and Stores for the Colony.

Francis and Eliza.—Prisoners and Stores for the Colony.

Hebe.—636 Cases, Trunks and Packs. Merchandize, 353 Hhds. and Butts Porter, and 42 Tons Iron.

Spring.—5,900 Seal Skins, 2,500 Kangaroo Do., 1,300 Bus. Wheat, 15 Tons Potatoes.

Cretan.—178 Hhds. Ale and Porter, 2 Casks Slops, 834 Galls. Linsed Oil, 5 Tons Iron Hoops and Rivets, 1 Bag Corks.

Baring.—83 Packages Merchandize, 66 Rolls Tobacco, 1¼ Tons Iron, 20 Tierces Cyder, 10 Casks Dorset Ale.

1816.
18 March.
Return of shipping: inwards.

1816.
18 March.
Return of
shipping:
outwards.

[Enclosure No. 9]—*continued.*

Report of Ships and Vessels cleared Outwards from Port Jackson in His Majesty's Colony of New South Wales
from 1st July to 30th September, 1815.

Date.	Name of Vessel.	Master.	Number of		Build.	Where Built.	Registered.	Owners' Name.	Where bound.	General Cargo.	Clearance Fee.
			Tons.	Guns. Men.								£	s.	d
July 10th	Indefatigable	M. Bowles...	549	1245	British ..	Whitby ..	London	Attys & Co.	Java ..	4 Tons Coals 4 Horses	6 8 0
"	Campbl Mac- quarie.	R'd Siddons ..	135	418	Calcutta ..	Calcutta ..	Calcutta	Alexander & Co.	Calcutta	80 Do 70 Spars 33½ Tons Oil.	0 5 0
"	Cochin	Robt. Pearson	203	433	Foreign ..	Cochin	Do ..	Hogue & Co.	Do ..	10 Tons Coals	0 5 0
Augt. 18	Udney	S ^t Ashmore ..	160	433	Plantation	Calcutta ..	Do ..	Scott & Co...	Do ..	Do	0 5 0
Sept. 18	Spring	Wm. Bunster	150	613	Do ..	Bermuda ..	London	Lord & Co...	Derwent	30 Hhds Porter, 1 Pipe Madeira Wine, 16 Cases and Trunks Merchand'ze.	0 5 0
											£7 8 0

Errors Excepted.

JOHN PIPER, Naval Offr.

Naval Office, Sydney, New South Wales, 30th Sept., 1815.

[Enclosure No. 9]—continued.

ESTIMATE of Duties Collected by the Naval Officer from 1st July to 30th September, 1815.

1816.
18 March.
Account of fees and duties collected by naval officer.

	£	s.	d.
Udney	1,202	1	3
Phoenix	4	15	0
Canada	5	15	0
Francis and Eliza	4	15	0
Hebe	32	17	0
Spring	3	15	0
Cretan	17	0	0
Baring	366	13	11½
Indefatigable	6	8	0
Campbell Macquarie	0	5	0
Cochin	0	5	0
Udney	0	5	0
Spring	0	5	0
Duty of 1,566 Galls. Spirits to Individuals @ 7s.	548	2	0
Do. on 1,205 Do. Do. Do. 5s.	301	5	0
Do. on 1,100 Do. to Mr. Blaxland Contractor @ 3s.	165	0	0
Entries of Colonial Vessels Pr. Abstract	118	10	9
Sailings of Do. Pr. Do. Do.	3	14	0
	<hr/>		
	2,781	11	11½
Deduct Naval Officer's Comm'n 5 P. Cent.	139	1	7
	<hr/>		
Bal'e due Govern't	£2,642	10	4½

Naval Office, Sydney, New South Wales,
30th Sept., 1815. Errors Excepted.

JOHN PIPER, Nav'l Off'r.

EXPLANATION of the preceding Estimate of Duties.

	£	s.	d.	£	s.	d.
<i>Udney</i> —						
To Entry	2	15	0			
.. Ad. Val. on £5,881 6s. 3d.	294	1	3			
.. Duty on 5,214 Galls. Wine @ 9d. . .	195	10	6			
.. Do. on 2,890 Do. Rum for the Contractors @ 3s.	433	10	0			
.. Duty on 722 Galls. Rum 7s.	252	14	0			
.. Wharfage on 800 Packs. 6d.	20	0	0			
.. Do. on 8½ Tons Iron & 3½ Do. Cou Yarns 6s.	3	10	6			
	<hr/>			1,202	1	3
<i>Phoenix</i> —						
To Entry				4	15	0
<i>Canada</i> —						
Do.				5	15	0
<i>Francis & Eliza</i> —						
Do.				4	15	0

1816.
18 March.
Account of
fees and duties
collected by
naval officer.

[Enclosure No. 9]—*continued.*

EXPLANATION of the preceding Estimate of Duties—*continued.*

		£	s.	d.	£	s.	d.	
<i>Hebe</i> —								
To	Entry	5	15	0				
„	Wharfage on 706 Packs. @ 6d.	17	13	0				
„	Do. on 31½ Tons Iron 6s.	9	9	0				
<hr/>						32	17	0
<i>Spring</i> —								
To	Entry and Clearance				3	15	0	
<i>Cretan</i> —								
	Do.	5	10	0				
To	Wharfage on 400 Packs, 6d.	10	0	0				
„	Do. on 5 Tons Iron 6s.	1	10	0				
<hr/>						17	0	0
<i>Baring</i> —								
To	Entry	6	15	0				
„	Ad. Val. on £253 19s. 4d.	12	13	11½				
„	Duty on 962 Galls. Spirits 7s.	336	14	0				
„	Do. on 50 Doz. Wine (120 Galls.) 9d.	4	10	0				
„	Wharfage on 227 Packs, 6d.	5	13	6				
„	Do. on 1¼ Tons Iron 6s.	0	7	6				
<hr/>						366	13	11½
<i>Indefatigable</i> —								
To	Clearance	0	5	0				
„	Mooring Chains	6	3	0				
<hr/>						6	8	0
<i>Campbell Macquarie</i> —								
To	Clearance					0	5	0
<i>Cochin</i> —								
To	Do.					0	5	0
<i>Udney</i> —								
To	Do.					0	5	0
<i>Spring</i> —								
To	Do.					0	5	0

Entries of
colonial vessels.

ENTRIES of Colonial Vessels at the Naval Office, Sydney, from
1st July to 30th September, 1815.

Date.	Vessels Name.	From whence.	Bushels		Feet of Cedar.	Tons of Coals.	General Cargo for	Duty.
			Wheat.	Maize.				
July 3	Mary Ann ..	New Castle ..	..	..	3765	10	Individuals	£ 54 16 3
4	Recovery	Hawkesby. ..	60	200	..	..	Do ..	0 2 0
„	Mary	Do ..	..	2000 Bus.	Lime	..	Govt. ..	0 2 0
„	Betsy	Do ..	..	350	..	..	Individuals. ..	0 2 0
15	Hawk'sy Packet	Do ..	..	900	..	..	Do ..	0 2 0
„	Hope	Do ..	80	300	..	..	Do ..	0 2 0
„	Whale	Do ..	200	200	..	..	Do ..	0 2 0
Augt. 3	Mary	Do ..	..	2000 Bush.	Lime	..	Govt. ..	0 2 0
9	Active	New Zealand	..	130 Logs & Spars	1 Ton Flax.	..	Individuals. ..	19 1 0
„	Anna Maria ..	Hawkesy. ..	..	300	..	..	Do ..	0 2 0
18	Recovery	Do ..	..	300	..	..	Do ..	0 2 0
„	Union	Do ..	70	400	..	..	Do ..	0 2 0
Sept. 3	Improvement	Do ..	Barley 29 Do	471	..	..	Do ..	0 2 0

[Enclosure No. 9]—continued.

ENTRIES of Colonial Vessels, &c.—continued.

1816.
18 March.

Entries of colonial vessels.

Date.	Vessels Name.	From whence.	Bushels		Feet of Cedar	Tons of Coals.	General Cargo for	Duty.
			Wheat.	Maize.				
Sept. 10	Eliz'h Cutter	Port Dalrymple	160	three hundred & forty Seal Skins, five hundred & fifty Kangs. Do			Individ'ls..	£ s. d. 3 10 6
14	Windsor	Hawkesby.	30	500	..	..	Do	0 2 0
„	Whale	Do	..	430	..	..	Do	0 2 0
„	Hope	Do	..	300	..	..	Do	0 2 0
18	Hawkesby Packet.	Newcastle	..	..	..	18	Do	13 15 0
„	Mary	Do	..	..	..	34	Do	25 15 0
30	Geordy	Derwent	30	..	..	..	Do	0 5 0
								£ 118 10 9

Naval Office, Sydney, New South Wales,
30th Sept., 1815. Errors Excepted.

JOHN PIPER, Nav'l Off'r.

SAILINGS of Colonial Vessels from the Naval Office from 1st July to 30th September, 1815.

Sailings of colonial vessels.

Date.	Vessels Name.	Where Bound.	General Cargo.	Duty.
July 1	Edwin	Hawkesbury	Ballast	£ s. d. 0 2 0
6	Anna Maria	Do	Do	0 2 0
15	Recovery	Do	Do	0 2 0
„	Union	Do	Do	0 2 0
„	Betsey	Do	Do	0 2 0
24	Mary	Do	Do	0 2 0
„	Jane	Do	Do	0 2 0
Aug. 4	Improvement	Do	Do	0 2 0
8	Elizabeth & Mary	Macquarie Island	Do	0 5 0
„	Hawkesby. Packet	Hawkesbury	Do	0 2 0
„	Hope	Do	Do	0 2 0
15	Anna Maria	Do	Do	0 2 0
18	Windsor	Do	Do	0 2 0
28	Recovery	Do	Do	0 2 0
„	Edwin	Do	Do	0 2 0
31	Happy Return	Do	Do	0 2 0
Sept. 8	Active	New Zealand	Sundries	0 5 0
9	Mary	Newcastle	Ballast	0 5 0
10	Mary Ann	Do	Do	0 5 0
„	Union	Hawkesbury	Do	0 2 0
12	Betsey	Do	Do	0 2 0
15	Improvement	Do	Do	0 2 0
16	Happy Return	Do	Do	0 2 0
21	Hope	Do	Do	0 2 0
„	Hawksby. Packet	Newcastle	Do	0 5 0
22	Windsor	Hawkesbury	Do	0 2 0
23	Whale	Do	Do	0 2 0
26	Mary	Newcastle	Do	0 5 0
				£ 3 14 0

Naval Office, Sydney, New South Wales,
30th Sept., 1815. Errors Excepted.

JOHN PIPER, Nav'l Off'r.

1816.
18 March.
Returns of
shipping.

[Enclosure No. 9]—*continued*.
Report of Ships and Vessels entered Inwards at Port Jackson in His Majesty's Colony of New South Wales
for the Quarter ending 31st Decem'r, 1815.

Date of Entry.	Name of Vessel.	Master.	Build.		Number of		Where built.	Registered.	Name of Owner.	From Whence.	General Cargo.	Duty and Fees of Entry.
			Tons.	Guns.	Men.	Tons.							Men.
Decr. 12th	Amelia.....	S ^t Shaw	Foreign	90	2	23	Cochin...	Calcutta .	S ^t Shaw ..	Calcutta ..	See Appendix	£ s. d. 188 1 9
Spirits Imported.—Rum, 3 Casks, 413 Gallons; Brandy, 2 Casks, 249 Gallons; Gin, 2 Casks, 241 Gallons. Cargo of the <i>Amelia</i> .—273 Bags Sugar, 75 Bags Rice, 4 Casks Tar, 1 Do, Dammer, 6 Do. Sago, 4,000 Gummy Bags, 60 Bales Piece Goods, 6 Cases Do., 6 Do. Furniture, 9 Bales Sundries, 3 Packages Do., 4 Do. (Buggy), 60 Bolts Canvas, 24 Coils Rope, 12 Bundles Twine.												
Report of Ships and Vessels cleared Outwards from Port Jackson in His Majesty's Colony of New South Wales for the Quarter ending 31st Decem'r, 1815.												

Date 1815.	Vessel's Name.	Master.	Number of		Built.	Where Built.	Regis-tered.	Owner's Name.	Where bound.	General Cargo.	Clearance Fee.
			Tons.	Men.							
Octr. 11	Cretan	Josh. Moore ..	356	8 27	Foreign	Isle of Crete ..	London	Birnie & Co.	Whale Fishery	Ballast	£ s. d. 0 5 0
21	Canada	John Grigg ..	433	8 23	British	North Shields	Do ..	Josh. Reeve & Co.	Java	Do (charges for Moorings).	11 5 0
Nov.	Francis & Eliza	Wm. Harrison	377	4 22	Do ..	London	Do ..	Herring & Hutchins	Do	Do	0 5 0
1	Phoenix	Wm. Parker	341	8 22	Foreign	France	Do ..	Bennett & Co.	Whale Fishery	See Appendix ..	0 5 0
2	Baring	John Lamb	830	14 71	British	Deptford	Do ..	Buckle & Co.	Calcutta	See Appendix ..	0 5 0
5	Hebe	Jas. Porter ..	416	13 33	Do ..	Hull	Do ..	Stanforth & Blunt	Java & London	Ballast (charges for Moorings)	0 19 0
7	Northampton..	J. A. Tween..	561	14 43	Do ..	Rotherhithe ..	Do ..	Tibutt, Ratson & Co.	Canton	See Appendix Do	2 17 0
											£ 16 1 0

APPENDIX.

Phoenix.—60 Tons Sperm Oil
in the Hebe by Mr. Riley, 7 Hhds. Madeira Wine, and 479 lbs. Copper.
Naval Office, Sydney, 31st Decem'r, 1815.

Baring.—139 Grind Stones, 150 Bull'k Hides, 380 Tons Coals, 96 Spars, 4 Pipes Brandy imported
Northampton.—46 Tons Stau'l Wood, 4,040 Seal Skins.
E. E.
JOHN PIPER, Nav'l Off'r.

[Enclosure No. 9]—*continued.*

ESTIMATE of Duties Collected by the Naval Officer for the
Quarter ending 31st Decem'r, 1815.

1816.
18 March.
Account of
fees and duties
collected by
naval officer.

	£	s.	d.
Amelia	188	1	9
Entries of Colonial Vessels Pr. Abstract	843	13	9
Sailings of Do. Pr. Do.	6	15	0
Clearance of Foreign Vessels Pr. Report	16	1	0
Auction Duties from Mr. D. Bevan	43	17	9
Do. from Mr. R. Jenkins	29	15	10
Do. „ Mr. F. Oakes	14	11	10½
Duty on—			
3,998 Galls. Spirits imported Pr. Sydney Packet 7s.	1,399	6	0
479 Do. Do. „ Cochin „	167	13	0
199 Do. Do. „ Frederick (1814) 5s.	49	15	0
1,208 Do. Do. „ Udney 7s.	422	16	0
2,312 Do. Do. „ Hebe „	746	4	0
697 Do. Do. „ Baring „	243	19	0
136 Do. Do. „ Amelia „	47	12	0
	<hr/>		
	4,220	1	11½
Deduct Naval Officer's Comm'n of 5 p. Cent. ..	211	0	1
	<hr/>		

Balance Due to Government £4,009 1 10½

Naval Office, Sydney, 31st Decem'r, 1815. E.E.

JOHN PIPER, Nav'l Off'r.

App'd:—L. MACQUARIE, 13 Jany., 1816.

EXPLANATION of the foregoing Estimate of Duties.

<i>Amelia</i> —			
To Entry	£2	10	0
„ Ad. Val. on £3,311 15s. 0d.	165	11	9
„ Wharfage on 800 Packs. 6d.	20	0	0
	<hr/>		
<i>Cretan</i> —		188	1 9
To Clearance		0	5 0
<i>Canada</i> —			
To Do.	0	5	0
„ Mooring Chains	11	0	0
	<hr/>		
<i>Francis and Eliza</i> —		11	5 0
To Clearance		0	5 0
<i>Phoenix</i> —			
To Do.		0	5 0
<i>Baring</i> —			
To Do.		0	5 0
<i>Hebe</i> —			
To Do.	0	5	0
„ Mooring Chains	0	14	0
	<hr/>		
<i>Northampton</i> —		0	19 0
To Clearance	0	5	0
„ Mooring Chains	2	12	0
	<hr/>		
		2	17 0

[Enclosure No. 9]—*continued.*1816.
18 March.Entries of
colonial vessels.ENTRIES of Colonial Vessels at Port Jackson for the Quarter
ending 31st Decem'r, 1815.

Date.	Vessels Name.	From Whence.	General Cargo.				Duty.
			Bush. Wheat.	Bush. Maize.	Feet Cedar.	Tons Coals.	
1815.							£ s. d.
Oct. 2	Hawkesby. Packet	Newcastle ..	..	..	..	18	13 15 0
..	Anna Maria	Hawkesby. ..	150	251	..	..	0 2 0
3	Betsy	Do ..	350	..	..	..	0 2 0
..	Improvement	Do ..	500	..	..	..	0 2 0
5	Mary Ann	Newcastle ..	..	..	..	..	16 15 0
6	Mary	Do ..	..	..	..	34	25 15 0
11	Edwin	Hawkesby. ..	54	578	..	..	0 2 0
16	Henrietta Packet. .	Port Dalrym- ple.	..	..	..	..	0 5 0
17	Windsor	Hawkesbury	370	20	..	..	0 2 0
18	Whale	Do ..	450	..	..	..	0 2 0
19	John Palmer	Port Dalrym- ple.	40	..	..	..	7 8 9
20	Hawkesby. Packet	Newcastle ..	..	..	..	18	13 15 0
..	Mary	Do ..	..	..	..	34	25 15 0
29	Govr. Macquarie. .	Marquesas ..	..	..	..	..	115 5 0
Nov. 1	Brothers	New Zealand	..	..	..	..	1 5 0
7	Hope	Newcastle ..	..	..	..	520	6 12 0
8	Mary	Do ..	..	..	..	20	19 0 0
..	Mary Ann	Do ..	..	..	..	22	14 0 0
..	Hawkesy. Packet	Do ..	..	..	..	18	11 10 0
11	Elizabeth & Mary	Macq. Island	..	..	..	..	37½ Tons Oil
13	Queen Charlotte ..	Marquesas ..	..	..	..	..	39½ Do. Sandl. Wood.
13	Improvement	Hawkesby. ..	242	111	..	..	0 2 0
20	Mary Ann	Newcastle ..	..	..	..	22	14 0 0
22	Mary	Do ..	..	..	..	35	0 5 0
27	Endeavour	Marquesas ..	..	..	..	..	26 Tons Sandl. Wood.
28	Edwin	Hawkesby. ..	..	..	..	300	0 2 0
..	Active	New Zealand	..	..	..	..	120 Spars, ½ Ton Flax.
30	Whale	Hawkesby. ..	..	..	..	450	0 2 0
Decr. 4	Mary Ann	Newcastle ..	..	..	..	22	14 0 0
..	Brothers	Do ..	..	..	..	34	21 10 0
8	Mary	Do ..	..	..	..	35	22 2 6
12	Hawkesy. Packet. .	Do ..	..	..	..	18	11 10 0
15	King George	Marquesas ..	..	..	..	..	64 Tons Sandl. Wood, 12 Do Pork.
22	Elizabeth & Mary	Newcastle ..	..	..	..	55	34 12 6
24	Mary Ann	Do ..	..	..	..	22	14 0 0
26	Mary	Do ..	..	..	..	35	22 2 6
..	Hawkesby. Packet	Do ..	..	..	..	18	11 10 0
							£ 843 13 9

Naval Office, Sydney, 31st Decem'r, 1815.

E.E.

JOHN PIPER, Nav'l Off'r.

MACQUARIE TO BATHURST.

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[Enclosure No. 9]—*continued.*

SAILINGS of Colonial Vessels from Port Jackson for the Quarter ending 31st Decem'r, 1815.

1816.
18 March.

Sailings of colonial vessels.

Date.	Vessel's Name.	Where bound.	General Cargo.	Duty.
1815.				£ s. d.
Oct. 3	Hawkesy. Packet	Newcastle	Ballast	0 5 0
7	Anna Maria	Hawkesby.	Do	0 2 0
9	Mary Ann	Newcastle	Do	0 5 0
10	Mary	Do	Do	0 5 0
12	Elizabeth	Bass's Straits	Do	0 5 0
14	Geordy	Hobart Town	Do	0 5 0
16	Improvement	Hawkesbury	Do	0 2 0
23	Hawkesby. Packet	Newcastle	Do	0 5 0
„	Edwin	Hawkesbury	Do	0 2 0
26	Hope	Do	Do	0 2 0
28	Mary	Newcastle	Do	0 5 0
„	Whale	Hawkesbury	Do	0 2 0
Nov. 6	Anna Maria	Do	Do	0 2 0
9	Henrietta Packet	Derwent	Do	0 5 0
13	Mary Ann	Newcastle	Do	0 5 0
14	Mary	Do	Do	0 5 0
16	John Palmer	Port Dalrymple	Sundries	0 5 0
18	Brothers	Newcastle	Ballast	0 5 0
21	Govr. Macquarie	Otaheite	Sundries	0 5 0
22	Mary Ann	Newcastle	Ballast	0 5 0
23	Improvement	Hawkesbury	Do	0 2 0
30	Mary	Newcastle	Do	0 5 0
Decr. 5	Hawkesy. Packet	Do	Do	0 5 0
5	Elizabeth & Mary	Do	Do	0 5 0
6	Hope	Hawkesbury	Do	0 2 0
„	Mary Ann	Newcastle	Do	0 5 0
12	Edwin	Hawkesbury	Do	0 2 0
14	Whale	Do	Do	0 2 0
16	Mary	Newcastle	Do	0 5 0
17	Hawkesby. Packet	Do	Do	0 5 0
„	Brothers	Do	Do	0 5 0
29	Elizabeth & Mary	Do	Do	0 5 0
30	Rosetta	Fishy. N. Zealand	Do	0 5 0
				£6 15 0

JOHN PIPER, Nav'l Off'r.

Naval Office, Sydney, 31st Decr., 1815.

E.E.

[Enclosure No. 10.]

THE ACCOUNTS of the Colonial Police Fund from the 1st of April to the 31st of December, 1815, Inclusive.

Accounts of the police fund.

[A copy of these accounts will be found in a volume in series II.]

1816.
18 March.
General return
of inhabitants.

[Enclosure No. 11.]

A GENERAL STATEMENT of the Inhabitants of New South Wales taken by His Excellency Governor Macquarie and Acting Assistant Commissary General Broughton from the sixth Day of November to the sixth Day of December, 1815, inclusive.

	Civil Department Victualled.														Military Department Victualled.											Total Military Department Victualled.						
	Governor and Commander-in-Chief.	Secretary to the Governor.	Judge.	Solicitors.	Provost Marshal.	Clergymen.	Principal Surgeon.	Assistant Surgeons.	Surveyor General of Lands.	Deputy Surveyor General.	Naval Officer.	Boat Builder.	Clerks and Superintendents.	Women at $\frac{1}{2}$.	Children at $\frac{1}{2}$.	Total of Civil Dept. Victualled.	Lieutenant-Colonel.	Majors.	Captains.	Lieutenants.	Ensigns.	Paymaster.	Adjutant.	Quartermaster.	Surgeon.		Asst. Surgeon.	Serjeants and Corporals.	Drummers and Pipes.	Privates.	Women at $\frac{1}{2}$.	Children at $\frac{1}{2}$.
Sydney	1	1	1	2	1	2	1	2	1	1	1	1	19	27	54	115	1	2	7	11	3	1	1	1	1	1	28	14	344	78	142	635
Parramatta . . . . .	..	..	..	..	..	1	1	..	..	..	..	..	6	8	18	34	..	..	1	1	..	..	..	..	..	7	2	54	32	78	175	
Windsor . . . . .	..	..	..	..	..	2	1	..	..	..	..	..	3	5	14	25	..	..	..	1	..	..	..	..	..	3	..	15	13	41	73	
Liverpool . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	1	1	4	6	..	..	..	..	..	..	..	..	..	2	..	12	9	8	31	
Newcastle . . . . .	..	..	..	..	..	..	1	..	..	..	..	..	1	2	3	7	..	..	..	1	..	..	..	..	..	3	2	26	1	..	33	
Colonial Vessels . . . . .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Total Mustered	1	1	1	2	1	5	1	5	1	1	1	1	30	43	93	187	1	2	8	14	3	1	1	1	1	1	43	18	407	131	262	947

[Enclosure No. 11]—continued.
A GENERAL STATEMENT of the Inhabitants of New South Wales, &c.—continued.

	Commissariat Staff Victualled.				Free Persons Victualled.				Prisoners Victualled.				Rations.				Persons not Victualled.				Total number of Souls in the Settlement.			
	Deputy Commissary Genl.	Asst. Commy. Genl.	Depy. Asst. Commy. Genl.	Clerks.	Total of Commt. Staff Victualled.	Men.	Women at $\frac{2}{3}$.	Children at $\frac{1}{3}$.	Total of Free Persons Victualled.	Men.	Women at $\frac{2}{3}$.	Children at $\frac{1}{3}$.	Total of Prisoners Victualled.	At full.	At two-thirds.	At one-third.	Total number of full Rations.	Total of Persons Victualled.	Men.	Women.		Children.	Total of Persons not Victualled.	
																								At full.	At two-thirds.	At one-third.	Total number of full Rations.	Men.	Women.	Children.	Total of Persons not Victualled.
Sydney	1	1	1	2	4	204	67	98	339	872	66	86	1024	1529	160	316	142	1841	2147	1115	1016	1197	3328	5475
Parramatta	1	1	1	2	5	69	46	86	201	332	153	83	568	476	207	219	78	749 $\frac{1}{2}$	980	791	368	427	1686	2566
Windsor	1	1	1	1	4	62	29	60	151	161	7	6	174	249	41	93	41	336 $\frac{1}{2}$	424	1420	543	774	2740	3164
Liverpool	1	1	1	1	4	29	22	25	76	80	..	..	80	124	23	38	8	161	193	461	167	346	974	1167
Newcastle	1	1	1	1	4	1	8	7	16	215	39	12	266	250	49	23	..	294	322	5	9	10	24	346
Colonial Vessels	1	1	1	1	4	17	..	..	17	..	..	..	..	17	..	..	..	..	17	176	..	176	193	..
Total Mustered	1	2	1	4	7	382	172	276	830	1660	265	187	2112	2645	480	680	269	3399	4083	3968	2103	2757	8828	12911

N.B.—In advertising to the last General Statement of the Inhabitants taken from the Muster in October and November, 1814, and comparing the same with the present one, an Error was discovered in the Number of Children stated to have been mustered at Windsor, at the former period, and instead of 1,443 Children included under the Column of Persons not Victualled, it ought to have been only 443, making a difference of one thousand more than was actually accounted for. It will appear that the Military are less in Number than they were in the last General Statement taken from the Muster of 1814; this circumstance is accounted for by the Embarkation of the remains of the 73rd Regiment, with their Families on board the Private Ship General Brown, and also on board the Armed Brig Kangaroo for Ceylon, both of which Events took place between the periods of the two Musters.—L.M.

L. MACQUARIE, Govr. in Chief of N. S. Wales.

Examined:—W. BROUGHTON, A.D.C.-Genl.

1816.
18 March.
General return of inhabitants.

1816.
18 March.
Return of
agriculture and
live stock.

[Enclosure No. 11]—*continued.*

A GENERAL STATEMENT of the Land in Cultivation, &c., the Quantities of Stock, &c., as accounted for at the General Muster in His Majesty's Colony of New South Wales, taken by His Excellency Governor Macquarie and Acting Assistant Commissary General Broughton from the sixth November to the sixth December, 1815, inclusive.

	Acres.											Horned Cattle.				Horses.		Sheep.		Goats.		Hogs.		Bushels of—	
	Wheat.	Maize.	Barley.	Oats.	Pease & Beans.	Potatoes.	Garden.	Fallow.	Pasture.	Total Held.											Wheat.	Maize.			
The Crown.....	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
At Sydney	1,557	653	20	36	7	69	200	3,395	54,648	60,605	99	736	6,361	11,392	59	1,190	100	130	...	...	...	...	...
„ Parramatta	1,557½	1,033	111	89	19	97½	233½	3,006½	53,437	59,584	547	5,748	23,364	131	1,558	562	1,619	...	...	...	...	...	...
„ Windsor.....	6,016	3,328	444	433	21	64	348	1,030	35,449	47,133	690	4,900	16,469	457	6,275	2,112	9,840	...	...	...	...	...	...
„ Liverpool	1,522	1,019	129	51	4½	99	100	1,337	36,693½	40,955	356	5,931	9,659	22	1,000	85	361	...	...	...	...	...	...
„ Newcastle	59½	56	4	1	...	3½	...	...	146	270	...	13	60	...	83	...	...	...	...	...	...	...	...
Total Mustered ...	10,712	6,089	708	610	51½	333	901½	8,768½	180,373½	208,547	2,328	25,279	62,476	669	10,106	2,859	11,950	...	...	...	...	...	...

N.B.—On comparing this with the former Statement, collected from the Musters of 1814, there appears a Decrease in the Horned Cattle and Sheep, this circumstance was occasioned by the very long Droughts, which caused a great Mortality in these Species of Animals.—L.M.

L. MACQUARIE, Govr. in Chief of N. S. Wales.

Examined:—W. BROUGHTON, Ag. A. C. Genl.

[A copy of the return relating to Van Diemen's Land will be found in a volume in series III.]

[Enclosure No. 12.]

1816.
18 March.

RETURN and Report of Prisoners tried by the Criminal Court at Sydney from the 1st of June, 1815, to the 29th of February, 1816, Inclusive.

Report on
criminal trials.

[A copy of this return will be found in a volume in series IV.]

[Enclosure No. 13.]

[This enclosure consisted of a return relating to all convicts, who arrived from England and Ireland during the year 1815.]

[Enclosure No. 14.]

SUMMARY of Births, Deaths, and Marriages.

Return of
births, deaths,
and marriages.

District.	Quarter ending	Number of Births (Baptisms).	Number of Deaths.	Number of Marriages.
Castlereagh and Richmond	March 31st, 1815	7	2	3
Do	June 30th, 1815	7	2	6
Do	September 30th, 1815 ..	8	2	1
Do	December 31st, 1815 ...	8	0	2
Parramatta	(2 Quarters) to June 30th, 1815	40	24	24
Do	(Quarter) to Sept. 30th, 1815	11	11	15
Do	December 31st, 1815 ...	21	6	17
Hawkesbury	March 31st, 1815	4	4	5
Do	June 30th, 1815	19	9	7
Do	September 30th, 1815 ..	6	2	8
Do	December 31st, 1815 ...	20	6	11
Sydney	March 31st, 1815	47	32	14
Do	June 30th, 1815	43	36	20
Do	September 30th, 1815 ..	31	13	15
Do	December 31st, 1815 ...	27	23	13
Liverpool	March 31st, 1815	4	2	0
Do	June 30th, 1815	5	3	0
Do	September 30th, 1815 ...	8	2	0
Do	December 31st, 1815 ...	9	2	0
Hobart	June 30th, 1815	8	7	5
Do	December 31st, 1815 ...	15	6	8

1816.
18 March.
Return of
persons holding
civil and
military
appointments.

[Enclosure No. 15.]

A List of Persons holding Civil and Military Employments in New South Wales and its Dependencies.
Sydney, 1st January, 1816.

Names.	Appointments.	By whom Appointed.	Yearly Salary.	Remarks.	
L. Macquarie Esquire	Governor.....	The Crown.....	£ 2000	s. 0	d. 0
Geo. Molle	Lieut. Governor.....	Do.....	400	0	0
Frederick Garling	Actg. Judge Advocate.....	Governor Macquarie.....	110	0	0
J. H. Bent	Judge.....	The Crown.....	800	0	0
Wm. Moore	Solicitor to the Crown.....	Do.....	300	0	0
J. T. Campbell	Secretary to the Governor.....	Governor Macquarie.....	282	10	0
William Gore	Provost Marshal.....	The Crown.....	91	5	0
John Piper	Naval Officer.....	Do.....	.....	.....	.....
Alfred Thrupp	Asst. Do.....	Governor Macquarie.....	50	0	0
Robert Watson	Harbour Master.....	Do.....	.....	.....	.....
George Dowling	Wharfinger.....	Do.....	.....	.....	.....
James Stewart	Asst. Do.....	Do.....	.....	.....	.....
John Oxley	Surveyor General.....	The Crown.....	273	15	0
James Meehan	Do General.....	Governor Macquarie.....	136	17	6
D'Arcy Wentworth	Principal Surgeon.....	The Crown.....	365	0	0
James Mileham	Asst. Do.....	Do.....	182	10	0
Wm. Redfern	Do Do.....	Do.....	136	17	6
Major West	Do Do.....	Governor Macquarie.....	136	17	6
William Evans	Do Do.....	Do.....	91	5	0
H. St. John Young	Do Do.....	The Crown.....	91	5	0
Revd. S. Marsden	Principal Chaplain.....	Do.....	350	0	0
" W. Cowper	Asst. Do.....	Do.....	260	0	0
" H. Fulton	Do Do.....	Do.....	182	10	0
" R. Cartwright	Do Do.....	Do.....	240	0	0
" E. Vale	Do Do.....	Do.....	182	10	0
William Cossar	Boat Builder.....	Governor Macquarie.....	91	5	0
J. W. Lewin	Coroner.....	Do.....	80	0	0
Thomas Hobby	Asst. Do.....	Do.....	40	0	0
Michael Robinson	Clerk in Secretary's Office.....	Do.....	60	0	0
Joseph Cowgill	2d Do in.....	Do.....	25	0	0

receives 5 per Cent. on Duties
Collected.

1816.
18 March.

Return of persons holding civil and military appointments.

Names.	Appointments.	By whom Appointed.	Yearly Salary.	Remarks.
			£ s. d.	
Peter Plomet	3rd Clerk in Secretary's Office	Governor Macquarie	60 0 0	
Joseph Sumpter	4th Do do	Do	60 0 0	
James Foster	Clerk to Judge Advocate	Do	80 0 0	
William Roberts	Do to Judge	The Crown	80 0 0	
D'Arcy Wentworth	Superintendent of Police	The Crown	200 0 0	
Robert Jones	Asst. Do	Governor Macquarie	60 0 0	
George Chartres	Clerk to Do	Do	30 0 0	
Roland Hassall	Superintendent of Stock	Do	100 0 0	
Thomas Arkell	Overseer at Do	Do	50 0 0	
William Chalker	Do Do	Do	50 0 0	
William Hutchinson	Superd. of Convicts	Do	75 0 0	
Richard Housie	Do of Public Works	Do	50 0 0	
David Langley	Do of Smiths	Do	50 0 0	
Samuel Bradley	Do of Carpenters	Do	50 0 0	
Richard Fitzgerald	Do at Windsor	Do	50 0 0	
William Hill	Do of Slaughterhouse	Do	50 0 0	
George Satter	Do at Castle Hill	Do	50 0 0	
Richard Lewis	Do of New Road	Do	50 0 0	
A. Hutchinson	Do of Mills	Do	30 0 0	
Francis Oakes	Do at Parramatta	Do	50 0 0	
Do	Do of the Factory	Do	50 0 0	
N. Divine	late Superintendent	The Crown	45 0 0	
John Redman	Chief Constable	Governor Macquarie	60 0 0	
William Thorne	Asst. to Do	Do	10 0 0	
Daniel Cubitt	Gaoler	Do	60 0 0	
Jonathan Green	Do	Do	30 0 0	
5 District Constables	Asst. Do	Do	50 0 0	
Richard Wade	Steeple Keeper	Do	10 0 0	
John Austin	Clock Keeper	Do	10 0 0	
George Howe	Government Printer	Do	60 0 0	
Mrs. Martin	Govn. H. Keeper, Parramatta	Do	20 0 0	
MILITARY EMPLOYMENTS.				
Captain H. C. Antill	Major of Brigade	Governor Macquarie	182 10 0	
Lieut. J. Watts	Aid-de Camp	Do	182 10 0	

1816.
18 March.

Return of persons holding civil and military appointments.

A List of Persons holding Civil and Military Employments, &c.—*continued.*

Names.	Appointments.	By whom Appointed.	Yearly Salary.	Remarks.
MILITARY EMPLOYMENTS—<i>continued.</i>				
Charles McIntosh	Barrack Master	Governor Macquarie	£ 100 0 0	
Captain J. M. Gill	Engineer	Do	182 10 0	
John O'Hearne	Asst. Do	Do	45 12 6	
Lieutenant Thompson	Commandant at Newcastle	Do	91 5 0	
Charles Whalan	Serjeant	} Governor's Guard	0 1 0	per day.
Thomas Tollis	Corporal		0 0 6	
Joseph Craddock	Private		0 0 6	
George Lawson	Do	} Light Horse	0 0 6	"
Thomas Evans	Do		0 0 6	
Henry Newman	Do		0 0 6	
Thomas Humphries	Do	Do	0 0 6	"
Thomas Field	Do	Do	0 0 6	"
HOBART TOWN.				
Thomas Davey, Esqre.	Lieutenant Governor	The Crown	800 0 0	
Edwd. Abbott	Dy. Judge Advocate	Do	600 0 0	
Martin Thus	Provost Marshal	Do	91 5 0	
Edd. Drummond	Naval Officer	Do	91 5 0	
Revd. R. Knopwood	Chaplain	Do	182 10 0	
Edwd. Luttrell	Actg. Coll. Asst. Surgeon	Governor Macquarie	182 10 0	
G. W. Evans	Dy. Surveyor of Lands	Do	91 5 0	
J. B. Boothman	Superintendent.	Do	50 0 0	
R. D. Crowther	Do	Do	50 0 0	
PORT DALRYMPLE.				
Major James Stewart	Commandant.	Governor Macquarie	182 10 0	
Jacob Mountgarrett.	Surgeon	The Crown	182 10 0	
John Smith	Asst. Do	Do	136 17 6	
Richd. Dry	Superintendent.	Governor Macquarie	50 0 0	
Thomas Massey	Do	Do	50 0 0	
Richard Sydes	Do	Do	50 0 0	
David Rose	Do	Do	91 5 0	
Thomas McQueen	Schoolmaster	Do	20 0 0	

L. MACQUARIE, Govr. in Chief of N. S. Wales.

GOVERNOR MACQUARIE TO EARL BATHURST.

1816.
21 March.(Despatch marked "No. 8 for 1816," per H.M. brig Emu*;
acknowledged by Earl Bathurst, 30th January, 1817.)

Government House, Sydney, New South Wales,

My Lord,

21st March, 1816.

I herewith Do myself the Honor to transmit for Your Lordship's Information and Notice, the Series of *Sydney Gazettes* from 24th June, 1815 (when last sent per Sydney Packet), up to the 9th of this present Month of March Inclusive, together with New South Wales Almanac for the present Year.

Transmission
of copies of
Sydney Gazette
and *N.S.W.*
Almanac.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO H.R.H. THE DUKE OF YORK, COMMANDER-
IN-CHIEF.

(Despatch per H.M. brig Emu.*)

21st March, 1816.

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

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Elizabeth; acknowledged by Governor Mac-
quarie to Earl Bathurst, 4th April, 1817.)

Sir,

Downing Street, 22d March, 1816.

22 March.

I am directed by Lord Bathurst to acquaint you that Mr. Joshua John Moore has been appointed to the Situation of Clerk to The Judge Advocate in the Colony under your Govern-
ment.

Appointment
of clerk to
judge-advocate.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch marked "Private," per H.M. brig Emu.*)

Government House, Sydney, N. S. Wales,

Dear Sir,

22d March, 1816.

I have the honor to acknowledge the receipt of your Private Letters under dates the 27th of June and 13th of August, 1815, the former recommending Mrs. Collicott and her Family and the latter the Revd. Mr. Youl to my favor and good offices.

Acknowledgment
of letters.

I can only assure you of my being sincerely disposed to meet your good wishes in favor of those Persons. Mrs. Collicott is an interesting respectable Woman, and with so large a Family to provide for is much to be pitied. I have put herself and her whole Family in the meantime on the Store, and intend giving her eldest Son a Grant of Land very soon with the usual indulgences granted here to Free Settlers, the Father not being yet

Indulgences
granted to
Mrs. Collicott
and family.

1816.
22 March.

Indulgences
granted to
Mrs. Collicott
and family.

eligible for receiving a Grant of Land in his own Name, on account of his still labouring under the Sentence of the Law, but it is my intention to give him a Conditional Pardon in January next, which will make him eligible for receiving Lands in his own Name and to hold any Colonial Office that he may be found fit for. I shall be most happy to afford this unfortunate Family every reasonable Protection and assistance in my power, in as far as their own Situation and the Rules I have laid down for my own Government in such cases will admit of, both on their own account and the warm interest you appear to take in their welfare.

Arrival of the
Reverend John
Youl.

The Revd. Mr. Youl arrived in the Ocean Transport on the 30th of January last in good Health and greatly improved in looks and manner, since he left this Country for England in the Year 1813. I think Mr. Youl is a very great acquisition to the Colony for we greatly want a few really Pious and good men like him in this Country as Divines, and I wish we had two or three more like him. I shall be most happy on account of your recommendation of him to pay every little attention in my power to Mr. Youl, and to forward his views in any way I can.

In case there should be any thing in this Colony in the way of curiosity or rarity that you would wish to have sent to you from it, I beg you will not scruple to mention it, and I shall be most happy to execute your Commissions if to be procured in this Country.

I have, &c.,

L. MACQUARIE.

Request for
instructions.

P.S.—If it were not intruding too much on you, I should esteem it a great kindness if you would be so good as to take a favorable opportunity of reminding Lord Bathurst that a great number of very interesting and important Points relative to this Colony as contained in my Dispatches* of the years 1813, 1814, and 1815 have never yet been noticed at all by His Lordship; and that I should feel highly gratified by being honored with his Lordship's Sentiments and Instructions on the Principal Points contained in the Dispatches above alluded to.—L.M.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per H.M. brig Emu.†)

Government House, Sydney, New South Wales,

Sir,

22nd March, 1816.

Money paid to
D. Conolly.

I have the Honor to acknowledge the Receipt of Your Letter, under date the 22nd of May last (in Duplicate), and in Compliance with the Directions therein Contained, I have paid Daniel Conolly, Convict, the Sum of Thirty Pounds Sterling,

* Note 9. † Note 2.

and have now the Pleasure of enclosing herewith his Receipt for the same. I have, agreeably to Your Desire, drawn a Set of Bills on You for the above mentioned Sum in favor of James Birnie, Esq., payable at ten days After Sight.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

[*A copy of the receipt is not available.*]

1816.
22 March.

GOVERNOR MACQUARIE TO RIGHT HON. CHARLES ARBUTHNOT.

(Despatch per H.M. brig Emu. *)

Government House, Sydney, N. S. Wales,

Sir, 22nd March, 1816.

Although I have not the honor to be at all personally known to you, yet I trust you will kindly forgive the liberty I now take in addressing you as a Stranger, when you know the motive.

Having heard that you take a warm interest in the welfare and Success of the Bearer, Lieutenant G. B. Forster of the Royal Navy, at present Commander of His Majesty's Colonial Brig Emu, I wish, if possible, to add to the interest you already take in this young man by thus assuring you that, during my long acquaintance with both Naval and Military Officers, I have never met with a more gentlemanlike or finer young man than Lieutenant Forster. By his urbanity, modest, unassuming and conciliatory manners, he has most deservedly attracted the friendship, respect and regard of all classes of the Society in this country. In his public Capacity as Commander of the Emu, he has given me entire Satisfaction from his honourable and vigilant discharge of every part of his Duty, which he has on all occasions executed with a zeal, alacrity and Public Spirit, highly creditable and honorable to himself and consequently deserving of my highest commendations.

Testimony in
favour of
Lieutenant
Forster.

I therefore take the liberty of recommending Lieutenant Forster to your Kind Patronage, favor and protection, as a young man of very Superior Merit and highly deserving of any thing you can do for him in promoting his future Views in life; and I most Sincerely hope to hear, through your kind Offices and his own merits, that he is soon promoted in his own profession to the rank of Master and Commander.

The Brig Emu being condemned as unfit any longer for the Service of this Colony is the only cause of Lieutenant Forster's returning so soon to England; and I very Sincerely regret that thereby the Colony and myself should be deprived of so able and so very useful an Officer.

* Note 2.

1816.
22 March.

Having the honor of being very well acquainted with your Sister Mrs. Cockran, I beg you will do me the favor to remember me most Kindly to herself and Mr. Cockran when you see them

I have, &c.,

L. MACQUARIE, Govr. in Chief of N. S. Wales

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 9 for 1816." per H.M. brig Emu*;
acknowledged by Earl Bathurst, 30th January, 1817.)

23 March.

My Lord, Government House, Sydney, 23d March, 1816.

The court
martial on the
Reverend
Benjamin Vale.

The Proceedings of the General Court Martial, Assembled here on the 7th Inst. for the Trial of the Revd. Benjamin Vale, Assistant Chaplain, having been brought to a Conclusion on the 16th inst., I Do Myself the Honor to transmit Your Lordship herewith, 1st, a Copy of the Charges preferred against Mr. Vale; 2nd, a Copy of the Sentence pronounced by the Court; and 3rd, a Copy of my General Orders on that Occasion.

Having in My Dispatch No. 4† of the present Year detailed at full Length to Your Lordship the Circumstances which gave Rise to the foregoing Trial, I beg to refer Your Lordship thereto.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

GOVERNMENT AND GENERAL ORDERS.

Head Quarters, Sydney, Monday, 18th March, 1816.

At a General Court Martial held at Sydney on the 7th of March, 1816, and continued by adjournments to the 16th of the same Month, and of which Major Alexander Ogilvie of the 46th Regiment was President, The Revd. Benjamin Vale, Clerk, Assistant Chaplain to the Settlement in New South Wales, was arraigned upon the undermentioned Charges, Vizt:—

[*Here followed a copy of the four charges, which were forwarded in enclosure No. 2 to the despatch dated 8th March, 1816; see page 48.*]

Charges
preferred
against Vale.

Upon which Charges the Court came to the Following Decision:—

Decision of the
court martial.

The Court, having carefully examined and read the Charges exhibited against the Reverend Benjamin Vale, as well as the Evidence in support of the said Charges, and also what the Prisoner had to offer in his own Defence and the Evidence in support of his Defence, and maturely and deliberately considered

* Note 2. † Note 21.

the whole and every part thereof with the most Minute attention, is of Opinion with regard to the first Charge as follows:—

1816.
23 March.

Decision of the
court martial.

The Court, considering it was the Duty of the Prisoner to have ascertained previously to the Seizure whether or not the Governor had given Permission to enter the Schooner Traveller, is of Opinion that he is Guilty.

With respect to the Second Charge, The Court is of opinion that the Prisoner is not Guilty of that part of it which attaches insolence to his Conduct, but that he is Guilty of all the remaining part of the Charge.

With respect to the Third Charge, The Court is of opinion that the Prisoner is Guilty of Conduct derogatory to his sacred Character as an Assistant Chaplain and Clergyman serving under this Government in so far stepping out of the proper line of his Duty as to make the Seizure of the American Schooner Traveller in his own Person, but do acquit him of the other parts of the Charge.

With respect to the Fourth Charge, The Court is of Opinion that he is not guilty and therefore acquit him of the same.

The Court, having thus found the Prisoner Guilty of the whole of the 1st Charge, and part of the 2d and 3d Charges, Do adjudge that he be Publickly and Severely reprimanded and Admonished.

A. OGILVIE, Major 46th Regt., President.

FREDERICK GARLING, Depy. Judge-Advocate.

Approved:—L. MACQUARIE, M. General,

Govr. in Chief and Com'r of the Forces in N. S. Wales.

In approving the foregoing Sentence Passed by the General Court Martial on the Revd. Benjamin Vale Assistant Chaplain, His Excellency The Governor and Commander of the Forces, in Consideration of his Sacred Character as a Clergyman, is Pleased to dispense with his being Publickly reprimanded; but directs that he shall attend this day at Half past 12 O'Clock at the Government House in Order to have His Sentence and this Order read to him by the Major of Brigade, and to be Privately admonished by His Excellency in the presence of his Personal Military Staff and the Naval Officer; after which The Reverend Mr. Vale is to be released from his Arrest, and to return to the exercise of his former Functions as an Assistant Chaplain.

Modification
of sentence
by Macquarie.

L. MACQUARIE.

By Command of His Excellency The Governor and Commander of the Forces,

H. C. ANTILL, Major of Brigade.

1816.
23 March.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch per H.M. brig Emu.*)

Government House, Sydney, N. S. Wales,

My Lord,

23d March, 1816.

Request for
return passage
for W. Hayes.

The Bearer, Mr. William Hayes a respectable Settler long resident in this Colony, having occasion to return to England for the Settlement of his Private concerns there by the present Conveyance per the Brig Emu, but intending again to return to the Colony, he will request of your Lordship to permit him to do so; and I take the liberty of respectfully soliciting that your Lordship would have the goodness to direct a Passage to be found for Mr. Hayes and his family, on board of one of the Government Transports coming out to this Country with Male or Female Convicts, Mr. Hayes having left some Property in the Colony, and being besides a very deserving well-behaved man.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO THE COMMISSIONERS OF THE TRANSPORT BOARD.

(Despatch per H.M. brig Emu.*)

? March, 1816.

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

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 62, per ship Elizabeth; acknowledged by Governor Macquarie, 1st April, 1817.)

1 April.

Sir,

Downing Street, 1st April, 1816.

I herewith transmit to you the Copy of a letter from the Secretary of the Transport Board with its Enclosures respecting the Case of Mr. Arnold who was sent from this Country as Surgeon and Superintendant of the Northampton Convict Ship, in which it is stated that you not only refused on the Arrival of Mr. Arnold to victual him during his stay in New South Wales in compliance with the directions of the Transport Board, but also to provide him with a passage back to this Country. Under the Circumstances of the Case I cannot help expressing my regret that, for want of a formal Instruction from this Office, you should have placed a Meritorious Public Officer in a situation of so much difficulty, when it was sufficiently apparent that such were the Terms under which Government had induced him to proceed to the Colony. I am to desire that on all future occasions you will cause the necessary Allowances to be issued to the Surgeons

Treatment of
surgeon Arnold
by Macquarie.

Instructions
re transport
surgeons.

of Convict Ships during their Stay, and that you will provide them with a passage back to this Country by the first convenient opportunity.

1816.
1 April.

I have, &c.,
BATHURST.

[Enclosure No. 1.]

MR. ALEXANDER MCLEAY TO UNDER SECRETARY GOULBURN.

Sir, Transport Office, 29th Feby., 1816.

This Board having judged it advisable to send Surgeons in the Navy as Surgeons and Superintendents of Convict Ships for New South Wales, I am directed to transmit a Copy of their Letter, dated the 15th Decr., 1814, to Governor Macquarie in the case of Mr. Arnold; but as it appears, by the inclosed Copy of a Letter of the 5th of Novr. last from that Gentleman, who went out as Surgeon of the Northampton Convict Ship, that the Governor had refused not only to victual him during his stay in the Colony but also to provide him with a Passage by the first opportunity to this country, I have it in command to submit to His Lordship to issue such Instructions, as he may judge proper to be given on the Occasion, with a view of preventing any such Inconvenience in future as is complained of by Mr. Arnold.

Regulations
proposed for
transport
surgeons.

I have, &c.,
ALEXR. MCLEAY, Secy.

[Enclosure No. 2.]

TRANSPORT COMMISSIONERS TO GOVERNOR MACQUARIE.

Sir, Transport Office, 15th Decr., 1814.

We have the honor to inclose for your Information, a Copy of the Charter-Party of the Ship "Northampton" 547 tons, taken up by this Board, in pursuance of the Directions of the Lords Commissioners of H.M. Treasury signified in Mr. Arbuthnot's Letter of the 17th Septr. last, for the Transportation of 110 Female Convicts and 40 Females, wives of Convicts and their children, together with a List of Stores provided, and which we have caused to be shipped on board this Vessel. We have to add, that we have allowed the master of the Northampton 20 Tons for private Freight.

Charter
of the ship
Northampton.

We have, &c.,
RUP. GEORGE.
J. HARNESS.
JNO. FORBES.

P.S.—This Board requests you to cause Mr. Arnold, Surgeon of this Ship, to be victualled at full allowance during his Stay in New South Wales agreeably to the Custom of the Navy.

Surgeon Arnold
to be victualled
in the colony.

A Copy,—J. H. BAKER. Transport Office, 2nd March, 1816.

1816.
1 April.

[Enclosure No. 3.]

DR. ARNOLD TO THE TRANSPORT BOARD.

Sir,

Batavia, 5th November, 1815.

I Venture to report for the information of The Transport Board that on delivering My Charge, as Surgeon and Agent of the Northampton Convict Ship, to the proper Officers at Port Jackson in Obedience to my instructions, I waited upon the Governor to request to be informed when I might expect he would appoint me a Passage to England, and was greatly disappointed on being told by him that he had no instructions respecting me from The Secretary of State, without which the Colony should not be put to One penny expence on my Account.

I shewed to him my Warrant, which expressly said that I was to wait in the Colony till I received this Order, and His Excellency himself told me that he had a Memorandum from The Commissioners of Transports, recommending me to be Victualled as long as I might remain there; but, added he, "I cannot receive Orders from The Transport Board, and as you have not been Noticed in My Dispatches from Lord Bathurst's Office, I cannot allow the Colony to be put to any expence on your Account."

I Observed to Governor Macquarie that it could not be expected that a Naval Surgeon could afford to Pay for his Passage home, which sometimes might amount to more than his Annual Salary; but he merely observed that I was very remiss in coming out to New South Wales in this Capacity without bringing with me the necessary Orders for my support, while in the Colony, and my return to England from the Secretary of State; but, as I had omitted to do this, I must entirely depend on my own resources; that I might go or stay, as I Pleased; and that having now fulfilled the Duties imposed upon me by the Transport Board, I might Consider myself as fully discharged from My Engagements.

I have taken the liberty of informing the Commissioners of the above circumstances in order that, if they should think proper, they may take measures to prevent their future Agents of Convict Ships from suffering similar difficulties with myself, by providing that the Governor of New South Wales should have Authority from the Secretary of State to receive and treat them on their arrival at Port Jackson, as I am sure the Commissioners intended I should have been treated.

I further intreat Pardon for observing that the Surgeons and Agents of Convict Ships on their arrival at Port Jackson, unless they should be victualled and lodged there and have a Passage home found them at Government Expence, must be

Refusal of
Macquarie
to provide a
passage for
Arnold;

or to accept
orders from
transport board;

or to assist
Arnold in any
way.

Suggested
transmission of
instructions to
Macquarie.

totally ruined; to obviate which, it would be merely necessary that the Secretary of State should Notify to The Governor that the Gentlemen should be billeted according to their rank in the Service, that they should have their usual rations, and that he should order them home by the first proper Conveyance, giving a Bill on Government for the same as he does in the case of Military Officers.

1816.
1 April.

I myself have been particularly unfortunate in my Appointment from my finding myself entirely neglected by the Governor; I was obliged to leave the Colony even before I had recovered from the Effects of the preceding long Voyage; I paid nearly £100 as part only of my Passage Money home, and having arrived at Batavia, the Indefatigable was totally burnt by Accident; and I have lost Clothes, instruments, and Books, to the Amount of more than £200, and what will be still more detrimental to me, the Masters of the Ships here ask 3,000 and even 5,000 Rupees for a Passage to England.

Losses sustained
by Arnold.

I have, &c.,
JOS. ARNOLD, M.D.,
late Surgeon and Agent of the Northampton (C.T.).

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Elizabeth; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 1st April, 1816.

I am directed by Earl Bathurst to acquaint you that a Case containing one Copy of the Works and Charts of Captain Flinders for the Use of the Settlement of New South Wales was shipped in the River on the 10th Inst., and consigned to your Care, and that another Copy will be forwarded by the first opportunity.

Transmission
of copy of works
of captain
Flinders.

I am, &c.,
HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 1st April, 1816.

I am directed by Earl Bathurst to acquaint you that he has granted permission to Messrs. Moses and Kosciusko Anstice to proceed as Settlers to New South Wales, and I am to desire that you will make to them on their Arrival a Grant of Land in proportion to the means of Cultivation which they may possess, and extend to them the other Indulgences usually granted to Settlers.

Recommendation of Moses and Anstice as settlers.

I am, &c.,
HENRY GOULBURN.

* Note 22.

1816.
6 April.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 63, per ship *Surrey*; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 6th April, 1816.

Recommendation of Andrews for a land grant.

This letter will be delivered to you by Captain Andrews who I beg leave to recommend to your notice, and I am to desire that you will make to him a Grant of Land upon his Arrival in New South Wales with such facilities for Improvement as it is customary to allow Settlers; but I must add that as Captain Andrews appears to possess some Property in the Colony already you must be guided in making him any additional Grant by the means which he may possess of bringing it into Cultivation.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 64, per ship *Surrey*; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 6th April, 1816.

Recommendation of Kitchin as a settler.

Mr. Kitchin having received my permission to proceed to the Colony under your Government, I am to desire that you will grant to him an Allotment of Land corresponding to the Amount of Capital which he is able to satisfy you he has the means of commanding for its Cultivation.

Mr. Kitchin having been regularly educated as a Surveyor and Architect may render himself useful to you if the Services of such a Professional Person should be required in the Colony.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 65, per ship *Harriet*; acknowledged by Governor Macquarie, 16th May, 1817.)

Sir, Downing Street, 6th April, 1816.

Recommendation of Thrupp as a settler.

I am to acquaint you that Mr. Harry Thrupp has received my permission to proceed as a Settler to the Colony under your Government, and I am to desire that you will allot to him a grant of Land in proportion to the means he possesses of cultivating it, and extend to him the other Privileges and Indulgences that have been granted to Settlers of his Class.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 66, per ship Elizabeth; acknowledged by Governor Macquarie, 4th April, 1817.)

1816.
18 April.

Sir,

Downing Street, 18th April, 1816.

Your Dispatches of the Year 1815 to No. 9 Inclusive have been received and laid before His Royal Highness The Prince Regent.

Despatches
acknowledged.

Though it afforded His Royal Highness much satisfaction to receive your Assurances of the Tranquility and general Prosperity of the Colony during the preceding Year, yet His Royal Highness did not learn without Serious Regret the differences which had arisen between yourself and the Judicial Officers of the Colony. In a Colony so far removed from the Mother Country, the evil consequences of such differences are from the delay incident to the Transmission of Orders from Home both of longer duration and of more fatal Effects; and in a Colony constituted like that of New South Wales, the continual Disagreement of the Judicial and Executive Authorities cannot but be particularly unfavorable to its Tranquillity. After the transactions which have taken place and the communications which have passed between yourself and the Messrs. Bent, it was impossible for His Royal Highness to indulge the hope of ensuring to the Colony in future your joint cordial Co-operation. Under these circumstances, His Royal Highness had no hesitation in recalling these Gentlemen, and appointing others in their room, nor can I better explain to you the grounds upon which this determination was formed than by transmitting to you Copies of the letters in which I have announced to them His Royal Highness's Decision. With respect to your own Conduct on this occasion, His Royal Highness has every reason to be satisfied, and with no part of it more particularly than your forbearance to exercise in the Case of Messrs. Bent the power, with which you are vested, of immediately suspending in extreme cases the Officers under your Command. I cannot indeed avoid this Opportunity of approving your discretion in not inflicting upon the Colony the suspension of all Judicial Proceedings, on account of any real or supposed Misconduct on the part of the Judges, and I derive much Satisfaction from the additional Assurance which this Conduct has given me of your disposition, even under circumstances of a most irritating nature, to prefer the Public Service to your own private Convenience.

The differences
between the
executive and
judicial
authorities.Recall of
J. H. and Ellis
Bent.Approval of
Macquarie's
conduct.

I deem it unnecessary to enter at length into the cause in dispute between yourself and Messrs. Bent. It is not against the opinions entertained by them, but against the manner in which they were brought forward and acted upon, that the

Censure of the
methods, not
the opinions, of
Messrs. Bent.

1816.
18 April.

Censure of the
methods, not
the opinions, of
Messrs. Bent.

Displeasure of His Royal Highness is directed. It was certainly competent to The Judge Advocate to express any legal doubts which he might entertain as to the Propriety of the New Port Regulations; feeling those doubts, it was his duty to make them known to you, but it was equally his duty to have lent his Assistance in rendering the regulations finally determined on by you, as free from Objection as possible. The Remonstrances of Mr. J. Hart Bent against the Employment of Convicts in the Confidential Situation of Attornies was equally proper, nor am I disposed to sanction their Employment in the Colony under any other circumstances than those which existed at the time, namely there being but one other Attorney in the Colony. Both Gentlemen had clearly a right to protest against any Act of yours which they conceived to be illegal or improper, and to transmit that protest to His Majesty's Government; but they were not authorized on the ground of a difference of opinion, either to withhold from you the Legal Assistance which you required, or to interrupt the course of Judicial Proceedings.

English laws
to be adopted
with local
modifications
for expediency.

I deem it not unimportant on this occasion to direct your Attention to the Importance of assimilating all Regulations, which you may think it expedient to issue, to the Enactments of British Statutes in all cases, in which the particular circumstances of the colony do not clearly authorize a deviation. The Laws, which regulate Trade, are generally speaking as applicable to New South Wales as to any other British Colony, and all additional restrictions, not heretofore observed, must derive their justification from the necessity of the Case, from their expediency with a view to the Security of the Convicts, or the Maintenance of Public Tranquility. The internal Government of the Colony must equally be guided by the English Laws modified by the Usages which have always subsisted there, nor can I perceive the necessity of applying to the present State of the Colony any more restrictive Measures of Police than those which were adopted in its Infancy. You will therefore regulate your future Conduct as far as possible on this principle.

It is with real regret that I learn your opinion as to the Vessels which were some time since sent from this Country for the Service of the Colony. The necessity of reducing in every particular the Colonial Expences, upon which I shall address you in a separate Dispatch, leaves no doubt upon my mind as to the expediency of sending home as speedily as possible the Kangaroo and the Emu, to be disposed of in any manner most advantageous to the Public Service. You will therefore order their return home with as little delay as possible and you

The brigs Emu
and Kangaroo
to return to
England.

will avail yourself of the opportunity which they offer for sending home such of the Female Convicts whose Terms of Transportation are expired, as may be willing to return to Their Native Country. If any additional hands should be required to navigate them you will easily find among the Male Convicts similarly situated a resource for augmenting their present Complement, and of doing an Act of Justice to the Individuals so employed. In consequence of the determination to put down the Colonial Vessels I deem it unnecessary to make any Observation upon the conduct of Lieutenant Jeffery whose command will in consequence be of so limited a duration.

The only Paragraphs of your Dispatch No. 4* which require any Instruction from home appear to be the 6th, 7th, and 13th.

With respect to the former I am to convey to you the Authority of His Royal Highness The Prince Regent to place Mr. Drummond, The Naval Officer at Van Diemen's Land, on the same footing as the corresponding Officer at Port Jackson, that is to withdraw from him the Salary heretofore attached to the Office and to Allow him a Per Centage of 5 Pr. Cent. on the Duties collected.

My dispatch (No. 60)* will have informed you that Foreign Vessels are not as the Law now stands at Liberty to trade in the Ports of New South Wales; it will therefore be necessary to restrict the Intercourse with the Colony to British Ships, except in cases in which the necessities of the Colony may require the relaxation of this General Rule; with the exception therefore of that part of Paragraph No. 7 which relates to the general Admission of Foreign Ships, I have to Approve of the Regulations to which it refers.

The Duty* imposed by you upon Spirits was required to check the immediate Consumption of them in the Colony, and the discontinuance* of the Issues of Government Stores was a wholesome Measure of Economy, which could not in reality affect the Interests of the Inhabitants.

I should have great pleasure in complying with your request† on behalf of Mr. Campbell, your Secretary, if I did not feel it absolutely incumbent upon me to restrain, as far as lies in my power, any increase of the Annual Estimate not only of New South Wales, but of all the other Colonies; I am therefore compelled to decline submitting to Parliament any Increase to the Salary voted for him; but, if the Colonial Funds will afford the means of Augmentation, I shall have great Pleasure in sanctioning your proposition in his favor, in consideration of his long Services in the Colony, and the Zeal and Fidelity with which he has discharged the Duties of his Office.

1816.
18 April.

Female expi-
res to return to
England.

Drummond
to receive a
percentage
on duties.

Foreign ships to
be prohibited
from trading.

Duty on spirits.

Discontinuance
of issue of
stores.

Proposed
increased salary
for Campbell.

* Note 23. † Note 24.

1816.
18 April.

Intercourse with
New Zealand.

I have had much satisfaction in observing from Mr. Marsden's account* of his Residence in New Zealand the improved State of Civilization of the Natives of that Country. The Presents, which you gave The Chiefs who visited that Island, have been entirely approved as tending to conciliate them to British Interests and to secure a more favorable reception in the Island to those of His Majesty's Subjects who may be disposed to settle or trade there.

Disapproval
of trading
monopoly in
New Zealand.

The Plan* of an exclusive Trading Company to New Zealand, submitted in your Dispatch No. 7, is one which I am not disposed to recommend to His Royal Highness's Sanction, since I see no advantage likely to result from it in a public point of view which would not be considerably enhanced by the Trade being open to Competition. If any Set of Merchants conceive that their own Interests will be best consulted by erecting in that Island a Factory and a permanent Mercantile Establishment, they are certainly at Liberty to commence such an Undertaking, provided that they obtain the Consent of the Natives. I have, &c.,

BATHURST.

[Enclosure No. 1.]

EARL BATHURST TO JUDGE-ADVOCATE BENT.

Sir,

Downing Street, 12th April, 1816.

Acknowledg-
ment of letter.

I have had the honor of receiving your letter† of the 1st July, communicating to me the difference of opinion, which had arisen between Governor Macquarie and yourself, in the formation of the New Port Regulations for the Colony, and representing the general Conduct of the Governor, both with respect to the Colony and yourself, as exciting in your Mind the Greatest anxiety and Alarm.

Had the discussions between the Governor and yourself been confined to the mere question, which appears to have given rise to your Communication, I should not have despaired of reconciling your conflicting differences upon that point, so as to render them exertion available for the future Welfare of the Colony; for, indeed after a most attentive perusal of the Enclosure No. 2 in your letter, I am utterly at a loss to discover how you could have made those Port Regulations (which I believe with only two exceptions have already been sanctioned from this Country, and acted upon for a considerable length of time) the Ground of a serious difference with the Governor, and still less can I conceive your dread of incurring the Responsibility, which would attach to modifying some of those regulations according to your own suggestions and to improving others, although you might consider them of doubtful Expediency.

But the other parts of your letter and the late Intelligence from the Colony point out to me too clearly that your uneasiness

Censure of
Ellis Bent's
actions.

* Note 25. † Note 26.

is excited, not only by the Conduct of the Governor on this occasion, or even on the other instances, personal to yourself detailed in your correspondence, but by the feeling that the System of Government adopted in the Colony, and the nature of the Situation, which His Majesty's Government have thought it advisable that you, as its Principal Judicial Officer, should continue to hold, render it impossible for you to discharge your Duty with advantage to your Country or to the Colony.

1816.
18 April.

Reasons for
E. Bent's
opposition to
Macquarie.

I have already communicated to you the reasons* which induced His Majesty's Government upon the Alteration of the Charter to retain the Title of Judge Advocate in the Colony of New South Wales, and you will no doubt have easily deduced from thence the opinions entertained with respect to the Continuance of that system of Restriction, to which the Population of the Colony has up to the present moment been subjected, and to which it appears you have now formed decided Objections. Under all these circumstances you must at once see that His Majesty's Government have no other Alternative than that of relieving you from the performance of a Duty, which is at variance with your own feelings, and which indeed, if it were not so, your disputes with the Governor would prevent your performing any longer with Advantage. I have therefore been under the necessity of appointing Mr. Wylde to be Judge Advocate of New South Wales, and, as he will take his passage for the Colony at an early opportunity, you will consider yourself at liberty to return whenever it may suit your Convenience.

Policy adopted
by government.

Recall of
E. Bent.

Appointment of
John Wylde
as successor.

With respect to those parts of your letter, which relate to the altered State of the Colony of late Years, or to the general conduct of General Macquarie as Governor, it is not necessary that I should enter into detail. I am aware that it is a matter of some embarrassment to fix the precise moment at which a Colony, constituted as that of New South Wales is for the punishment of Offenders, ought to be released from that Species of Military Government, which the Composition of its population is admitted in the first instance to have rendered indispensably necessary. On such a question, it is natural that the Governor, responsible as he alone is for the Security of the Colony, should feel strongly the necessity of continuing the System which he found in force, and should incline to the opinion that the Convenience of those, who have freely placed themselves in a Colony of such a description, should be a Secondary Object, when compared with the Control which he considers necessary for the Security and the proper Government of the Convicts.

Reply to
E. Bent's
criticism on
the system of
government.

I have, &c.,
BATHURST.

* Note 27.

[Enclosure No. 2.]

1816.
18 April.

EARL BATHURST TO MR. JUSTICE BENT.

Sir,

Downing Street, 12th April, 1816.

Acknowledg-
ment of letter.

I have had the honor of receiving your letter* of the 1st July, communicating to me the Events, which took place at the First Sitting of the Supreme Court, and the Grounds upon which you had felt yourself authorized to suspend all further proceedings until His Majesty's pleasure should be known.

J. H. Bent's
conduct
unexpected.

Having formed the most sanguine Expectation of the Advantages likely to result from the Establishment of the Supreme Court of Judicature in the Colony, and having placed, from the Recommendation which I had received, much Reliance upon your Judgment and Discretion, I was little prepared to anticipate such a Commencement of Your Judicial Labours.

Censure of
J. H. Bent for
suspending
sittings of
supreme court.

It is not necessary that I should enter into the Question, on which your difference with Governor Macquarie appears to have originated; for whether Convicts be or be not authorized to practise is a question of little Importance, when compared with the consequences arising out of its agitation, the closing of the Supreme Court of the Colony for at least Twelve Months. With every disposition to make Allowance for your feelings in resisting the Introduction of such persons into your Court, I cannot find any Apology for your Refusal to accede to the qualified Admission, recommended by Governor Macquarie. You could not have been ignorant that the persons in question had before been admitted to conduct Causes before The Judge Advocate, as Agents for parties, and the same reasons, which induced him to overlook the deficiency of their qualifications for such an Office, ought to have equally operated upon you, at least until you received instructions from home. You ought moreover to have considered that there being, from the unfortunate Detention of Mr. Garling, only one regular Attorney in the Colony to whom, if your Regulation took immediate Effect, cases could be confided, one party in every Suit must be reduced to the Alternative of conducting his cause in person, or entrusting it to his Adversary's Solicitor. But you ought above all never to have forgotten that the Evil of a Suspension of Justice, for the period intervening between the date of your dispatch and the probable arrival of Instructions from England, was one of too serious a Nature to admit of any Justification. It is to this measure above all that the Disapprobation of His Majesty's Government is directed; for, although there appears but little reason after What has passed between yourself and the Governor to expect any very cordial Co-operation, I should have contented myself with

* Note 28.

expressing the Disapprobation with which His Majesty's Government have viewed your Conduct, had I not considered your Removal from the Colony necessary to mark the Sense which they entertain of the measure which you, so indiscreetly for the Colony and yourself, thought it necessary to adopt.

1816.
18 April.

Recall of
J. H. Bent.

A Gentleman having been appointed to succeed you as Judge of the Supreme Court, you will be at liberty to leave the Colony at any period best suited to your Convenience.

Appointment
of successor.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 67. per ship Elizabeth; acknowledged by Governor Macquarie, 3rd April, 1817.)

Sir, Downing Street, 18th April, 1816.

It has not been without pain that I have brought under the Consideration of His Royal Highness The Prince R^egent the Conduct of Lieutenant Governor Davey, as detailed in your Dispatch No. 7* and in your private and Confidential Letter of the 22d March.

Macquarie's
reports on
conduct of
Davey.

Although I fully enter into your Unwillingness lightly to bring forward Charges against an Officer of his rank in the Service and Consideration in the Colony, yet I equally concur with you in considering it in the present instance necessary to the Public Service that his Conduct should be brought under the Notice of His Majesty's Government. When the State of Society is good, the Immorality or Profligacy of a superior Officer may not produce any very detrimental Effects upon the Individuals composing it; but when it is, as in Van Diemen's Land, composed of Persons who have but lately, if at all, renounced the vicious habits of their former Condition, and of others who are placed there for the purpose of Reformation and Improvement, the Effect of a bad Example in a Commanding Officer has a direct tendency to defeat the Object for which the Colony was formed. It is for this reason that His Royal Highness has deemed it indispensably necessary to remove Lieut. Governor Davey from the Situation which he holds and to appoint in his room Colonel Sorell, who will take his departure from this Country by the earliest opportunity. His Royal Highness however is desirous from a consideration for the family of Governor Davey, and the losses which he sustained by his Capture on his passage to the Colony, † to carry his supercession into Effect in the way least hurtful to his Feelings and to those of his Family. You will therefore intimate to him the Intention of His Royal Highness which I have now the honor to communicate

Probable effects
of immorality
of Davey.

Recall of
Davey and
appointment
of Sorell.

Davey to be
allowed to
resign.

1816.
18 April.

to you, and will submit to him the propriety of resigning his Situation either previous to, or on the arrival of Colonel Sorell, at which date his Allowance as Lieut. Governor must cease.

Davey to receive
a land grant.

As Colonel Davey has also applied for a Grant of Land in the Colony, and as this appears the only way of affording any Relief to his Wife and Family to which you consider them from their Merits entitled, I have received the orders of His Royal Highness to authorize your making to Colonel Davey a Grant of Land* in the Neighbourhood of Port Jackson corresponding to his rank in His Majesty's Service, and to afford him the Assistance in point of Stock and Convict Labour which has usually been granted to persons in his Situation of Life. It will afford me much pleasure to learn that Lt. Governor Davey has duly appreciated His Royal Highness's Indulgence, and has as a private Individual at Port Jackson retrieved the Character which he enjoyed in His Majesty's Service, and which has only been tarnished by his misconduct at Van Diemen's Land.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 68, per ship Elizabeth; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 18th April, 1816.

I have not failed to peruse with considerable Interest the account† of Your Tour into the newly discovered Country, and that of the further discovery made by Mr. Evans in his second Journey into the Interior. All that has hitherto been ascertained of that Country only makes it desirable to penetrate further into the Interior of the vast Continent which is now at length become open to the Enterprize of the Colonists.

Further
explorations
to be made.

Qualifications
of G. W. Evans.

Although Mr. Evans is entitled to great praise for the perseverance with which he overcame the Natural Obstacles opposed to the Progress of his Discoveries, and the Activity with which he afterwards pursued his course to the Westward, yet he does not appear from the Style of his Journal to be qualified by his Education for the task of giving the Information respecting this New Country, which it is so desirable to obtain. I hope therefore that in the further prosecution of these discoveries you will associate with him some person of more scientific Observation and of more General Knowledge. It appears to me that such persons will be found either among the Officers of the Regiment now stationed in the Colony or among the Medical Officers. Some one of the latter indeed could not fail to be on many

Detailed
observation
required in
exploration.

* Note 31. † Note 32.

accounts a most valuable acquisition to any future expedition, and more particularly if any one can be found in the Colony possessing any competent Knowledge of Botany or Mineralogy. If you conceive that the Colony can furnish persons so qualified to pursue the discoveries with Advantage, you will consider yourself authorized to direct another Expedition into the Interior, and to furnish them with the means of prolonging their Absence from Bathurst, and consequently extending the range of their discovery. But if on the other hand no such persons willing to undertake the task can be found, little difficulty can exist in obtaining scientific persons here, not only willing but anxious to enter upon the great field which has been opened to them. In either case however the points, to which I consider it most expedient that their Attention should be directed, are specified in the enclosed Memorandum, which you will make the Ground-work of any Instruction which you may give to future Travellers.

The Regulations which you have proposed for the Settlement of the Town of Bathurst appear to me in every respect proper. It is certainly most desirable to establish at that distance from the original Colony a point from which future travellers may commence Their Journey, and to which on any unforeseen or necessary occasion they may return. But I should hope that the charge of supplying the Settlers there with provisions might at a very early period be much diminished, more especially as the Soil has the Appearance of great Fertility, and the Kangaroos, with which the Country abounds, furnish if not an adequate means of Subsistence at least a very considerable Addition to that which may be obtained from other quarters.

I have, &c.,
BATHURST.

[Enclosure.]

MEMORANDUM.

Downing Street, 18th April, 1816.

It is most desirable that any person travelling into the Interior should keep a detailed Journal of his Proceedings. In this Journal all Observations and occurrences of every kind, with all the circumstances, however minute, and however familiar they may have been rendered by Custom, should be carefully noted down, and it is also desirable that he should be as circumstantial as possible in describing the general Appearance of the Country, its Surface, Soil, Animals, Vegetables and Minerals, everything that relates to the Population, the Peculiar Manner, Customs, Language, Government and Domestic Economy of the Individual Natives, or the Tribes of them which he may meet with.

1816.
18 April.

A new
expedition to
start from
Bathurst.

Regulations
for settlement
at Bathurst.

Instructions
for exploring
expeditions.

1816.
18 April.
Instructions
for exploring
expeditions.

The following however will be among the most important Subjects on which it be more immediately the Province of a Traveller to endeavour to obtain Information.

The General Nature of the Climate, as to Heat, Cold, Moisture, Winds, Rain, Periodical Seasons, The Temperature regularly registered from Fahrenheits Thermometer as observed at two or Three Periods of the Day.

The Direction of the Mountains; their General Appearance as to Shape; whether detached or continuous in ranges.

The Rivers, if any such are discovered; their direction, velocity, Breadth and Depth.

The Animals, whether Birds, Beasts or Fishes, Insects or Reptiles &c. distinguishing those animals, if any, which appear to have been domesticated by the Natives.

The Vegetables and particularly those that are applicable to any useful purposes, whether in Medicine, Dyeing &c.; any scented or ornamental Woods, adapted for Cabinet Work and Household Furniture, and more particularly such Woods as may appear to be useful in Shipbuilding; of all which it would be desirable to procure small Specimens, labelled and numbered so that an easy Reference may be made to them in the Journal to ascertain the Quantities in which they are found, and the Situations in which they grow.

Minerals; any of the Precious Metals, or Stones; if used, or valued by the Natives.

With respect to the Animals, Vegetables or Minerals, it is desirable that Specimens of the most remarkable should be preserved as far as the Means of the Travellers will admit, and especially the seeds of any plants not hitherto known. Where the preservation of Specimens is impossible, Drawings or detailed Accounts of them are most desirable.

The Description and Characteristic Difference of the several People whom he may meet, the Extent of the Population, their Occupations and means of Subsistence, whether chiefly, or to what Extent, by Fishing, Hunting, or Agriculture, and the principal Objects of their several pursuits.

A Circumstantial Account of such Articles, if any, as might be advantageously imported into Great Britain, and those that would be most valued by the Natives in exchange for them.

A Vocabulary of the Language spoken by the Natives whom he may meet; using in the compilation of each, the same English Words.

If the People are sufficiently numerous to form Tribes, it is important to ascertain their Condition and mode of Government; Their Genius and Disposition, the Nature of their Amusements,

Their Diseases and Remedies &c.; Their Religion and Objects of Worship, Religious Ceremonies, and the Influence of Religion on their Moral Character and Conduct.

1816.
18 April.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 69, per ship Elizabeth; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 25th April, 1816. 25 April.

I have the honor to transmit to you herewith the Copy of a Letter from Mr. Beckett Under Secretary of State for the Home Department in favor of Thomas Holden, who was sentenced to Transportation for Seven Years, at a Special Sessions held at Lancaster in May, 1812, and I am to desire that you will grant to him the permission therein mentioned provided his conduct has been such as to entitle him to this Indulgence.

Sentence on
Thomas Holden
to be remitted.

I have, &c.,
BATHURST.

[Enclosure.]

UNDER SECRETARY BECKETT TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 25th April, 1816.

Applications having been made to Lord Sidmouth in favor of Thomas Holden, who was Sentenced to Transportation for Seven years at a Special Sessions holden at Lancaster in May, 1812, and in pursuance of such Sentence was sent to New South Wales by the Ship Fortune, I am to desire that you will move Lord Bathurst to be Pleased to Signify to the Governor of that Colony Lord Sidmouth's wish that the Prisoner in question should receive Permission to return to this Country, provided his Conduct, during the time that he has resided at New South Wales, has been Orderly and becoming his Situation.

I am, &c.,
J. BECKETT.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Elizabeth; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 25th April, 1816.

I am directed by Lord Bathurst to transmit for your Information a Copy of a letter and of its Inclosures which has been received from the Secretary of the Treasury in answer to the Representation which was made by Mr. Oxley of the Inferiority of the Surveying Instruments sent out in the Indefatigable.

Reports on
surveying
instruments.

I am, &c.,
HENRY GOULBURN.

[Enclosure No. 1.]

SECRETARY LUSHINGTON TO UNDER SECRETARY GOULBURN.

Sir, Treasury Chambers, 22d April, 1816.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you for the information of The Earl Bathurst Copy of a letter from the Transport Board of the 3d Instant and of its enclosures in answer to the Complaints made by Mr. Oxley, Surveyor General of Lands in New South Wales, of the inferiority of the surveying Instruments sent out in the Indefatigable, and to which subject their Lordships' Attention was called by your letter of the 27th December last.

I am, &c.,

S. R. LUSHINGTON.

[Enclosure No. 2.]

THE TRANSPORT COMMISSIONERS TO SECRETARY HARRISON.

Sir, Transport Office, 3d April, 1816.

We received your Letter of the 2d Ult. transmitting a Letter from Mr. Goulburn with Sundry Inclosures, together with one from the Commissary in Chief relative to the Instruments for the Department of the Surveyor General of Lands in New South Wales forwarded to that Settlement in the Ship Indefatigable; and signifying the directions of the Right Honorable The Lords Commissioners of His Majesty's Treasury that we should cause an Enquiry to be made and report as to a Complaint made by Mr. Oxley, the Surveyor General, of the Inferiority of those Instruments and that an Artificial Horizon was damaged by being improperly packed; and in return, we inclose for the Information of their Lordships a Copy of a Letter from Messrs. Watkins and Hill by whom these Articles were furnished relative to their Quality, and stating that they are preparing an artificial Horizon in lieu of the one damaged on the passage; as well as a Copy of their Bill for the Instruments.

We return herewith the Inclosures which accompanied your Letter, and are, &c.,

RUPT. GEORGE.

J. DOUGLAS.

JOHN FORBES.

[Enclosure No. 3.]

MESSRS. WATKINS AND HILL TO SECRETARY MCLEAY.

Sir, 5 Charing Cross, 28th March, 1816.

In reply to your Letter respecting Mathematical Instruments furnished by Us for New South Wales, We beg leave to observe We have an Artificial Horizon in a state of forwardness in lieu of the One broke in its Voyage, and will take the liberty of informing you when it is finished.

1816.
25 April.
Reports on
surveying
instruments.

Surveying
instruments
to be replaced.

We are extremely sorry to hear the Instruments did not meet Mr. Oxley's entire approbation, but, Sir, as some of the first Surveyors in this Country frequently use instruments of an inferior quality to those sent, We have no hesitation in stating they were such as would Answer every purpose intended, and as good as could be Manufactured at the price charged.

1816.
25 April.
The quality of
the instruments.

We remain, &c.,

WATKINS AND HILL.

[Enclosure No. 4.]

ACCOUNT FOR MATHEMATICAL INSTRUMENTS.

The Honble. The Commissioners of The Transport Board

Account for
surveying
instruments.

Dr. to Watkins and Hill.

1814.		£	s.	d.
June 24th	To 1 Measuring Wheel	8	18	6
to	To 1 Circumferenter with Telescope	6	16	6
Augt. 1st.	To 1 inlaid Silver Arched Sextant	15	15	0
	To 1 Taste Horizon	4	4	0
	To 1 Case Drawing Instruments	4	14	6
	To 1 Set of Ivory Scales of equal parts	3	3	0
	To 1 2 feet Parallel rule (Ebony)	0	17	0
	To 1 18 in. Do. Do.	0	9	0
	Strong Packing Case and Lighterage	1	3	0
		<hr/>		
		£46	0	6

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Mariner; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 25th April, 1816.

Mr. Richard Tress having received the Permission of Lord Bathurst to proceed with his Family as a Settler to New South Wales, I am to desire that upon his arrival in the Colony you will make to him a Grant of Land in proportion to the means which he may possess of cultivating it, and extend to him the other Indulgences usually granted to Settlers of his Class.

Recommendation of
Richard Tress
as a settler.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Mariner; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 25th April, 1816.

I am directed by Earl Bathurst to desire that you will make to Mr. Edward Gray, who is the Bearer of this Letter and is desirous of proceeding as a Free Settler to the Colony of New South Wales, a Grant of Land in proportion to the means of

Recommendation of
Edward Gray
as a settler.

1816.
25 April.

Cultivation which he may be found on arrival to possess, and that you will extend to him such other Indulgences as are usually granted to a Settler of his Class.

I am, &c.,
HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 25th April, 1816.

I am directed by Earl Bathurst to acquaint you that he has given permission to the Bearers, Messrs. James and — Salmon to proceed as Free Settlers to New South Wales, and I am to desire that you will make to them a Grant of Land upon their arrival with a proportion of Convict Labour according to the means they may possess of bringing it into Cultivation.

I am, &c.,
HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 1st May, 1816.

This Dispatch will be delivered to you by Mr. Samuel Symonds, who proceeds to New South Wales on board one of the Ships which are now on the point of sailing.

He has been very strongly recommended to me both on account of his general good Character and of his Qualifications as a Medical Man, and I therefore beg to recommend him to your favorable Attention as a person well qualified to receive the usual Indulgence of a Settler and any appointment which it may be in your power to confer upon him.

I am, &c.,
HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 70, per ship Surrey; acknowledged by Governor Macquarie, 4th April, 1817.)

11 May.

Sir, Downing Street, 11th May, 1816.

In reply to that part of your Dispatch of the 7th October, 1814, which refers to the Expence which has been incurred by the Colonial Government having been obliged in some instances to maintain the Wives of Convicts sent to New South Wales, I have to acquaint you that the Subject has been submitted to The Home Department, and that Measures will be taken to prevent as far as possible the Embarkation of the Wives of such Convicts as are either unwilling or unable to support them on their Arrival.

Lord Sidmouth having suggested that returns should be occasionally sent home of such Convicts, who may have applied for

* Note 22.

Recommendation of James and Salmon as settlers.

1 May.
Testimony in favour of Samuel Symonds.

11 May.
The problem of the wives of convicts.

permission for their Wives to join them, and that it should be also stated whether such Persons have the Means of maintaining their Wives and Families in the Event of their being allowed to proceed to the Colony, I am to desire that you will cause such Returns to be occasionally transmitted in compliance with the Suggestions of his Lordship.

1816.
11 May.
Returns to be transmitted.

I have, &c.,

BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

18th May, 1816.

[A copy of this private letter is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 71, per ship Surrey; acknowledged by Governor Macquarie, 1st April, 1817.)

Sir,

Downing Street, 20th May, 1816.

20 May.

I herewith transmit to you the Copy of a letter which has been addressed to me by Mr. Samuel Blaxland, transmitting the Correspondence which had passed between his Brother and yourself respecting the alledged Injuries which he has received; Referring to that part of it in which he states that Mr. John Blaxland had been struck off the List of those persons who were allowed to furnish Meat to the Government Stores, I am to request that you will inform me of the reasons, which induced you to adopt this Measure.

Transmission of correspondence re John Blaxland's claims.

I also transmit a Copy of the answer which I have directed should be returned to Mr. Samuel Blaxland, and altho' strictly speaking Mr. John Blaxland can have no just Claim for the loss he has sustained in consequence of clearing Land previously allotted to Government Purposes, yet as the Labour bestowed upon it may have been the means of improving the Allotment which has been temporarily occupied I am to desire that you will estimate the Additional Value so given to that Land, and make him such a Remuneration either in Stock or Convict Labour as you may consider adequate under the circumstances of the Case.

Compensation to be granted to J. Blaxland.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. SAMUEL BLAXLAND TO EARL BATHURST.

Clifford, Herefordshire, or 37 Parliament Street,

My Lord,

1st Feby., 1816.

In laying before you the accompanying papers, which were transmitted me for that purpose from my Brother John Blaxland

1816.
20 May.

of the Colony of New South Wales, permit me to solicit that indulgence in their perusal, which may demand the statements of a Man, who for the last eight years has been struggling with adversity; if they are found in some instances to deviate from the facts he wishes to represent, they are evidently not connected with any party in opposition to the views of His Majesty's Ministers or the prosperity of the Colony, but are dictated by the feelings of a Man brought up to Agriculture, whose conduct and character in that situation in this Country were irreproachable, who left it in the year 1806 with the encouragement and countenance of the Government to become a Settler in New South Wales with a very considerable property, which is nearly exhausted before he gains the fulfilment of his agreement, as his allotment of Land was not measured to him till November, 1813, and then without being allowed the number of Cattle, which he had reason to expect from the Secretary of State's Letter (Mr. Windham) to the Governor, of the 31st July, 1806, and which other Settlers had obtained.

The exertions
of J. Blaxland
in the colony.

Thus circumscribed my Lord, his efforts for the advancement of Agriculture could be but very limited, and I hope may be considered a sufficient reply to the letter of Mr. Campbell the Secretary, No. 9, in which my Brothers, jointly, are accused of a want of exertion in that pursuit. I have no hesitation in saying, that on their arrival in the Colony their activity and exertions greatly contributed to gradually lessen the price of Meat, which, from being three shillings the pound, is now reduced to about sevenpence, and further by erecting Salt Works, supplied the Colony with that *necessary*, for its preservation, by which a supply is offered to all shipping trading in that direction.

I have attentively perused the papers now placed for the inspection of your Lordship, and with all due submission I will endeavor to connect the Subjects of my Brother John's complaints, previously requesting your Lordship to pardon the intemperate expressions made use of in his letter to the Governor No. 10, which proceeded not from intention but from the ignorance of an unlettered farmer.

First.—That he had been allowed to select his Land is corroborated by Mr. Campbell's Letter No. 2 of 20 Octr., 1813.

That he had been allowed to select a certain Tract of Land in expectation of its forming a part of his allotment, that he had cleared an extent equal to sixty acres with great labor and expence, which afterwards was found to be wanted for his Majesty's purposes as common Land. He humbly prays that as there is no dispute as to the fact of this sixty acres having been cleared, and his Majesty's Government having therefore

Summary of
J. Blaxland's
complaints.

Claim for cost
of clearing land
on the common.

been benefited to a certain extent, the cleared Land being still in the hands of Government, an Instruction should be given to the Governor to make my Brother an allowance for the expence incurred on this occasion.

1816.
20 May.

2. That he never has fully enjoyed those advantages in being furnished with Cattle, as recommended to Govr. Bligh in the Secretary of State's Letter of 31st July, 1806. Governor Macquarie does not notice this claim at all in his answer to my Brother's letter of 2nd January, 1815, But it will appear clear to Your Lordship from Mr. Windham's letter of 31 July, 1806, that it was the intention of Government that my Brother should be remunerated for the expence he incurred in carrying out his family that year; although no particular number of Cattle is specified, Gregory Blaxland received 70 Cows, and as the Number of Men and quantity of Land assigned to John was precisely double, my brother John's proportion of Cattle would be 140, but he has only received 60. He prays therefore that he may be allowed 80 Cows from the Government Stock to be paid for by installments of their produce in four years, and that your Lordship would be pleased to instruct the Governor accordingly, as his Property is so much exhausted that he has not otherwise the means of carrying into effect the objects of his pursuits in Agriculture, from which alone (with the exception of the Salt Works) he has to support an increasing and numerous family.

Claim for
government
cattle under
his agreement.

3. That my Brother John, in particular has been denied the privilege of putting his name on the List for the supply of his Majesty's Government with Stores, when Men occupying Official Situations are allowed to traffick in the Supplies for the Government to the great prejudice of the Farmer. This abuse, my Lord, my Brother humbly prays may be redressed, not as an individual but in a more general sense, conscious that it cannot be countenanced by your Lordship; for it can hardly be necessary to point out the consequences that must follow, if the Commissaries in New South Wales, who are the Persons to receive the Meat into the Public Stores, are themselves permitted to furnish this Meat. In this case my Lord, the other Settlers can have but a poor chance of getting their quantities of Meat received into Store, at least so long as the Official Persons have any to tender. And this Evil your Lordship perhaps is not aware extends much further than I have stated it, and seems worthy of your Lordship's correcting hand.

Complaint *re*
acceptance of
meat at
public stores.

My Lord, Allow me most earnestly to hope that my Brother's appeal to your Lordship's justice and impartiality will not be in vain, for although forbid by Govr. Macquarie to again repeat his

1816.
20 May.

Claims, from the completion of which he is dependant for support, I am conscious your Lordship's higher Tribunal will defend him from oppression.

I have, &c.,
SAML. BLAXLAND.

[Enclosure No. 2.]

MR. JOHN BLAXLAND TO EARL BATHURST.

My Lord, Parramatta, New South Wales, 11 June, 1815.

John Blaxland's
appeal to Earl
Bathurst.

It is with much concern I am under the necessity of addressing your Lordship on a subject, which has given so much trouble in the honourable office you now hold; it relates to the Agreement* I entered into with His Majesty's Ministers for the establishing myself in the Colony as an Agriculturist; but I was so unfortunate as to arrive during the time Admiral Bligh was Governing, who set his face against me and lessened as much as possible those advantages intended by my agreement, and laid the foundation for the conduct of the present Governor Macquarie.

I have endeavoured all in my power to prevent this appeal to your Lordship, and have now the honor to enclose a Copy of the correspondence between me and the Governor, for your Lordship's information to which I beg leave to refer you.

In my Letter No. 8 to Governor Macquarie, I have stated the different circumstances under which I felt myself agrieved and asked for redress, which he I am sorry to say considered offensive and disrespectful, which I must beg leave to assure your Lordship was far from my intentions; but, independant of the expectations I had hoped to derive from my Agreement, he led me into a great expence by promising me a certain tract of Land, in faith of which promise I proceeded to clear upwards of Sixty Acres for cultivation, which promise he afterwards denied, and my expences and time were lost.

In the same Letter, I complained to the Governor of the great disadvantage the Grazier laboured under from Mr. Broughton holding a high official Situation in the Commissariat department, and becoming a large Stock holder, which complaint the Governor considered as unfounded and unwarrantable; but the Governor's memory was again a little treacherous, as he confirmed the observation I had made in the publishing of the different persons' names, who was to put meat into the Government store where Mr. Broughton stood very conspicuous.

I have the honour to enclose one of the *Sydney Gazettes*† for your Lordship's perusal.

I do not, my Lord, mean to confine myself to Mr. Broughton, as the only person holding high situations under Government

* Note 33. † Note 34.

and entering largely into farming speculations, as that is an example too generally practised, which in times of plenty is very injurious to the settler, who has no interest to get his produce received into the Government Store and has nothing to look to but the return from his Land for the support of himself and family.

My reply to the remark the Governor made in his letter No. 9, respecting my exertions as an Agriculturist, will I hope be satisfactory to your Lordship, having reared 1,168 head of Horned Cattle, 60 Horses, 4,993 Sheep, and many Hogs up to that period; more would have been done, had I had, my Lord, and that assistance given me, which an undertaking of that nature required.

Trusting to your Lordship's impartial Justice, and that you will take all the circumstances into consideration,

I have, &c.,

J. BLAXLAND.

[Sub-enclosure No. 1.]

MR. JOHN BLAXLAND TO GOVERNOR MACQUARIE.

Sir,

Parramatta, 13 Octr., 1813.

I waited on you yesterday, in consequence of the Arrival of the Earl Spencer with Male Prisoners, to request permission to take five being a part of those I am entitled to conformable to my agreement with His Majesty's Secretary of State; when, from the disposition I found your Excellency, I thought it prudent to retire, but I cannot silently pass by the observation you made that my Agreement and my Brother's were one and the same. If you will take the trouble to look at them, you will find they differ in the Capital to be advanced and the number of Men each are to have in the same proportion, and that Lord Castlereagh's Dispatch to Govr. King respecting my Brother was dated 13th July, 1805, and Mr. Windham's Letter to Govr. Bligh respecting my Agreement was dated 31st July, 1806.

That on my arrival here, not being able to get my Agreements carried into effect, I entered into an Arrangement with my Brother for five Years to enable me to return to England, that, that time being expired, our Capital again divided and he claimed and took all the Men given to him, leaving me only fifteen, seven of which I received of the late Govr. Bligh, and eight from Your Excellency. I cannot presume to point out to Your Excellency whether my Brother's term for having the Men Vitualed on the Store is expired, or not; but I had some conversation with Mr. Broughton, the then Acting Commissary, who said, if that was the case, he should be charged for any extra Food he might have drawn.

1816.
20 May.

John Blaxland's
appeal to Earl
Bathurst.

The agreement
with
J. Blaxland.

Partnership
transactions
between J. and
G. Blaxland.

1816.
20 May.

J. Blaxland's
government
servants.

I must observe to Your Excellency that not many Months ago you took from me a prisoner for life of the name of Steacy, who was in arrears for necessarys advanced in the sum of £3 10s. 3d.; that I received a Man in exchange whose term of Transportation was but for a short period; he became a bush ranger and committed many depredations, and that two of the ten you gave me were by the order of Mr. Marsden returned into Govt. Employ, and that I have received none in return.

Losses
sustained by
J. Blaxland.

I have been in the Colony upwards of seventeen Months; my Land not being yet measured has occasioned me very great losses, as it is not in my power to keep off other people's stock from Land selected by your permission, and my Cattle are dying for want of that Food which is thus unavoidably lost; neither can I erect my buildings or proceed in Agricultural pursuits.

The want of Men must still be a bar to my intentions in that undertaking.

I hope Your Excellency will take the above subject into consideration and afford me that assistance which the Govt. at home assured me I should receive.

I have, &c.,

JOHN BLAXLAND.

[Sub-enclosure No. 2.]

SECRETARY CAMPBELL TO MR. JOHN BLAXLAND.

Sir, Secretary's Office, Sydney, 20th October, 1813.

Government
men assigned
to J. and G.
Blaxland.

I have it in command from His Excellency the Governor to acknowledge the receipt of your letter dated the 13th instant, and, in reply thereto, to inform you that during your absence in England, at which time your farming Concerns were carried conjointly with those of your Brother, Mr. Gregory Blaxland, all the Government men, that were at that time assigned to him on his various applications, were intended by his Excellency for the partnership or joint concern then subsisting between you and him, and by no means for the exclusive benefit of either the one or the other of you, but expressly for your and his joint accommodation in proportion to your respective claims. This being the case All the men so assigned must be charged to your Joint Account, and to this effect His Excellency has instructed the Commissary to debit you and him in Co-partnership. Any deviation from this Rule would be to the prejudice of Government, and in consequence His Excellency will not depart from it. The subsequent distribution of those men, which may have taken place on your separating your concerns from those of your Brother, should have been in the proportions herein expressed, and it must rest with you and him to make such arrangements as may appear most reasonable to you in that particular, as it does not rest with the Governor to interfere therein.

2. Whatever number of men, agreeably to the Commissary's Account, may still be due to you and your Brother, will be assigned accordingly from the first arrival of Male Convicts from the Mother Country.

1816.
20 May.
—
Government
men assigned
to J. and G.
Blaxland.

3. The very great demand for men, at the present critical season, made by Settlers who were in much greater want of them than you could possibly be, precluded His Excellency from assigning you any from those lately arrived in the Earl Spencer Transport.

4. The man, who was sometime since removed from your service being a Sawyer and much required by Government itself, was replaced by another who was sent to you, and of course you have no just cause of complaint on that score, the more especially as the Governor gave directions to the Superintendent to stop the money due to you by that man out of the amount of his extra work, and this stoppage has been regularly going on.

5. On your producing a certificate from Mr. Marsden that he withdrew two of your men and put them into the employ of Government, His Excellency will give orders for their being replaced by others as soon as possible.

6. The Deputy Surveyor General, since his return from Van Dieman's Land, having been constantly employed on very important Public Duties, The Governor has not had it in his power to send him to survey and measure your Land; but on Monday the 1st of the next month The Surveyor General and Deputy Surveyor will be instructed to proceed to the Bringelly District to measure the Land selected by you, and you are hereby apprized of this circumstance in order that you may attend them and point out the Boundaries of the Land so chosen by you.

Land selected
by J. Blaxland
to be surveyed.

I have, &c.,

JNO. THOS. CAMPBELL, Secy.

[Sub-enclosure No. 3.]

SECRETARY CAMPBELL TO MR. JOHN BLAXLAND.

Sir, Secretary's Office, Sydney, 1 Novr., 1813.

Agreeably to the communication I had the honor to make to you on the 20th ulto., I now transmit you a Copy of the Return, made by the Commissary, of the number of Government Men victualled and clothed at the expence of Government, who have been from time to time assigned to you and Mr. Gregory Blaxland for your joint account as Partners and carried on to the 23rd ulto.

Return of
government
servants
assigned to
J. and G.
Blaxland.

By this return it appears that the labor of Twenty five men is still due for the term of Sixty one weeks and five days from the said 23rd ulto. to the joint concern, and this number will be accordingly continued on the Stores for that Period.

1816.
20 May.

G. Blaxland's
servants.

By the inclosed statement, which has been made up by the Commissary from Documents furnished by yourself and your Brother, it appears that Mr. Gregory Blaxland has had the service of more men than were actually due to him; but as His Excellency Governor Macquarie always gave Mr. Gregory Blaxland such men as he assigned to him for the use and benefit of the joint concern between you and him in proportion to your respective claims, He cannot now enter into the arrangement, which may have taken place between you, on the Public dissolution of your Partnership.

Servants to be
allowed to
J. Blaxland.

If you should however wish to have the services of more men *on your own Account*, than those already victualled, His Excellency is pleased to say that He will have no objection to the assigning you some on the arrival of the next Male Convict Ship, but in this case the time for which the Aggregate number will be victualled by the Crown will be proportionably reduced in the rate of the increase of men, and agreeably to the time specified in the accompanying statement.

Any casualties that may have taken place in the number of men assigned to you and your Brother in your Co-partnership concern, since the date of the Documents from which the accompanying Return is made up, will be admitted by the Governor on a final adjustment of the number of men due to you and him.

I have, &c.,

JNO. THOS. CAMPBELL, Secy.

[Sub-enclosure No. 4.]

MEMORANDUM RELATING TO THE SERVANTS OF J. AND G. BLAXLAND.

MEMO.—It appears from Mr. Gregory Blaxland's Agreement that he was to have the labor of Forty Men to be clothed and victualled for eighteen months, and by Mr. John Blaxland's Agreement he was to receive Eighty Men to be clothed and victualled for the same period; but when Mr. Gregory Blaxland, who was partner with and Agent to his Brother in his absence, made draughts of men from the Convicts which occasionally arrived, no distinction was made with regard to the number for each, but he received these persons as the Joint Partner of his Brother, and appropriated the labor to what purposes he thought proper; consequently no account but a joint one could be kept against them; but it appears from their own Returns, upon which this Account is formed, that Mr. Gregory Blaxland has appropriated to his own use the labor of the people, beyond what he was entitled by his Agreement; of course Mr. John Blaxland must look to him for remuneration for their service,

Memorandum
re servants of
J. and G.
Blaxland.

but on the whole Account there is due to them jointly the labor of Twenty five men (who appear to be actually victualled by the Crown and employed by them) for Sixty one weeks and five days. Vizt:—

1816.
20 May.
Memorandum
re servants of
J. and G.
Blaxland.

40 Men to Mr. Gregory Blaxland for 18 Months is equal to	Days.
80 Do. John Blaxland Do.	21,900
	43,800
	<hr/>
	65,700

It appears from their own statement that Mr. Gregory Blaxland has appropriated to himself the labor of 25,070
And Mr. John Blaxland has the labor only of 29,830

Leaving a Balance of 54,900
..... 10,800

..... 65,700
25 Men's Labor for 61 Weeks and 5 days 10,800
From Commissary's Office.

JNO. THOS. CAMPBELL, Secy.

EXTRACT from Account of Prisoners victualled by Government in the service of Gregory and John Blaxland, Esquires, 23rd October, 1813.

	No. of Men.	No. of days vict'd.
Mr. Gregory Blaxland	31	25,070
„ John Blaxland	35	29,830

[Sub-enclosure No. 5.]

MR. JOHN BLAXLAND TO SECRETARY CAMPBELL.

Sir, Parramatta, 8 Novr., 1813.

On my return from attending the Surveyor General, who has by the direction of His Excellency the Governor now marked my land, I was favored with your Letter of the 1st of the present month with an accompanying Document from the Commissary's Office of the numbers of men clothed and victualled at the expense of the Crown, agreeable to an Agreement* entered into with His Majesty's Secretary of State, previous to my leaving England in the year 1806. By the inclosed statement, it appears that my Brother has considerably exceeded the time he was to receive the indulgence of his men being victualled and clothed at the Public expense, and that he has now seven men on the Store, which are calculated into the time for which those indulgences, by virtue of my Agreement, were intended for me; and

Government
servants
wrongly
assigned to
G. Blaxland.

1816.
20 May.

Government
servants
wrongly
assigned to
G. Blaxland.

that I submit for His Excellency's consideration that, although my Brother and I having been in partnership and he, during my absence, acted as my Agent, the time is now expired wherein our mutual interest ceases, and his Agreement having been complied with that it cannot be right for him to have those Men continued on the Store included in my time, as he has claimed and taken them away at the expiration of the Partnership which terminated the last day of August.

Government
servants
assigned to
J. Blaxland.

I must beg leave to refer you to my letter, dated the 13th of last month, wherein I stated that I have now but fifteen men victualled on the Store, whose names I now enclose, seven of which I received from the late Governor Bligh, and eight from His Excellency Governor Macquarie. It is not for me to dictate to His Excellency whether my Brother is to have them continued on the Store or not, but I cannot admit the legality of their being calculated into my time.

There is a mistake in the number, originating in three men belonging to me, two of which having been returned into Government employ on the 7th and 14th August last, and John Cassidy, whom I received in the room of Stacey, ran away, and has not been victualled since the latter end of the same month.

On the arrival of the next Ship with Male prisoners, I should feel obliged by His Excellency giving me five men to enable me to proceed in my original intention of cultivation, having now for the first time during my residence in the Colony obtained land calculated for that purpose.

I have, &c.,
JOHN BLAXLAND.

[Sub-enclosure No. 6.]

SECRETARY CAMPBELL TO MR. JOHN BLAXLAND.

Sir, Secretary's Office, Sydney, 15 Nov., 1813.

Macquarie's
decision *re*
J. Blaxland's
servants.

Having submitted your letter of the 8th inst., on the subject of your Government men, to his Excellency the Governor, I have it now in command to refer you to my former Letter of the 20th of October last and 1st Inst., and to inform you that His Excellency will not depart from the principle there laid down respecting the distribution of the men, drawn by Gregory Blaxland, your Agent and Partner, for your joint account; It must therefore rest between you and your Brother to make such a division of those men as may appertain to justice.

On the first arrival of Male Convicts, His Excellency will assign you five men agreeably to the request contained in your Letter of the 8th inst.

I have, &c.,
JNO. THOS. CAMPBELL, Secy.

[Sub-enclosure No. 7.]

1816.
20 May.

SECRETARY CAMPBELL TO MR. JOHN BLAXLAND.

Sir, Secretary's Office, Sydney, 27 Decr., 1814.

I have it in command to transmit you the accompanying Statement of the number of Convicts assigned at different times to you and your Brother and Agent, Mr. Gregory Blaxland, and victualled and clothed at the expence of this Government, which has been made out under date, the 25th ulto., by Mr. D. A. C. Genl. Broughton, and approved by His Excellency the Governor.

Conclusion of
agreement re
government
servants for
J. Blaxland.

From this statement, it appears that you have still in your service Twenty one Government men and that you are entitled to the service of that number until the first of March next ensuing.

As your claim for men will accordingly cease on the 1st March next, I am directed to inform you that from and after that date your claims on this Govt. will cease, and consequently you will not have any men either fed or clothed at the public Expence after that date.

I have, &c.,

JNO. THOS. CAMPBELL, Secy.

[A copy of the enclosure to this letter was forwarded as enclosure 6 in Governor Macquarie's despatch dated 1st March, 1815; see page 435, volume VIII.]

[Sub-enclosures Nos. 8, 9, and 10.]

[Copies of these letters were forwarded as enclosures 1, 2, and 4 in Governor Macquarie's despatch dated 1st March, 1815; see page 428 et seq., volume VIII.]

[Enclosure No. 3.]

UNDER SECRETARY GOULBURN TO MR. SAMUEL BLAXLAND.

Sir, Downing Street, 20th May, 1816.

I am directed by Earl Bathurst to acknowledge the receipt of your letter of the 1st February last, enclosing a variety of Documents in support of a Memorial addressed to his Lordship by your Brother Mr. John Blaxland, and stating the points upon which he is desirous of receiving his Lordship's decision.

With respect to the first, Vizt. the Loss sustained in consequence of clearing land previously allotted to Government purposes, it appears to Ld. Bathurst that Mr. Blaxland strictly speaking can have no just Claim upon Government; for whether the Governor did or did not caution Mr. Blaxland against selecting land already appropriated either to other Individuals or to Government purposes (though Lord Bathurst sees every reason

J. Blaxland's
claim for cost
of clearing land.

1816.
20 May.

Compensation
ordered for
convict labour.

to believe that he did so caution him), it was clearly Mr. Blaxland's Duty to ascertain whether the Land he selected was otherwise disposed of. But as Mr. Blaxland's Labour may have been the means of improving the Government allotment which he temporarily occupied, Lord Bathurst has given directions to Governor McQuarie to estimate the additional Value so given to that Land and to make him such a remuneration either in Stock or Convict Labour as may be considered adequate.

No live stock
to be granted to
J. Blaxland.

With respect to a further Supply of Stock, Lord Bathurst considers that your Brothers have already been amply provided for in this particular, nor can his Lordship consider Mr. Windham's letter as holding out any additional Encouragement to Mr. John Blaxland beyond that of being permitted to pay for his proportion of Stock in produce in lieu of in Bills of Exchange on England.

The other point, adverted to in your letter, has for some time past been under the consideration of His Majesty's Government, and as soon as they shall have decided as to the expediency of continuing in force the system which has hitherto existed in the Colony, the Governor will be instructed to regulate his Conduct accordingly.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Surrey; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir,

Downing Street, 20th May, 1816.

I am directed by Lord Bathurst to transmit to you the Copy of a letter from the Secretary of the Treasury with its Inclosure Stating that the Articles required by your Dispatch of the 28th June last for the use of the Printing Office, and the Instruments for the Surveyor General's Department were shipped on the 2d Instant on board the Elizabeth.

I am, &c.,

HENRY GOULBURN.

[Enclosure No. 1.]

SECRETARY LUSHINGTON TO UNDER SECRETARY GOULBURN.

Sir,

Treasury Chambers, 16th May, 1816.

I am Commanded by The Lords Commissioners of His Majesty's Treasury to transmit to you for the information of The Earl Bathurst Copy of a Letter from the Storekeeper General of the 4th instant reporting the Shipment of Printing Materials and Paper and Surveyor's Instruments for New South Wales.

I am, &c.,

S. R. LUSHINGTON.

Shipment of
materials for
printing and
surveyor's
offices.

[Enclosure No. 2.]

1816.
20 May.

MR. JOHN TROTTER TO SECRETARY HARRISON.

Sir, Storekeeper General's Office, 4th May, 1816.

I have the honor to acquaint you for the information of The Lords Commissioners of His Majesty's Treasury that the Printing Materials and Paper for the Government Printing Office at New South Wales, and the Instruments for the Surveyor General's Department there, Ordered by Your Letters of the 17th January last, were Shipped in the River on the 2nd instant on board the Elizabeth Transport, William Ostler, Master, Consigned to the Senior Commissariat Officer at that Colony.

Shipment of materials for printing and surveyor's offices.

A Bill of Lading has been forwarded to the Commissariat Officer, and His Excellency the Governor has been advised of this Shipment.

I am, &c.,
JOHN TROTTER.

 EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 72, per ship Surrey; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 21st May, 1816.

21 May.

Having observed in the correspondence* which has passed between Mr. Bent and myself, a complaint on the part of that Gentleman that you had pardoned Offenders without a previous Communication with the Judge of the Court before whom they had been tried, I deem it adviseable, previous to the departure of the legal Officers who have been recently appointed, to communicate to you upon this point the practice which prevails in this Country and the opinion of His Majesty's Government that it should be adhered to in New South Wales. Upon any Application which may be here made to His Royal Highness The Prince Regent for an Extension of His Mercy it has always been usual (when the circumstances stated appeared to warrant such a Reference) to refer it to the Consideration of the Judge, and his report, formed as it is necessarily from a Review of the Offender, has been uniformly, except in cases of very rare Occurrence, adopted as the guide of His Royal Highness's Decision. In the same manner it appears proper that you should act in all cases in which persons sentenced by the Courts of the Colony apply to you for a pardon or remission of Punishment, and I am therefore to instruct you to regulate your future Conduct accordingly.

Instructions re remission of sentences passed by criminal court.

I have, &c.,
BATHURST.

* Note 26.

1816.
21 May.

EARL BATHURST TO GOVERNOR MACQUARIE.
(A private despatch per ship Surrey; acknowledged by Governor Macquarie, 4th April, 1817.)

21st May, 1816.

[A copy of this despatch is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Mariner; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

23 May.

Sir, Downing Street, 23rd May, 1816.

Assignment of convicts per ship Mariner.

I am directed by Earl Bathurst to transmit to you here-with an Assignment of One Hundred and Forty five Male Convicts shipped on board the Mariner.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.
(Despatch No. 73, per ship Harriet; acknowledged by Governor Macquarie, 16th May, 1817.)

24 May.

Sir, Downing Street, 24th May, 1816.

Recommendation of Whitaker as a settler.

Having given permission to Mr. Whitaker, who is the Bearer of this letter, to proceed as a Settler to New South Wales, I beg leave to recommend him to your favorable Notice, and I am to desire that you will make to him a Grant of Land in proportion to the Means which he may possess on his Arrival in the Colony of bringing it into Cultivation, and extend to him the Indulgences usually granted to Settlers of his Class. Mr. Whitaker thinks his Capital is equal to the Cultivation of 400 Acres.

I have, &c.,

BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Surrey; acknowledged by Governor Macquarie to Earl Bathurst, 1st April, 1817.)

Sir, Downing Street, 24th May, 1816.

Claims made by Charles Shea.

I am directed by Lord Bathurst to transmit to you the Copy of a letter which has been received from Mr. Charles Shea, dated 23d May, 1816, and to desire that you will furnish me for his Lordship's Information with any particulars which you may be able to procure either in elucidation or in contradiction of Mr. Shea's Claims.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

MR. CHARLES SHEA TO UNDER SECRETARY GOULBURN.

1816.
24 May.

Sir, No. 8 Catherine Place, Greenwich, 23d May, 1816.

My father Captain John Shea of the Royal Marines, on his arrival at Port Jackson, New South Wales, in the Year 1787 or 1788 with the first settlers, received a Grant of Land, 500 Acres, which in a short time he cleared, sow'd Wheat that he carried from England and reaped it; finding that the fate of the Colony depended principally on the exertions of the first Settlers, my Father obtained a Second Grant to the same amount, and in consequence of the great exertion necessary to bring the ground to a proper state of cultivation he was taken ill and after lingering six weeks, died. Part of the Land, the present Church Yard at Sydney, was consecrated to bury my Father, and I understand that the principal part of the Town of Sydney is erected on that ground denominated Shea's Farm. Myself being his only remaining Son and Heir, I beg leave to solicit that you will be so obliging as to move Lord Bathurst to direct that I may be furnish'd with a Copy of the said Grants of Land* or any information connected therewith which it may be thought proper to afford me, in order that I may be enabled to ascertain how far I may be entitled to succeed to any part of the said property.

Grants of land
alleged to have
been given to
John Shea.

I have, &c.,

CHAS. SHEA.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Elizabeth; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 24th May, 1816.

Mr. Vickery, who is proceeding to New South Wales as Surgeon and Superintendant of the Elizabeth, Convict Ship, having applied to Lord Bathurst to be allowed the Discretionary Power of remaining in the Colony for two Years from the period of the Disembarkation of the Convicts from that Vessel, if any circumstances should render it desirable for him to avail himself of it; I am directed by his Lordship to desire that you will grant to him the Indulgence he solicits if no particular Objection offers.

Permission for
surgeon Vickery
to remain in
the colony.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Elizabeth; acknowledged by Governor Macquarie to Earl Bathurst, 1st April, 1817.)

Sir, Downing Street, 25th May, 1816.

25 May.

I am directed by Lord Bathurst to transmit to you here-with the Copy of a letter which has been addressed to him by

* Note 35.

1816.
25 May.

Complaints
made by
William
Paterson.

Mr. Robert Wilson with an Enclosure from his Brother in Law, Mr. William Paterson, complaining of the Injuries he has sustained in consequence of his having been suspended from the Office of Superintendent of Convicts, and his having also been deprived of the Land which had been allotted to him; I inclose the answer which has been returned to Mr. Wilson on the first Subject of Complaint, and I am to desire that you will cause the necessary enquiry to be made into the latter and report to me for the Information of Earl Bathurst.

I am, &c.,
HENRY GOULBURN.

[Enclosure No. 1.]

MR. ROBERT WILSON TO EARL BATHURST.

My Lord, No. 16, Queen Square, 17th May, 1816.

I have received the enclosed Letters from My Brother in Law, Mr. William Paterson, Superintendent of Convicts at Hobart Town on the Derwent, New South Wales, and I have been Specially Charged by him to present them to Your Lordship, which I now take the liberty to do with the fullest assurance that Your Lordship will condescend to Notice the Contents thereof and to grant the necessary redress.

Alleged claims
of Paterson for
overdue salary
and resumed
land.

I hope I shall be forgiven for stating to Your Lordship that my Brother has held his present Situation for upwards of Thirteen Years, and has a Wife and Eight Children in the Colony. I have received many Letters from him, and several Persons from the Settlement have Called at my House in that Period, whose concurrent Testimony leaves no doubt of My Brother being a very ill used Man. As a proof of this remark, I beg leave to mention to Your Lordship the fact that My Brother left this Country upon an assurance that he would be paid a Salary of Fifty Pounds Per Annum as Superintendent, but from the Month of April, 1807, to this Moment, he has never received the Money, altho' he suspects that the Amount is regularly drawn for and included in the Parliamentary Estimate. Since the Year, 1810, he has received the Scanty pittance of Twenty five Pounds Per Annum; but for the last Nine years he has received no Salary whatever as Superintendent; added to this Circumstance, the Ground, which was allotted to him in the first instance to Cultivate for the support of his Family, is now taken away for the purpose of Public Improvements, and Altho' he has made repeated Applications for an equivalent in lieu thereof, he cannot Obtain the least redress.

I have, &c.,
ROBERT WILSON.

[Enclosure No. 2.]

THE HUMBLE PETITION OF WILLIAM PATERSON.

1816.
25 May.

My Lord,

The petition of
William
Paterson to
Earl Bathurst.

Permit me to say that, by the Permission and with the knowledge of Our present Worthy Lt. Gov. Davey to whom I have exhibited the whole thereof and unto whom no part thereof is unknown, I freely take the liberty to offer my Case at your Lordship's feet, and most humbly implore and expect that Justice, which the Nature of My Case most justly demands, humbly hoping that Justice, which is denied me here, will through your Lordship's kind and benevolent Attention be granted From the fountain of Justice, my Beloved Sovereign, to whom now (all other Efforts being in vain) I do most solemnly appeal. I shall not take up any more of Your Lordship's time than is absolutely necessary, and My Memorial to His Honor Lieut. Governor Davey and Remonstrance to His Excellency will no doubt fully satisfy your Lordship's Mind, that Mr. Evans' answer to His Excellency's request is a Jumble of too apparent falsehoods to require refutation; but, My Lord, as he has strengthened his pretensions by falsehood, it behoves me to expose and refute them on the true footing of simple Truth. For may it please Your Lordship, I am sure that my Ability or Inclination is totally unknown to him. I humbly hope, My Lord, that the Memorial and Remonstrance will fully satisfy your Lordship's Mind as to his Assertions, and give a complete refutation to his answer now before your Lordship. The annexed Plans of the Ground in its first state, and the different Allevations that have taken place, will merely satisfy Your Lordship as to his pretensions, and in Securing to me or my progeny what I first enjoyed without the possibility of reversion; but before I close this, permit me My Lord, to say that the House and Ground, which Mr. Evans purchased contiguous to mine, was first allotted to a Joseph Shipman (who has suffered at the Old Bailey) and by him sold to a William Thomas Stocker, both Convicts; the latter sold it to a Nathaniel Ayres, An American, of whom Mr. Evans made the above purchase.

I have, &c.,

Hobart Town, 12th Sepr., 1815.

WILLIAM PATERSON.

[Sub-enclosure.]

MEMORANDUM TO HIS HONOR LT.-GOVR. DAVEY.

WITH the utmost Reluctance do I take upon me to trouble you; but, when I find myself aggrieved and most egregiously injured as is now the case, I must claim your protection and counsel as My Governor, to whom I wish to pay implicit Obedience and respect. You will be pleased to recollect that A Memorial went

Memorandum
of William
Paterson to
lt.-govr. Davey.

1816.
25 May.

Memorandum
of William
Paterson to
Lt.-gov. Davey.

in your Dispatches, bearing date 29th Sept., 1813, which I was informed you had honored; but on its Return, I found was not noticed by you; hence the failure of that application is the Issue, and the severe Loss to my Family is the consequence, As Mr. Evans claims the best part of that Ground, of which I am the first and only occupier, and which was given to me by the first Governor of this Land immediately on Our Landing here, Of which Edward Lord, Esqre., will amply satisfy you respecting it, and to whom I most humbly beg leave to refer you. Moreover Mr. Meehan himself, on my representing the case to him, declared that the tenure, by which I held the Ground, was Sacred to me; the above are his very words. Surely, Honored Sir, Strange misrepresentations must have been made to His Excellency to induce him to withdraw any part thereof from me, as it is clear that my Memorial had arrived before The Deputy Surveyor's Report was given in, for on the face of the answer His Excellency waits for their Report. Therefore it is clearly evident that I am an injured Man to answer their purpose, to which with due submission to you I cannot submit; for I have cleared the ground from a wild, I have cultivated the same for Years until prevented by unheard of depredations, which were committed on me without redress before your arrival; then the alteration took place in the formation of the Town; so that for the last three Years I have sorrowfully lost the benefit thereof to my family; the which I was in hopes my Memorial would have been instrumental in restoring. I cannot therefore consent to give up my right, which I consider as soundly mine agreeable to the British Constitution; therefore do in the most solemn manner beg and request of you, as my Governor, your Advice and support that I may be enabled to proceed with the least possible Delay to fulfil His Excellency's Order to build on and cultivate the same.

Hobart Town, 29th September, 1814.

[Enclosure No. 3.]

UNDER SECRETARY GOULBURN TO MR. ROBERT WILSON.

Sir,

Downing Street, 20th May, 1816.

I am directed by Lord Bathurst to acknowledge the receipt of your Letter of the 17th instant, transmitting the Memorial of your Brother in Law, Mr. William Paterson, and I am to acquaint you that such part of it, as relates to the Land claimed by him at Hobarts town, will be by the first opportunity referred to Governor Macquarie for his report.

With respect to Mr. Paterson's Claim as Superintendant of Convicts, it appears from his Own Statement, which was enclosed in your Letter, that he was suspended from it by the same Lieutenant Governor Collins, whom he had Accompanied to the

Claim for
resumed land
to be referred
to Macquarie.

Colony, and who was therefore the best judge of his Merits on the first Establishment of the Colony, and though he was afterwards appointed to Another Situation, Vizt. that of Wharfinger, he could not thence derive any Claim to the Pay of an Office, of which he had not, since the 14th of April, 1807, performed the Duty.

1816.
25 May.

No claim valid
for overdue
salary.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Elizabeth; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 25th May, 1816.

I am directed by Lord Bathurst to transmit to you here-with An Assignment of One Hundred and Forty five Male Convicts shipped on board the Elizabeth.

Assignment of
convicts per
ship Elizabeth.

I have, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 10 of 1816," per brig Alexander.)

Government House, Sydney, N. S. Wales,

My Lord, 8th June, 1816.

8 June.

In My Dispatch No. 7 of the present Year P'r H.M.C. Brig Emu, which sailed from hence on the 25th of March last, I had the Honor to inform Your Lordship that, in consequence of the hostile and Sanguinary disposition Manifested for a Considerable time past by the Aborigines of this Country, I had determined to send out some Military Detachments into the interior, either to apprehend or destroy them.

Pursuant to this determination and in consequence of various Subsequent Acts of Atrocity being Committed by the Natives in the remote parts of the Settlements, I found it Necessary on the 10th of April to Order Three Detachments* of the 46th Regiment under the several Commands of Captains Schaw and Wallis, and Lieutenant Dawe of that Corps, to proceed to those Districts most infested and Annoyed by them on the Banks and in the Neighbourhood of the rivers, Nepean, Hawkesbury and Grose, giving them instructions to make as many Prisoners as possible; this Service Occupied a Period of 23 days, during which time the Military Parties very rarely met with any of the Hostile Tribes; the Occurrence of most importance which took place was under Captain Wallis's direction, who, having Surprized One of the Native Encampments and meeting with some resistance, killed

Punitive
military
expedition
against the
natives.

* Note 36.

1816.
8 June.

Punitive
military
expedition
against the
natives.

14 of them and made 5 Prisoners; among the killed there is every reason to believe that Two of the most ferocious and Sanguinary of the Natives were included, some few other Prisoners were taken in the Course of this route and have been lodged in Gaol. This necessary but painful Duty was Conducted by the Officers in Command of the Detachments perfectly in Conformity to the instructions I had furnished them.

Proclamation
issued *re*
the natives.

Previous to the return of the Military Party, I issued a Proclamation dated the 4th Ult. a Copy of which I do Myself the honor to transmit herewith for Your Lordship's information, stating in the first instance the causes which had led to the necessity of resorting to Military Force, and holding out to the Natives various encouragements with a view to invite and induce them to relinquish their Wandering Predatory habits and to avail themselves of the indulgences offered to them *as Settlers* in degrees suitable to their Circumstances and Situations. It is scarcely possible to calculate with any degree of Precision on the result that this Proclamation may eventually have on so rude and unenlightened a race; but it has already produced the good effect of bringing in some of the most troublesome of the Natives, who have promised to cease from their Hostility and to avail themselves of the Protection of this Government by becoming Settlers, or engaging themselves as Servants, as Circumstances may suit; and upon the whole there is reason to hope that the examples, which have been made on the One hand, and the encouragements held out on the other, will preserve the Colony from the further recurrence of such Cruelties. Under all these Considerations I trust Your Lordship will approve of the Measures I have taken.

Severe floods in
the Hawkesbury
and Nepean
rivers.

I am much Concerned to have to report to Your Lordship that the long and continued Droughts which I mentioned in a former Dispatch have been Succeeded by incessant and heavy rains, which fell with such Violence for the last fortnight as to produce a Calamitous Inundation thro' those parts of the Country where the Rivers Hawkesbury and Nepean pass. The Flood on this occasion rose to so great a height as nearly to equal the greatest ever known in this Country; this unfortunate Visitation has occasioned considerable distress to the Settlers and their Families in those parts, tho' I have not heard of any Lives being lost, the Chief damage having extended to the great injury, if not to the utter destruction, of the Young Crops, and also to their Stock, Stacked Grain and Dwellings. Under these Circumstances it will be necessary that the destitute Sufferers should have some assistance from Government in *Seed Wheat* and *temporary rations*; but as I cannot help thinking that considerable blame

Losses of crops
and live stock.

attaches to them in general for not availing themselves of the Opportunities afforded them for removing to the Township where they would have been Secure from Floods, It is my intention to administer this Aid in the Way of a Loan and to make the Settlers reimburse it hereafter to Government.

1816.
8 June.

Since the last Arrivals I had the honor to Announce to Your Lordship, I have to report those of Two Irish Convict Transports, Namely, the Brig Alexander with Females, which arrived on the 4th of April, and the Ship Guildford with Males on the 8th April. The Prisoners by both of which have Arrived in good health.

Arrivals
of the brig
Alexander and
of the ship
Guildford.

This Dispatch will be delivered to Your Lordship by Dr. McDonald R.N. late Surgeon and Agent of the Transport Ship Fanny, who returns a Passenger in the Brig Alexander, And whom I beg leave to recommend to Your Lordship's favorable Consideration.

Transmission
of despatch.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

PROCLAMATION.

By His Excellency Lachlan Macquarie, Esquire, &c., &c.

WHEREAS the Ab-origines, or Black Natives of this Country, have for the last three Years manifested a strong and sanguinary Spirit of Animosity and Hostility towards the British Inhabitants residing in the Interior and remote Parts of the Territory, and have been recently guilty of most atrocious and wanton Barbarities in indiscriminately murdering Men Women and Children, from whom they had received no Offence or Provocation; and also in killing the Cattle, and plundering and destroying the Grain and Property of every Description, belonging to the Settlers and Persons residing on or near the Banks of the Rivers Nepean, Grose, and Hawkesbury, and South Creek, to the great Terror, Loss and Distress of the suffering Inhabitants.

Governor
Macquarie's
proclamation to
the aborigines.

And whereas, notwithstanding that the Government has heretofore acted with the utmost Lenity and Humanity towards these Natives in forbearing to punish such wanton Cruelties and Depredations with their merited Severity, thereby hoping to reclaim them from their barbarous Practices and to conciliate them to the British Government, by affording them Protection, Assistance and Indulgence, instead of subjecting them to the Retaliation of Injury, which their own wanton Cruelties would have fully justified; yet they have persevered to the present Day in committing every Species of sanguinary Outrage and depredation on the Lives and Properties of the British Inhabitants, after having been repeatedly cautioned to beware of the Consequences that would result to themselves by the continuance of such destructive and barbarous Courses.

1816.

8 June.

Governor
Macquarie's
proclamation to
the aborigines.

And whereas His Excellency the Governor was lately reluctantly compelled to resort to coercive and strong Measures to prevent the Recurrence of such Crimes and Barbarities, and to bring to condign Punishment such of the Perpetrators of them as could be found and apprehended; and with this View sent out a Military Force to drive away these hostile Tribes from the British Settlements in the remote Parts of the Country, and to take as many of them Prisoners as possible; in executing which Service several Natives have been unavoidably killed and wounded, in Consequence of their not having surrendered themselves on being called on so to do, amongst whom, it may be considered fortunate, that some of the most guilty and atrocious of the Natives concerned in the late Murders and Robberies are numbered. And although it is to be apprehended that some few innocent Men, Women, and Children may have fallen in these Conflicts, yet it is earnestly to be hoped that this unavoidable Result, and the Severity which has attended it, will eventually strike Terror amongst the surviving Tribes, and deter them from the further Commission of such sanguinary Outrages and Barbarities.

And whereas the more effectually to prevent a Recurrence of Murders, Robberies, and Depredations by the Natives, as well as to protect the Lives and Properties of His Majesty's British Subjects residing in the several Settlements of this Territory, His Excellency the Governor deems it his indispensable Duty to prescribe certain Rules, Orders, and Regulations to be observed by the Natives, and rigidly enforced and carried into Effect by all Magistrates and Peace Officers in the Colony of New South Wales; and which are as follows:—

First.—That from and after the Fourth Day of June ensuing, that being the Birth Day of His Most Gracious Majesty King George the Third, no Black Native or Body of Black Natives shall ever appear at or within one Mile of any Town, Village, or Farm, occupied by, or belonging to any British Subject, armed with any warlike or offensive Weapon or Weapons of any Description, such as Spears, Clubs, or Waddies, on Pain of being deemed and considered in a State of Aggression and Hostility, and treated accordingly.

Second.—That no Number of Natives, exceeding in the Whole Six Persons, being entirely unarmed, shall ever come to lurk or loiter about any Farm in the Interior, on the Pain of being considered Enemies, and treated accordingly.

Third.—That the Practice, hitherto observed amongst the Native Tribes, of assembling in large Bodies or Parties armed, and of fighting and attacking each other on the Plea of inflicting

Punishments on Transgressors of their own Customs and Manners at or near Sydney, and other principal Towns and Settlements in the Colony, shall be henceforth wholly abolished, as a barbarous Custom repugnant to the British Laws, and strongly militating against the Civilization of the Natives, which is an Object of the highest Importance to effect, if possible. Any Armed Body of Natives, therefore, who shall assemble for the foregoing purposes, either at Sydney or any of the other Settlements of this Colony after the said Fourth Day of June next, shall be considered as Disturbers of the Public Peace and shall be apprehended and punished in a summary Manner accordingly. The Black Natives are therefore hereby enjoined and commanded to discontinue this barbarous Custom, not only at and near the British Settlements but also in their own wild and remote Places of Resort.

1816.
8 June.

Governor
Macquarie's
proclamation to
the aborigines.

Fourth.—That such of the Natives as may wish to be considered under the Protection of the British Government, and disposed to conduct themselves in a peaceful, inoffensive, and honest Manner, shall be furnished with Passports or Certificates to that Effect, signed by the Governor, on their making Application for the same at the Secretary's Office at Sydney, on the First Monday of every succeeding Month; which Certificates they will find will protect them from being injured or molested by any Person, so long as they conduct themselves peaceably, inoffensively, and honestly, and do not carry or use offensive Weapons, contrary to the Tenor of this Proclamation.

The Governor, however, having thus fulfilled an imperious and necessary Public Duty, in prohibiting the Black Natives from carrying or using offensive Weapons, at least in as far as relates to their usual Intercourse with the British Inhabitants of these Settlements, considers it equally a Part of his Public Duty as a Counterbalance for the Restriction of not allowing them to go about the Country armed to afford the Black Natives such Means as are within his Power to enable them to obtain an honest and comfortable Subsistence by their own Labour and Industry. His Excellency therefore hereby proclaims and makes known to them that he shall always be willing and ready to grant small Portions of Land, in suitable and convenient Parts of the Colony, to such of them as are inclined to become regular Settlers, and such occasional Assistance from Government as may enable them to cultivate their Farms:—Namely,

First.—That they and their Families shall be victualled from the King's Stores for Six Months, from the Time of their going to reside actually on their Farms.

1816.
8 June.

Governor
Macquarie's
proclamation to
the aborigines.

Secondly.—That they shall be furnished with the necessary Agricultural Tools, and also with Wheat, Maize and Potatoes for Seed, and

Thirdly.—To each Person of a Family, one Suit of Slops and one Colonial Blanket from the King's Stores shall be given. But these Indulgencies will not be granted to any Native, unless it shall appear that he is really inclined, and fully resolved to become a Settler, and permanently to reside on such Farm as may be assigned to him for the Purpose of cultivating the same for the Support of himself and his Family.

His Excellency the Governor therefore earnestly exhorts, and thus publicly invites the Natives to relinquish their wandering idle and predatory Habits of Life, and to become industrious and useful Members of a Community where they will find Protection and Encouragement. To such as do not like to cultivate Farms of their own, but would prefer working as Labourers for those Persons who may be disposed to employ them, there will always be found Masters among the Settlers who will hire them as Servants of this Description. And the Governor strongly recommends to the Settlers and other Persons, to accept such Services as may be offered by the industrious Natives, desirous of engaging in their Employ. And the Governor desires it to be understood, that he will be happy to grant Lands to the Natives in such Situations as may be agreeable to themselves, and according to their own particular Choice, provided such Lands are disposable, and belong to the Crown.

And Whereas His Excellency the Governor, from an anxious Wish to civilize the Ab-origines of this Country so as to make them useful to themselves and the Community, has established a Seminary or Institution at Parramatta for the Purpose of educating the Male and Female Children of those Natives who might be willing to place them in that Seminary:—His Excellency therefore now earnestly calls upon such Natives as have Children to embrace so desirable and good an Opportunity of providing for their helpless Offspring and of having them brought up, clothed, fed and educated in a Seminary established for such humane and desirable Purposes. And in Furtherance of this Measure, His Excellency deems it expedient to invite a general Friendly Meeting of all the Natives residing in the Colony, to take place at the Town of Parramatta, on Saturday the Twenty-eighth of December next at Twelve o'Clock at Noon, at the Public Market Place there, for the Purpose of more fully explaining and pointing out to them the Objects of the Institution referred to, as well as for Consulting with them on the best Means of improving their present Condition. On this Occasion, and at

this public general Meeting of the Natives, the Governor will feel happy to Reward such of them as have given Proofs of Industry, and an Inclination to be civilized.

And the Governor wishing that this General Meeting, or Congress of friendly Natives, should in future be held annually, directs that *the Twenty-eighth Day of December*, in every succeeding Year, shall be considered as fixed for this Purpose, excepting when that Day happens to fall on a Sunday, when the following Day is to be considered as fixed for holding the said Congress.

And finally, His Excellency the Governor hereby orders and directs, that on Occasions of any Natives coming armed, or in a hostile Manner without Arms, or in unarmed Parties exceeding Six in Number, to any Farm belonging to or occupied by British Subjects in the Interior, such Natives are first to be desired in a civil Manner to depart from the said Farm, and if they persist in remaining thereon, or attempt to plunder, rob, or commit any kind of Depredation, they are then to be driven away by Force of Arms by the Settlers themselves; and in case they are not able to do so, they are to apply to a Magistrate for aid from the nearest Military Station; and the Troops stationed there are hereby commanded to render their Assistance when so required. The Troops are also to afford aid at the Towns of Sydney, Parramatta, and Windsor respectively, when called on by the Magistrates or Police Officers at those Stations.

Given under my Hand, at Government House, Sydney, this Fourth Day of May, in the Year of Our Lord One Thousand eight hundred and sixteen.

LACHLAN MACQUARIE.

By Command of His Excellency,

J. T. CAMPBELL, Secretary.

God save the King!

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 11 for 1816," per brig Alexander.)

Government House, Sydney, New South Wales,

My Lord,

10th June, 1816.

10 June.

I have the Honor of transmitting herewith, for your Lordship's Information and Perusal, the regular Series of the *Sydney Gazettes* from the 16th of March to the 8th of the present Month Inclusive, they having been already transmitted by the Emu, Government Brig, up to the 9th of March last Inclusive.

Transmission
of copies of
the *Sydney*
Gazette.

I have, &c.,

L. MACQUARIE.

1816.
23 June.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Surrey; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 23rd June, 1816.

Parliamentary
vote for civil
establishment.

The House of Commons having voted the Sum of £12,423 10s. 0d. for the Civil Establishment of the Colony of New South Wales from the 1st January to the 31st December, 1816, I am directed by Earl Bathurst to enclose for your Information a Copy of the Estimate upon which the Grant is founded.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

CIVIL ESTIMATE FOR 1816.

Civil estimates
for the year
1816.

[*Note.—The Civil Estimate for 1816 is identical with that for 1815, except that it omits the four following items:—*]

Two Clerks in Secretary's Office, £60 ea. per An.	£120	0	0
Printer	£60	0	0
Barrack Master	£100	0	0
Allowance to Mr. Alt	£91	5	0

[*At Port Dalrymple £341 is allowed on account of fees for receipt and audit, instead of £350 as in 1815.*]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

9 July.

Sir, Downing Street, 9th July, 1816.

Return of
women and
children
passengers
on the ship
Lord Melville.

I am directed by Lord Bathurst to enclose for your Information a Copy of a letter which has been received from Mr. Beckett, Under Secretary of State for the Home Department, together with an Inclosure, containing a List of Females and Children who have been selected as fit Persons to be allowed the Indulgence of proceeding to New South Wales by The Ship Lord Melville.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

UNDER SECRETARY BECKETT TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 4 July, 1816.

I am directed by Lord Sidmouth to transmit to You the accompanying List of Females and Children, who have been selected as fit Persons to be allowed the Indulgence of proceeding to New South Wales; and I am to desire that You will lay the same before Lord Bathurst and move his Lordship (in case he

sees no objection thereto) to be pleased to forward such List to the Governor of New South Wales by the Ship Lord Melville, on board which Vessel a Passage has been provided for each of those Persons.

I have, &c.,

J. BECKETT.

1816.
9 July.
Return of
women and
children
passengers
on the ship
Lord Melville.

[Sub-enclosure.]

[This list gave the names of eleven wives and eleven children of convicts already transported to the colony, and of two women who were desirous of rejoining their families in the colony.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie, 3rd April, 1817.)

Sir,

Downing Street, 20th July, 1816.

20 July.

I am to desire that you will immediately upon the receipt of this letter issue to Lieutenant Governor Davey the Sum of One Hundred Pounds Sterling from the Colonial Funds, and draw for the Amount thereof upon the Under Secretary of State for this Department.

I have, &c.,

BATHURST.

Sum of money
to be issued to
Davey.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir,

Downing Street, 22d July, 1816.

22 July.

I am directed by Lord Bathurst to enclose to you the accompanying letter for Lieutenant Governor Davey, and I am to desire that you will give directions that it should be forwarded to him by the first opportunity that may occur.

I am, &c.,

HENRY GOULBURN.

Transmission
of letter for
Davey.

[Enclosure.]

[A copy of this letter is not available. It was written by Lord Harrowby, and related to the transmission of £100 to lieutenant-governor Davey.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir,

Downing Street, 22d July, 1816.

I am directed by Lord Bathurst to acquaint you that Mr. John Gurner has been appointed to the Situation of Clerk to the Judge of the Supreme Court in the Colony under your Government.

I am, &c.,

HENRY GOULBURN.

Appointment
of clerk to
judge of
supreme court.

1816.
22 July.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 22 July, 1816.

Land granted
to John Burton
in 1809.

I herewith transmit to You a letter which has been received from Mr. J. Burton, of Calcutta, relative to a Grant of Land made to him at Sydney in the Year 1809 by Lieutenant Governor Collins,* together with a Copy of the answer which has been returned to it, and I am directed by Lord Bathurst to desire that you will make to him such a Grant of Land as under the circumstances of the Case you may think proper, and extend to him the Indulgences usually granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

[Enclosure No. 1.]

MR. J. C. BURTON TO UNDER SECRETARY GOULBURN.

Sir, Calcutta, 6th November, 1815.

Visit of Burton
to the colony.

The kind interest, you take in every Subject connected with the welfare of the Colonies more immediately under your Superintendance, induces me to encroach on your time and to beg your attention to the following circumstances, Vizt.: In the year 1809, I was under the necessity of proceeding to New South Wales for the benefit of my health, then much impaired with a long residence in India. On my arrival in Van Dieman's Land and subsequently at Sydney, I was much pleased with the salubrity of the climate and certainly formed very sanguine Ideas respecting the future prosperity of those Colonies; I consequently formed a determination to exert myself to the utmost, as an humble Instrument towards the forward'g of this important object; shortly after the period of my arrival, an alarming Scarcity threatened the Colony, and Colonel Patterson, then in charge of the Government, requested of me to proceed in a small Schooner of 45 Tons (called the Antipodes) to Bengal through the dangerous Straits of Torres, for the sake of greater expedition, for the purpose of Carrying down a Cargo of Grain for the relief of the Settlements, which I immediately agreed to, and having landed safe in Calcutta purchased a Ship called the Venus, and arrived in sufficient time at Sydney to avert the expected Calamity; as a kind of remuneration, Colonel Patterson presented me with a Grant of Land of 500 Acres† about 20 Miles from the Town of Sydney, which I got regularly Surveyed, and paid the customary fees on the Grant. It happened however that, on the arrival of Colonel Macquarie, all the Grants made in Colonel Patterson's and Johnston's time were cancelled by

Voyage to
India for cargo
of grain.

Land granted
by Paterson.

* Note 37. † Note 38.

the Government at home, under an Idea that the Persons who received them were Partisans of one or the other of these Gentlemen; from any imputation of this description I should have been wholly excluded, as I was a perfect Stranger in New Holland and never had the most distant idea of intermeddling with politics. I now however find that several Grants made during the period above alluded to have been confirmed at Home, and Among the rest the one presented to me; but it seems Colonel Macquarie has (I am informed) given away my Land to some other Person. As the Grant was a consideration for Services faithfully performed at the risk of my Life, and as I can venture to affirm no Man in India has been of more real Service to the Settlements at New Holland than I have been, and which will more fully appear by the enclosed abstract of property forwarded by me to that Country between the year 1810 and 15, Amounting to £51,799 19s. 8d., I beg to request your kind interference in ordering my Land to be returned, and, as I intend shortly to reside in New Holland, I hope you will not think me unreasonable in expecting a larger Grant with such encouragement as men of property receive on Similar occasions.

1816.
22 July.

Reported confirmation of grant.

Property exported from India to the colony.

Request for land grant.

I am, &c.,

JOHN C. BURTON, Agent and Merchant.

[Sub-enclosure.]

AMOUNT of property Shipped by J. C. Burton to New South Wales from the Year 1810 to 1815 inclusive.

Invoice of Ship	Venus dated	Novemb'r, 1810	46,457	8	10	Return of property shipped to N.S.W. by Burton.
Do. of „	Margarett ..	Septemb'r, 1811	.....	15,802	7	8
Do. of „	Frederick and Maria	Jan'y, 1811	...	81,348	15	2	
Do. of „	Hope	January, 1812	.....	161,453	5	8.
Do. of „	Frederick 1st Voyage	April, 1812	...	57,615	1	10	
Do. of „	Do. 2d Do.	Sept., 1813	..	30,870	8	0	
Do. of „	Do. 3d Do.	Decr., 1814	..	20,851	15	2	

So. Rs. 414,399 14 4

at 2s. 6d. p. Rupee or £51,799 19s. 8d.

[Enclosure No. 2.]

UNDER SECRETARY GOULBURN TO MR. J. C. BURTON.

Sir, Downing Street, 22d July, 1816.

I have laid before Lord Bathurst your letter of the 6th November last relative to the Grant of Land in New South Wales, which had been made to you by Lieutenant Governor Paterson, as a Remuneration for Services stated to have been performed by you by the Importation of Grain into the Colony in the Year 1809.

1816.
22 July.
Conditions
imposed on
land grant.

It appears by a Dispatch from Lieut. Governor Paterson to Lord Castlereagh of the 9th July, 1809, that the Grant in question was made to you under an Agreement that you should introduce and promote the Culture of Hemp in the Colony, and not as a Remuneration for Services.

Although Lord Bathurst cannot admit that you derive any additional Claim from the mere fact of your having imported Commodities into the Settlement, yet he has instructed me to refer your letter to Governor Macquarie with directions to make to you, on your application, a Grant of Land either at New South Wales or in Van Dieman's Land, as it may suit your Views, according to the means of Cultivation, which you may possess on your arrival in the Colony, and to extend to you the Indulgences granted to Settlers of your Class.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 74, per ship Lord Melville; acknowledged by Governor Macquarie, 31st March, 1817.)

Sir,

Downing Street, 24th July, 1816.

I have the honor to enclose for your Information a Copy of the Treasury Minutes of the 28th November, 1764, and the 12th August, 1791, and an Extract of the Act passed for more effectually auditing the Public Accounts, in order that you may be fully aware of the principles upon which His Majesty's Government are determined to act with a View to the Regulation of Expenditure on Foreign Stations, and of the difficulties in which you will be involved by sanctioning any prodigal or incautious Expenditure.

I cannot avoid availing myself of this opportunity of impressing upon you in the strongest manner the necessity of accurately investigating upon the Spot every branch both of the Civil and Military Expenditure of the Colony, with a View to its immediate Reduction, and I have to desire that the Result of this Investigation may be as early as possible transmitted to me.

I have no doubt but that arrangements may be made, which will considerably diminish the heavy Charge which is now annually incurred on account of New South Wales. I have to direct your Attention particularly to the further Reduction or Discontinuance altogether for the future of the Issue of Rations to persons who may arrive in the Colony as Settlers. From the Change which has lately taken place in the Circumstances of the Colony Encouragements of this description are no longer indispensable to its Settlement and proper Cultivation, and persons

Land to be
granted to
Burton.

24 July.
Regulations re
expenditure in
the colony.

Report to be
made on
expenditure.

Economies to
be enforced.

proceeding from this Country have been uniformly cautioned against expecting any encouragement beyond a Grant of Land and Some Assistance of Convict Labour; but at all Events the necessity of bringing the Colonial Expences within some more reasonable Limits is so paramount to every Consideration of Improvement, that I cannot hesitate in enforcing this Measure upon you for immediate Adoption, so far at least, as immediately to limit the Issue of such Rations to three instead of Six Months.

1816.
24 July.

Rations to
settlers to be
limited.

I must also urge upon your Consideration the Suggestions contained in the enclosed letter from the Secretary of the Treasury to my Under Secretary with respect to the Advantage which the Public would derive in point of Economy from opening the Market of the Colony to General Competition and abolishing the practice heretofore adopted of regulating the Price of the leading Articles of Consumption.

Proposed
freedom of
commerce.

I am aware that a Measure of this kind may, if suddenly resorted to, or at too early a period, produce a result different from that which is expected, but as the period cannot be far distant when the Internal Commerce of the Colony must be placed in its Natural State and its present Restrictions removed, I am anxious to ascertain whether the moment is not arrived, in which the Public might be materially benefited by the immediate or early adoption of such a Measure. Upon the latter point I have to desire a detailed explanation of your Sentiments, and the reasoning upon which they are founded.

Report to
be made on
advantage of
freedom of
commerce.

In specifying these two particular Heads of Economical Arrangement, it is far from my Intention to limit your Enquiries to these alone. An accurate Review of the Annual Accounts will bring before you many Items upon which your Discretion as to their Continuance will be to be exercised. His Majesty's Government look to you for executing this important Duty in the Spirit in which it is committed to you, and I have only to assure you that you cannot give yourself a stronger Claim to the Approbation of His Majesty's Government, than by proving, from the Retrenchments made by you on the present occasion, the sincerity of your desire to adopt, as the Rule of your Government, a System of regular and rigid Economy.

Further
economies to
be suggested.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

SECRETARY HARRISON TO UNDER SECRETARY GOULBURN.

Sir, Treasury Chambers, 6th July, 1816.

The Lords Commissioners of His Majesty's Treasury, having had under their serious consideration the important subject of keeping within due and proper bounds the Public expenditure within All His Majesty's Foreign Possessions, have

1816.
24 July.

Regulations *re*
expenditure in
the colonies.

adverted to their Minute of the 28th of November, 1764 (which was submitted to and approved by His Majesty), whereby it was directed that no Commander in Chief or Governor should be authorised to incur any expense, for which Money had not been granted by Parliament, or which had not been previously approved of by His Majesty, and His Majesty's Orders signified by this Board for that purpose, and Regulations were framed for the guidance and Conduct of Governors and Commanders of the Forces in case of sudden and unforeseen emergencies, and also to their Minute of 12th August, 1791, wherein it is stated that His Majesty having judged it expedient that more particular regulations, than had theretofore been issued, should be established in respect to the carrying on Military Services by direction of any of His Majesty's Commanders in Chief, Governors, or Lieutenant Governors, or other Officers, Civil or Military, Commanding in any part of His Majesty's dominions within the limits of any Command or Government, it was His Majesty's Pleasure that the Regulations therein detailed should be observed by all Persons concerned therein, and His Majesty was Pleased to Confirm the said Minute of this Board of 28th November, 1764, restraining Commanders in Chief and Governors from incurring any expense without the Notice required by the said minute, which His Majesty was then pleased to approve.

It appearing to My Lords that the Regulations, established by the said Minutes of 28th November, 1764, and 12th August, 1791 (a Copy and an Extract of which I herewith transmit for the Earl Bathurst's information), are well calculated to keep within due and proper bounds the Public Expenditure within His Majesty's Foreign possessions, and My Lords having also adverted to the Alteration, which since the date of the last mentioned Minute, has taken place in many Foreign Stations as to the mode of drawing upon this Board for the Monies necessary for defraying extraordinary Expenditure, which is more frequently by the Officer in charge of the Commissariat under the Authority of the Commander of the Forces, than by the latter Officer, and to the Provisions of the 14th Section of the Act of 46th Geo. 3, Cap. 141, which Authorize this Board to set insuper, in the Account of any Accountant in part beyond the seas, any payments improperly made by the Orders of any Person having Competent Authority upon the Person so authorizing such improper payments; their Lordships have Commanded me to desire you will move the Earl Bathurst to transmit the Copy and Extract of the said Minutes, together with a Copy of the Act of the 46th Geo. 3, Cap. 141, to the several Governors and Lieutenant Governors Abroad, and that His Lordship will be Pleased to receive The Prince Regent's

Command to convey to them His Royal Highness's strict injunctions to conform themselves to the Regulations established by the same Minutes; and that you will move His Lordship to call their Attention particularly to the 14th Section of the said Act of Parliament, and to acquaint them that in all cases where Bills shall be drawn for any extraordinary service by any Officer under their authority, they will be held responsible for the due and proper Exercise of that Authority conformably to the said Regulations; and in case they shall authorize any Bills to be so drawn in breach of these Regulations, that such a Conduct will not only be visited by the Prince Regent's displeasure, but their Lordships will under the before mentioned Provision of the said Act make them Personally responsible for the Amount of the Bills so drawn; And I am to desire you will suggest for the Consideration of His Lordship, the expediency of every Governor, who may hereafter be appointed, being furnished at the time of his appointment with these Regulations as a part of his Instructions.

I am, &c.,

GEO. HARRISON.

[Sub-enclosure No. 1.]

REGULATIONS FOR EXTRAORDINARY EXPENDITURE ON FOREIGN STATIONS.

Copy of Treasury Minute, dated 28th November, 1764.

MY Lords are of opinion that no Commander in Chief or Governor is authorized to incur any expence for which Money has not already been granted by Parliament, or which has not been previously approved of by His Majesty, and His Majesty's Orders signified by this Board for that purpose.

Regulations for extraordinary expenditure on foreign stations.

2nd.—That if any Governor or Commander in Chief shall be of opinion that any expence ought to be incurred for the good of His Majesty's Service, he is previously to make representation thereof to the proper Office at home, who are to communicate the same to this Board that His Majesty's pleasure may be taken thereupon, and that proper Estimates may be laid before Parliament to the end that such Sums may be granted, as Parliament shall think necessary for that purpose.

3rd.—That if sudden and unforeseen emergencies should arise, where it is absolutely necessary that the Service should be undertaken before His Majesty's Pleasure can be known, or the necessary Sums be granted by Parliament for that purpose, such Governor or Commander in Chief may in these Cases only draw upon The Lords Commissioners of His Majesty's Treasury and on no other Person whatever; and at the same time that he make such draught, he is to transmit to their Lordships, as well as to the proper Office to whose Department the Service so undertaken

1816.
24 July.

Colonial governors to be held responsible for all extraordinary expenditure.

1816.
24 July.

Regulations for
extraordinary
expenditure
on foreign
stations.

particularly belongs, information thereof, with the reasons why, consistently with the good of the Service, it was not possible to delay the incurring such expence, until such time as the regulations above mentioned could be complied with.

4th.—That all Governors and Commanders in Chief be acquainted that no Bills will be accepted until the information above required be received, and that they be at the same time apprized that they will become Accountants to His Majesty for the Sums they shall respectively draw upon the Lords Commissioners of His Majesty's Treasury, and that in passing and allowing their Accounts for the Expenditure of the same, their Lordships will take into Consideration not only the Authenticity of the Vouchers, but the urgent necessity of the Services so undertaken, and the reasonableness of the prices at which the same were performed.

Mr. Chancellor of the Exchequer is desired to lay this Minute containing the humble opinion of this Board upon a subject of so much importance before His Majesty, that, if His Majesty shall be Pleased to approve thereof, His Royal Pleasure may be signified thereupon in such Manner as His Majesty shall direct.

[Sub-enclosure No. 2.]

EXTRACT OF TREASURY MINUTES, DATED 12TH AUGUST, 1791.

Regulations *re*
expenditure on
fortifications
and other
military
services.

HIS MAJESTY having judged it expedient that more particular regulations, than have hitherto been issued, should be established in respect to the carrying on Fortifications or other Military Services by directions of any of His Majesty's Commanders in Chief, Governors, or Lieutenant Governors, or other Officers, Civil and Military, Commanding in any part of His Majesty's Dominions, or by directions from the Master General or Board of Ordnance within the limits of any Command or Government.

It is His Majesty's Pleasure that the following Regulations be duly observed by all Persons concerned therein.

1st. His Majesty is Pleased to Confirm the Minute of the Lords Commissioners of His Majesty's Treasury of the 28th November, 1764, restraining Commanders in Chief and Governors from incurring any Expence without the Notice required by the said Minute, which His Majesty was then Pleased to approve, a Copy of which is hereunto Annexed.

2nd. In regard to Services, the expence of which is to be defrayed by His Majesty's Treasury, each of His Majesty's Commanders in Chief, Governors, Lieutenant Governors, or other Officers, Civil or Military, commanding in any part of His Majesty's Dominions, are in each year to cause detailed estimates

to be made out, and signed by the proper Officer, of the expence of all such Works or other Articles of Services, Civil or Military, as may appear to such Commander in Chief, Governor, or other Person Commanding, necessary or expedient to His Majesty's Service to be executed or provided within his Command or Government in the following year; and he is to transmit such Estimates to the Lords Commissioners of His Majesty's Treasury and Duplicates thereof to One of His Majesty's Principal Secretaries of State, so that they may arrive in London before the 1st day of September in the year preceding that in which it is intended to carry into execution the Services proposed, in order that there may be full time to enquire into and consider of the Propriety of the Services before the Estimate is laid before Parliament for such Sums, as Parliament may think necessary to vote for the purpose; and in case such Commanders in Chief, Governors, Lieutenant Governors, or other Officers, Civil or Military, commanding in any part of His Majesty's Dominions, shall be of Opinion that some contingent Expences may be likely to be incurred, which cannot be precisely ascertained and Specified before hand, they are to include in their Estimate such a Sum as will according to their Judgment be equal to the probable Amount of such expences and to state, as far as they are able, the Nature and Occasion thereof.

3rd. The said Commander in Chief, Governors, or other Persons Commanding are at the same time to transmit Accounts, to the latest period they can be made up, of the actual Expenditure of any Money granted by Parliament, or Ordered by His Majesty to be expended in the then Current year, and Communicate any circumstances, if there should be any, that may lead them to expect any variation of Expence from the Estimates before given in; and such Commanders in Chief, Governors, or other Persons Commanding, are in like manner within three Months after the expiration of each year to transmit Accounts of the whole actual Expenditure of any Money, granted by Parliament, or ordered by His Majesty to be expended, distinguishing the same under the same heads of Service as in the previous Estimate, distinguishing accurately the several particulars thereof.

4th. The several Commanders in Chief, Governors, or other Persons in Command are not to commence any work or Service they may have proposed, or incur any expence on Account thereof, until His Majesty's Pleasure has been duly signified thereupon, excepting only in cases of sudden and unforeseen emergency, where it is absolutely necessary that the Service should be undertaken before His Majesty's pleasure can be known or the necessary Sums be granted by Parliament for that purpose.

1816.
24 July.

Regulations re
expenditure on
fortifications
and other
military
services.

1816.
24 July.
Regulations *re*
expenditure on
fortifications
and other
military
services.

5th. In such case, the said Commander in Chief, Governors or other Persons in Command are strictly to confine themselves to such Articles as come within the foregoing description; and they are to communicate by the very first opportunity the peculiar circumstances of the sudden and unforeseen emergency, which made it absolutely necessary for them to proceed before His Majesty's Pleasure could be known; they are to transmit at the same time regular Estimates of the Service they are carrying on. They are also to draw such Bills as may be necessary for defraying the Expence of such Service in their own Name on the Lords Commissioners of His Majesty's Treasury and on no other Person or Board whatever.

6th. The said Commander in Chief, Governor, or other Person Commanding are to be responsible to His Majesty for the indispensable necessity of the Case, which has obliged them to expend the Public Money without previous Authority from His Majesty; and the Commissioners of His Majesty's Treasury shall, as soon as may be after receiving an Account of such Expenditure, examine the grounds thereof, and after reference to His Majesty's Principal Secretaries of State, the Commander in Chief, the Master General of the Ordnance, the Secretary at War, the Paymaster General, or the Comptrollers of Army Accounts, as the nature of the Case may require, shall receive His Majesty's Pleasure thereupon; and the Commissioners of the Treasury shall, within six Months after the receipts of such Account, signify to one of His Majesty's Principal Secretaries of State whether His Majesty is or is not satisfied of the necessity of such Expenditure; and if they shall signify that His Majesty is not satisfied of such necessity, such Commander in Chief, Governor, or other Person Commanding, besides incurring His Majesty's displeasure, shall be obliged to repay into His Majesty's Treasury the Amount of all the Bills he may have drawn on Account of the Service so undertaken without Orders; and it is His Majesty's Pleasure that, until such Monies shall be so repaid, all Pay or allowances, that may at any time be due, or shall afterwards become due to such Person, shall be stopped, and one of His Majesty's Principal Secretaries of State is to take care to give the necessary Orders for this purpose.

[Sub-enclosure No. 3.]

Extract from
statute *re*
examination of
public accounts.

EXTRACT from an Act for making more effectual Provision for the more speedy and regular Examination and Audit of the Public Accounts of this Kingdom Cap. CXXI.

[*This consisted of the 14th section of the said act of 46th George IIIrd.*]

[Enclosure No. 2.]

1816.
24 July.

SECRETARY LUSHINGTON TO UNDER SECRETARY GOULBURN.

Sir, Treasury Chambers, 5th January, 1816.

The Lords Commissioners of His Majesty's Treasury having had under their consideration a Letter from the Commissary in Chief dated 28th Ult., enclosing one from Commissary Allan at New South Wales, pointing out the inconvenience attending the mode by which His Majesty's Stores in that Settlement have heretofore been supplied; I have received their Lordships' Commands to transmit Copy of Mr. Allan's Letter to you, and am to desire you will submit the same to the Consideration of the Earl Bathurst, and move his Lordship to inform this Board, whether the Regulations under which Grain and other Articles are received into Public Store in New South Wales have obtained his Lordship's Sanction, it appearing to my Lords that unless there are some special reasons for continuing this practice, of which they are not apprized, it would be expedient that the Articles required should be procured in a manner more likely to give a stimulus to the industry of the Colony, and that what is wanted for the Public Service should be procured by open Competition, by which the prices to be paid would depend, as they generally ought to do, upon the demand and supply rather than upon any arbitrary value which may be fixed upon the Commodities by the local Government.

The method
of obtaining
public supplies
in N.S.W.

I am, &c.,

S. R. LUSHINGTON.

[Enclosure No. 3.]

MR. DAVID ALLAN TO MR. J. C. HERRIES, COMMISSARY-IN-CHIEF.

Deputy Commissary-Genl.'s Office,

Sir, Sydney, New South Wales, 25th Septr., 1813.

The Mode of Supplying His Majesty's Stores in this Settlement has heretofore been by his Excellency the Governors fixing, by General Orders, the price at which Grain and Fresh Provisions were to be paid for by the Crown, and the officer at the head of the Commissariat by Command of His Excellency then giving notice that the Stores were open for the reception of the same at the affixed prices, and when the quantities required were compleated the like notice was given that the Stores were shut until further Notice.

Reception of
grain and
provisions
into store at
fixed prices.

The last general orders, dated 10th Decr., 1812, directs 8s. to be paid for all wheat p'r Bushel, and 7d. per pound for all Meat turned into Store.

How far this System may answer in Years of plenty, I am unable to judge, but during the present Scarcity, it is impossible to procure wheat at double the price, and I certainly do think

1816.
24 July.
Proposed
purchases by
public tender.

that it would, at all times, be most beneficial for the Crown, as well as the Public, that all purchases should be made by Public Tender or Contract, as no Individual will ever be expected to turn in Wheat voluntarily at 8s. p. Bushel when he can get 9s., 10s., or 15s. in the Market, although many in Years of plenty, like the last, will be ready to turn it in at 8s. when the market price happens to fall short of that sum, and which, prior to June last and the 8 Months preceding, was always the Case, the price in some instances having been as low as even 4s. p. Bushel.

I have, &c.,

D. ALLAN, D.C.-Genl.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(A private letter per ship Lord Melville; acknowledged by Governor Macquarie, 8th April, 1817.)

25 July.

25th July, 1816.

[A copy of this letter is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie to Earl Bathurst, 1st April, 1817.)

5 Aug.

Sir,

Downing Street, 5th August, 1816.

Remuneration
claimed by
Bate for losses
sustained.

I am directed by Lord Bathurst to transmit you a Copy of a letter from Mr. Samuel Bate, late Deputy Judge Advocate of Van Dieman's Land, enclosing a Memorial for Remuneration for the Losses and Privations he has suffered, and I am to desire that you will report to me for the Information of his Lordship on the points therein stated.

I am, &c.,

HENRY GOULBURN.

[Enclosure No. 1.]

MR. SAMUEL BATE TO EARL BATHURST.

My Lord,

4 New Street, Newington, 17th July, 1816.

Reasons for
claims made
by S. Bate.

I have the honour of accompanying herewith a Memorial for Your Lordship's perusal; it is a statement of facts that have occurred during the period of my official duty whilst Deputy Judge Advocate of Van Diemen's Land, and whatever inference may be drawn for the reasons assigned for my removal, Viz. "from the necessity of sending there a person qualified to administer civil Justice in the colony," I shall not presume to determine; let it suffice that I went out to perform those duties, that I was ready to perform them, that I made every exertion by frequent applications to procure the necessary patent, that I strove by every means, when finding there was no prospect of their

arrival, to return to England, therefore, My Lord, I consider I have not been dealt fairly with and My Lord it is not customary for Englishmen to be condemned before they are heard. I found the colony the most gloomy and unpromising; I left it the most prosperous and flourishing. I underwent all the privations incident to an establishment situated nearly at the Antipodes, and where the intercourse was but seldom, where civilization would become retrograde, and were it not for the occasional introduction of fresh morals and manners human nature would dwindle to savage barbarity.

Prejudice, My Lord, goes great lengths, and I am somewhat fearful reasons more than Public ones have been urged to effect my removal; but no conduct of mine, whether Public or Private, but I am thoroughly purposed to stand the ordeal of public investigation.

I have, &c.,

SAMUEL BATE.

1816.
5 Aug.

Reasons for
claims made
by S. Bate.

[Enclosure No. 2.]

THE MEMORIAL OF MR. SAMUEL BATE.

[A copy of this memorial is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Melville; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir,

Downing Street, 16th August, 1816.

16 Aug.

I am directed by Lord Bathurst to enclose to you an Assignment of One Hundred and Two Female Convicts, shipped on board the Lord Melville for the Colony under Your Government.

Assignment
of convicts
per ship
Lord Melville.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 75.*)

Sir,

Downing Street, 19th August, 1816.

19 Aug.

Mr. J. Watkins, the Bearer of this Letter, having received my permission to proceed to the Colony of New South Wales, I am to desire that you will make him a Grant of Land in proportion to the means of Cultivating it, which, on his arrival in the Colony, he may possess.

Recommendation of
J. Watkins
as a settler.

I have, &c.,

BATHURST.

* Note 22.

1816.
31 Aug.

EARL BATHURST TO GOVERNOR MACQUARIE.

(A circular despatch per ship Sir William Bensley; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 31st August, 1816.

I have the honor to transmit herewith for your Information and Guidance a Copy of an Order of His Royal Highness The Prince Regent in Council whereby certain Alterations are made in the Arms of the United Kingdom as far as concerns the Kingdom of Hanover.

I have, &c.,

BATHURST.

[Enclosure.]

[This was a copy of an order-in-council, dated 6th June, 1816, whereby the Hanoverian royal crown was substituted for the electoral bonnet in the royal arms.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Sir William Bensley; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 31st August, 1816.

I am directed by Earl Bathurst to acquaint you that he has granted permission to Mr. Urban Fidkin to proceed as a Settler to New South Wales, and I am to desire that he may receive a Grant of Land in proportion to his means of Cultivation, and extend to him the Indulgence usually granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 12 of 1816." per ship Atlas.)

My Lord, Government House, Sydney, 31st August, 1816.

Altho' I hope to be soon enabled to Address Your Lordship by a more direct Opportunity than the present, I am induced to Avail Myself of the Occasion of a Ship Sailing for Batavia to Inform Your Lordship by that Circuitous Route of another flagrant Instance of Insult and Contempt Offered to this Government by Jeffery Hart Bent, Esqr., Judge of the Supreme Court of Civil Jurisdiction, such as, I trust, is without Example in any other of His Majesty's Settlements.

The Documents, which I beg Leave to lay before Your Lordship herewith, will Exhibit Mr. Justice Bent acting in a most extra-judicial and Violent Manner in Attaching the Person of William Broughton, Esqr., a Magistrate of the Colony, and Assistant Commissary General, and finally Committing him to Jail Without Allowing him the Privilege of giving Bail to answer any Charge that Might be Legally preferred against him.

Alteration in
the arms of
Great Britain.

Recommendation of Urban
Fidkin as a
settler.

Report on
misconduct of
J. H. Bent.

Attachment and
committal of
W. Broughton
by Bent.

The Detail Contained in the Accompanying Papers Will shew Your Lordship that Mr. Justice Bent has presumed to Commit this Outrage Under Colour of his Office as Judge of the Supreme Court, Whereby he has Violated the Laws of his Country, and deprived a British Subject of the Protection which those Laws are Calculated to Afford him.

1816.
31 Aug.
Bent's
illegal acts.

This Business Originated from the Circumstances of a Convict Servant, Who had been Assigned to the late Ellis Bent, Esqr., Judge Advocate, and Who Shortly After that Gentleman's Decease had been discharged by Mrs. Bent, his Widow, on the Ground that She had no further Occasion for his Services, and therefore granted him Leave to employ himself as he pleased for his own Benefit, instead of returning him to Government, as she was bound to do by the Colonial Regulations. After a Lapse of some Months He offered his Services to Mr. Broughton, who hired him After taking the necessary Steps to ascertain that Mrs. Bent had relinquished All Claim to any further Services from him. In this Situation the Man remained for about three Months, when Without any previous Communication being made to Mr. Broughton, He was suddenly required to return to Mrs. Bent's Service, and a Warrant was Issued under the Hand and Seal of Mr. Justice Bent, *as Judge of the Supreme Court*, to bring him before him. The Proceeding was so extraordinary, and so Completely at Variance with the Regulations of the Colony in regard to Government or Convict Servants, that Mr. Broughton did not think it Necessary to render Obedience to the Warrant and therefore detained the man. This Non-Compliance with the Arbitrary Exercise of Magisterial Functions by Mr. Justice Bent was promptly followed by a Warrant of Attachment against Mr. Broughton himself, Issued by Mr. Justice Bent, under the Pretence of Mr. Broughton's Conduct in detaining his Servant being a *Contempt* of him in his Judicial Character. In Consequence of this Warrant Mr. Broughton was Arrested, and brought repeatedly to the Chambers of Mr. Bent, Where it Appears he was exposed to much personal Insult from the Gross and Very Ungentlemanly Language of Mr. Justice Bent, who finally wound up the Measure of his Tyranny and Oppression by Committing Mr. Broughton to the Common Jail, with the Threat that he should Continue there so long as Mr. Justice Bent Presided in the Supreme Court of this Colony.

Employment of
Mrs. Bent's
ex-servant by
Broughton.

Warrant of
attachment
issued by
Bent against
Broughton
for contempt.

Broughton
committed to
gaol by Bent.

The Matter being brought to such a Crisis, and a Representation being made to Me in Writing thereon by Mr. Broughton, dated from Sydney Jail, I found it Necessary to Interpose My Authority and to release him from such an Arbitrary Exercise of Lawless Power.

Broughton
released by
Macquarie's
orders.

1816.
31 Aug.

Requisition
for meeting
of magistrates.

The Alarm and Indignation Universally felt at this daring Outrage on Personal Liberty and the Laws by Him, Who should have been their Most Zealous and Sacred Supporter, Induced Some of the Magistrates at Sydney to make a written Application to the President of the Bench of Magistrates, requesting him to Convene a full Meeting of their Body to take into Consideration all the Circumstances of this Singular Case, at once derogating from their Dignity and Subverting every Principle of Justice. The Proceedings which resulted from this Meeting form One of the Accompanying Documents, and will be found to Contain the Unanimous Sentiments of the Meeting in Reprobation of Mr. Justice Bent's Conduct.

Opinion of
magistrates *re*
Bent's action.

Annexed to these Proceedings, and Conformably to the Wish expressed therein, Will Appear the Sentiments of All the Magistrates residing in the Interior, Whose Attendance Could not be Obtained at the Original Meeting; the full Acquiescence in the Opinions Expressed in the original Proceedings Which the Magistrates in the Interior have given (with the Exception of Mr. Marsden, the Principal Chaplain, Who declines Approving them on the Ground that he was not present When the Depositions Were taken) will I trust satisfy Your Lordship that Mr. Justice Bent's Conduct has excited Universal Disgust and Resentment, and Merits the Severest Reprehension.

Character of
Broughton.

If any thing Could aggravate a Measure so Violent and Insulting as that I have now Submitted to Your Lordship, I might add, in Order at least to Mark it more Strongly, that Mr. Broughton, the Gentleman who has been thus Wantonly Insulted, is an old and very Honorable Steady officer under this Government and Consequently possessed of My Esteem and Confidence; and was at the time of his Arrest under Orders to proceed from hence to Van Diemen's Land to take Charge of the Commissariat there by relieving the Officer who then had Charge of it. Mr. Broughton has since this Embarked for the Duty Assigned to him at Hobart Town.

Removal
of Bent
justifiable.

The Systematic Succession of Insults and Unwarrantable Opposition, which Mr. Justice Bent has Uniformly Manifested to all the Measures of My Government from the time of his Arrival here to the present Period, have been of so irksome and Offensive a Nature that I feel Satisfied I would have been fully Warranted in sending him out of the Colony, but Deference to the Commission he holds from His Royal Highness the Prince Regent has hitherto induced me to defer resorting to that final Measure.

Should Your Lordship Contrast the Sentiments I have now expressed in regard to Mr. Justice Bent, with those in My

Dispatch No. 2 of 1813, When I was Induced to recommend him for the Situation he now so Unworthily holds, I have only to Express my Regret that I should have been so Influenced on that Occasion solely by the earnest Solicitation of the late Mr. Judge Advocate Bent, who then possessed and Seemed to Merit my fullest Confidence.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

PROCEEDINGS OF A MEETING OF MAGISTRATES.

Sydney, New South Wales, Saturday, 29th June, 1816.

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31 Aug.
Macquarie's
regrets for his
nomination of
Bent.

Proceedings
of meeting of
magistrates *re*
the committal
to gaol of
W. Broughton
by J. H. Bent.

IN Pursuance of a requisition* from Alexander Riley, Esquire, and John Thomas Campbell, Esquire, Magistrates of this Colony addressed to D'Arcy Wentworth, Esquire, One of His Majesty's Justices of the Peace, and President of the Bench of Magistrates, Soliciting him to invite a Meeting of the Magistrates, as soon as he conveniently could, to consult on a Business of pressing Emergency; and the said D'Arcy Wentworth Esquire having convened a Meeting accordingly, the following Magistrates this Day Assembled Vizt:—

1. His Honor Colonel Molle, Lieutenant Governor,
2. Frederick Garling, Esquire, Judge Advocate,
3. D'Arcy Wentworth, Esquire, Chief Magistrate of Police,
4. Alexander Riley, Esquire,
5. Simeon Lord, Esquire,
6. John Thomas Campbell, Esquire.

His Honor the Lieutenant Governor having taken the Chair, and the requisition of Alexander Riley Esquire and John Thomas Campbell Esquire having been read, as also the call for the present Assembly founded thereon, it was explained that the Object in view in convening the present Meeting was to take into serious and deliberate consideration the Circumstance of a Member of their Body, namely William Broughton, Esquire, having been Yesterday Committed to the Common Gaol of Sydney, by Virtue of a Warrant signed "Jeffery Hart Bent, J." and to investigate the cause of so singular and Painful an Event.

The Magistrates assembled then proceeded to read and Consider such Documents as were produced before them, and to take the Depositions of such Persons, as were enabled to give Information on the Subject.

The first Documents submitted to Consideration were Two Warrants, Signed "Jeffery Hart Bent Judge of the Supreme Court N. S. Wales"; A Writ of Attachment against William Broughton, Esquire, signed "Jeffery Hart Bent, J." and addressed to William Gore, Esquire, Provost Marshal; A Writ or Warrant of Committal also signed "Jeffery Hart Bent, J.," and

* Note 39.

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31 Aug.

Proceedings
of meeting of
magistrates *vs*
the committal
to gaol of
W. Broughton
by J. H. Bent.

a Warrant from His Excellency the Governor for the Release of William Broughton, Esquire, from His Majesty's Jail of Sydney; A Deposition made by William Broughton, Esquire, and sworn before D'Arcy Wentworth Esquire on the 27th of June instant; A Deposition made by Mr. William Hutchinson Superintendent of Convicts, and Sworn before D'Arcy Wentworth Esquire on the 27th of June instant; An Examination of William Broughton Esquire then took place, and further depositions made by him were then sworn. Attested Copies of a Correspondence between The Honorable Mr. Justice Bent, and the Provost Marshal were next read. An Examination of Thomas Colbrook Constable was then entered into and Depositions made by him were sworn.

It being nearly 5 O'Clock, the Meeting was adjourned until Monday the first day of July, then to reassemble at 11 o'Clock A.M.

Monday, 1st July, 1816.

The Magistrates assembled agreeably to Adjournment, Mr. Judge Advocate Garling only excepted, who excused his absence by a Note Stating his being engaged in the Civil Court. Examinations of the following Persons were entered into, and their Several Depositions Sworn. (Vizt.)

John Harvey,
Lieutenant Carne, 46th Regt.,
John Redman, Chief Constable,
Mr. Provost Marshal Gore,
Mr. J. R. O'Connor.

The Meeting was further Adjourned to the next Day.

Tuesday, 2nd July, 1816.

The Magistrates assembled pursuant to adjournment present

1. His Honor Colonel Molle, Lieutenant Governor,
2. Frederick Garling, Esquire, Judge Advocate,
3. D'Arcy Wentworth, Esquire, Chief Magistrate of Police,
4. Alexander Riley, Esquire,
5. Simeon Lord,
6. John Thomas Campbell, Esquire.

The Deposition of Mr. George Johnston Junr. was made and Sworn. After some Conference the Meeting was adjourned 'till to morrow at 12 O'Clock.

Wednesday, 3rd July, 1816.*

The Magistrates assembled pursuant to adjournment, and, having maturely and deliberately considered all the foregoing Documents and Examinations, are unanimously of Opinion,

* Note 40.

1st. That Mrs. Eliza Bent having discharged from her employ John Harvey, a Prisoner of the Crown, she thereby, according to the Government and General Orders, forfeited her right to reclaim his Services, and the said John Harvey having subsequently entered into the employ of William Broughton Esquire with the entire Concurrence of the said Mrs. Bent and with the knowledge of Mr. William Hutchinson, the Principal Superintendent of Convicts, the said William Broughton Esquire was indisputably entitled to the Services of the said John Harvey, and ought not to have been molested in the retention of him.

2nd. That the alledged Complaint (supposing it was founded on fact) for which the Warrants Nos. 1 and 2 were issued, being cognizable only by a Magistrate, and having no relevancy whatever to any Cause or Matter in the Supreme Court of Civil Judicature in this Colony, and as by the wording of the Warrant No. 2 it appears that the same was issued by The Honourable Mr. Justice Bent in his Character of a Magistrate, this Meeting Considers that any Opposition thereto, or Obstruction to the Execution of it, could be at most but a Misdemeanour, indictable only in the Court of Criminal Jurisdiction, and cannot be construed into a Contempt of The Honourable Mr. Justice Bent, as Judge of the Supreme Court; and it is the decided Opinion of the Magistrates assembled, that from the Evidence before them Mr. Broughton never manifested any Contempt towards The Honourable Mr. Justice Bent in his Situation or Capacity as Judge of the Supreme Court.

3rd. That as the Utmost Offence, which the most Strained Construction can put on the Conduct of Mr. Broughton in this Affair, was of aailable Nature, this Meeting is of Opinion That the Honorable Jeffery Hart Bent, Esquire, Judge of the Supreme Court, and ex Officio a Magistrate of this Territory, in issuing a Warrant against William Broughton, Esquire, one of His Majesty's Justices of the Peace in this Colony, Assistant Deputy Commissary General, and One of the associated Members of the said Supreme Court, and causing him to be arrested under the said Warrant by the Provost Marshal, and brought before him, the said Mr. Justice Bent, and thence committing him to His Majesty's Common Gaol of Sydney, without allowing him the Privilege of a British Subject of being confronted by his Accusers, or of hearing any Evidence of the alledged offence, or permitting the said Mr. Broughton to give Bail for his Appearance before a Competent Court to meet such Charge or Charges, as the said Mr. Justice Bent should prefer against him, he, the said Mr. Justice Bent, acted contrary to the Spirit of British Constitution, repugnant to all the feelings of a Gentleman, militating against

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of meeting of
magistrates *re*
the committal
to gaol of
W. Broughton
by J. H. Bent.

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of meeting of
magistrates *re*
the committal
to gaol of
W. Broughton
by J. H. Bent.

the acknowledged rights of a free British Subject, highly disrespectfully to the Governor and Government of this Territory, and tending to produce Distrust and Alarm in the Minds of all His Majesty's Subjects residing therein.

Resolved:—That the foregoing proceedings, accompanied by the Documents therein referred to, be fairly transcribed and delivered to His Excellency the Governor for His Excellency's Consideration, and that His Honor Lieutenant Governor Molle and Mr. Judge Advocate Garling be charged with the Execution of this Duty.

Moved:—That His Honor the President do leave the Chair, and that Mr. Judge Advocate Garling do take it.

Mr. Judge Advocate Garling having taken the chair, It was moved and unanimously passed, That the Thanks of this Meeting be returned to His Honor The Lieutenant Governor for his upright, patient, and obliging Conduct in the Chair during the long Continuance of our Meetings.

His Honor then resumed the Chair, and adjourned the Meeting till to-morrow at 12 O'Clock, then to Assemble for the purpose of signing the Proceedings.

Thursday, 4th July, 1816.

The Magistrates having met pursuant to adjournment, It was resolved, previously to signing the Proceedings, that this Meeting not having had the advantage they had wished to derive from the Co-operation of the other Gentlemen of the Colony Associated with them in the Magistracy, owing to their remote Places of Residence in the Interior, That His Excellency the Governor be requested to communicate these Proceedings to those Gentlemen in Order that their respective Signatures may be obtained in the Event of their Approval of the Same.

G. MOLLE, Lieutenant-Governor, J.P.

FREDERICK GARLING, Judge-Advocate.

D. WENTWORTH, J.P.

ALEXR. RILEY, J.P.

S. LORD, J.P.

J. T. CAMPBELL, J.P.

Governor
Macquarie's
approval of the
decision of the
magistrates.

Having carefully and attentively read the several Documents and Depositions, the former marked *A.B.* and the latter numbered 1 to 18 both inclusive, And also the Opinion expressed by the assembled Magistrates of Sydney thereon, I do most fully and Cordially agree with them in the expressions of the said Opinions in every particular, And with much readiness give my Signature of Assent thereto.

L. MACQUARIE, Governor in Chief of N. S. Wales.
Government House, Sydney, 5th July, 1816.

In approving the measures adopted and the opinions delivered by the Assembled Magistrates at Sydney, I cannot express my own Sentiments more fully than by adopting the same language and terms in which His Excellency the Governor has been pleased to express his Approbation of them which I most respectfully do accordingly.

HENRY FULTON,

Clerk, A.B., Justice of the Peace for the District of Sydney, 5th July, 1816. Castlereagh, &c.

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31 Aug.
Concurrence of magistrates in the opinion of magisterial meeting.

Having attentively perused the Documents and Depositions herein referred to Marked A.B. and numbered from 1 to 18, I do most fully Coincide in the Opinion Delivered thereon by the Assembled Magistrates of Sydney.

Sydney, July 10th, 1816. H. McARTHUR, J.P., Parramatta.

For the above reasons I coincide with the Magistrates of Sydney.

THOMAS MOORE, J.P., Liverpool.

Sydney, July 12th, 1816.

Having attentively Considered the several Documents and Depositions alluded to, I perfectly Coincide in the Opinions delivered thereon by the Assembled Magistracy of Sydney.

Sydney, July 16th, 1816. ROBERT LOWE, J.P., Bringelly & Cooke.

Having Attentively and deliberately perused the several Documents A.B. and No. 1 to 18, Do fully coincide with the Opinions given by His Honor the Lieutenant Governor and other Magistrates assembled at Sydney on the 3rd Inst.

WM. COX, J.P., Windsor & Richmond.

JAS. MILEHAM, J.P., Pitt Town.

Sydney, 17th July, 1816.

I have perused with attention the proceedings of a Meeting of the Magistrates of Sydney, which took place on the 29th June and was Continued by Adjournments Until the 4th of July, and also the several documents on which those Meetings were founded, And do fully Coincide in the opinion delivered thereon by Magistrates Assembled.

ROBERT CARTWRIGHT, J.P., Wilberforce.

(N.D.)

[Exhibit marked A.]

MESSRS. RILEY AND CAMPBELL TO MR. D'ARCY WENTWORTH.

Sir,

Sydney, 28th June, 1816.

In Our capacity of Magistrates We request you as President of the Bench to Convene a full Meeting of our Members at such hour tomorrow as may be most convenient to you in Order to

Requisition for meeting of magistrates.

1816.
31 Aug.

Requisition
for meeting of
magistrates.

an Enquiry being instituted into the Circumstance of a Member of Our Body, namely William Broughton, Esquire, having been this day Committed like a Traitor or Murderer to the Body of the Common Gaol of Sydney by Jeffery Hart Bent, Esqre., Judge of the Supreme Court and Also a Magistrate, and refused the Undoubted privilege of all British Subjects to give Bail for his Appearance before a Competent Court to abide a Trial on such Charges as might be preferred against him.

We further request that you will invite any Magistrate who may be in Town from the Interior to assist in our Consultations on the present emergency for the Public Good.

We have, &c.,

ALEXR. RILEY, J.P.

J. T. CAMPBELL, J.P.

[Exhibit marked B.]

Circular letter
summoning
meeting of
magistrates.

CIRCULAR LETTER TO MAGISTRATES FROM MR. D'ARCY WENTWORTH.

Sir,

Police Office, Sydney, 28th June, 1816.

Having been Solicited by Two Magistrates of Sydney on Matters of great Emergency, I have the Honor to request your Attendance at my Office at the hour of One O'Clock to morrow.

I have, &c.,

D. WENTWORTH.

Presid't of the Bench of Magistrates.

[Exhibit marked No. 1.]

WRIT OF ATTACHMENT AGAINST WILLIAM BROUGHTON.

Writ of
attachment
issued by
J. H. Bent
against
W. Broughton.

New South Wales }
To Wit. } George the Third, by the Grace of God of
the United Kingdom of Great Britain and
Ireland, King, Defender of the Faith, and
so forth, To William Gore, Esquire, Provost Marshal of Our Territory of New South Wales Greeting; We Command you to attach William Broughton of Sydney, Esquire, so that you may have his Body before Our Judge of Our Supreme Court of Civil Judicature at Sydney in the Territory, aforesaid, at his Chambers situate at Sydney, aforesaid, on Thursday, the Twenty seventh day of this Instant June, there to answer to our said Judge as Well touching a Contempt which the said William Broughton as it is alledged hath Committed against our said Judge, as also other matters as shall be then and there laid to his Charge; And Further to do and receive what our said Judge shall then and there consider in this behalf; And hereof fail not and have there then this Writ. Witness the Honorable Jeffery Hart Bent, Esquire, Judge of Our said Supreme Court of Civil Judicature, at Sydney aforesaid the Twenty sixth day of June in the Year of Our Lord, One Thousand Eight hundred and Sixteen, and in the fifty-sixth Year of Our Reign. JEFFERY HART BENT, J.

[Exhibit marked No. 2.]

1816.
31 Aug.

WARRANT FOR COMMITTAL OF WILLIAM BROUGHTON.

Warrant for
committal of
W. Broughton.

New South Wales }
To Wit. {

George the Third, by the Grace of God of
the United Kingdom of Great Britain and
Ireland, King, Defender of the Faith, and

so forth, To William Gore, Esquire, Provost Marshal of Our
Territory of New South Wales, and To Mr. Daniel Cubitt,
Keeper of Our Gaol at Sydney in Our said Territory, Greeting.

WHEREAS William Broughton of Sydney, Esquire, hath by our
Writ bearing date the Twenty sixth day of June Instant, been
Attached to Answer for a Contempt against Jeffery Hart Bent,
Esquire, Judge of our Supreme Court in the Territory aforesaid,
in derogation of Our Laws and to the great Scandal of our said
Judge; And Whereas the said William Broughton hath persisted
and still doth persist in such Contempt and other contumacious
proceedings, We therefore command you and each of you that
you receive the said William Broughton into your custody and
detain him in our said Jail, or that one of you do receive him
there to remain till he shall clear such his Contempt, and Obey
such Order as Our said Judge shall consider of in this behalf,
or otherwise be delivered from your Custody According to Law.
Witness the Honorable Jeffery Hart Bent, Esquire, Judge of Our
said Supreme Court, at Sydney in the Territory aforesaid, this
Twenty Eighth day of June in the Year of Our Lord, One
Thousand Eight Hundred and Sixteen, and in the Fifty sixth
Year of Our Reign.

(L.S.)

JEFFERY HART BENT, J.

True Copy:—G. MOLLE, Lieut.-Governor N. S. Wales.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Exhibit marked No. 3.]

WARRANT FOR RELEASE OF WILLIAM BROUGHTON.

Warrant for
release of
W. Broughton.

By His Excellency Lachlan Macquarie, Esquire, Captain-General,
Governor and Commander-in-Chief of the Territory of New
South Wales and its Dependencies, &c., &c.

WHEREAS William Broughton, Esquire, One of His Majesty's
Justices of the Peace, has reported to me that he has been Com-
mitted to the Common Jail of Sydney within the Course of the
Present day, and that he continues there in a State of confine-
ment by Virtue of a Committal granted against him by Jeffery
Hart Bent, Esquire, One of His Majesty's Justices of the Peace
in this Territory; and he, the said William Broughton, Esquire,
having represented that he is illegally Confined without per-
mission to give Bail for such Offence as may be alledged against

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31 Aug.

Warrant for
release of
W. Broughton.

him, although not Charged with Murder, Treason, or any other Crime such as Warrants his being so detained, and praying thereon to be liberated.

This is therefore to order and Command that you liberate and discharge Him, the said William Broughton, Esquire, forthwith from Custody, for which this is Your Warrant and Authority.

Given Under My Hand at Government House, Sydney, this
28th of June, 1816.

L. MACQUARIE.

To Mr. Daniel Cubitt, Jailor of the County Jail at Sydney; and
all others Concerned.

True Copy:—G. MOLLE, Lieut.-Governor, N. S. Wales.

[Exhibit marked No. 4.]

WARRANT FOR THE APPREHENSION OF JOHN HARVEY.

Warrant for
apprehension of
John Harvey.

New South Wales }
To Wit. } To John Redman, Chief Constable, or to
Thomas Colebrook, One of the Constables
of Sydney, in the Territory aforesaid, or to
any other Constable of the said place.

WHEREAS John Harvey, a Prisoner Servant to Mrs. Eliza Bent of Sydney aforesaid, hath withdrawn and still continues to withdraw himself from the Service and against the Consent of the said Mistress, Eliza Bent; These are therefore to Command you in His Majesty's Name forthwith to Apprehend and bring before Me the Body of the said John Harvey to answer to the Complaint aforesaid and to be further dealt with According to Law and herein fail you not.

Given Under my Hand and Seal at Sydney aforesaid, this
Twenty fifth day of June, One thousand Eight hundred
and Sixteen.

JEFFERY HART BENT,

Judge of the Supreme Court, N. S. Wales.

(L.S.)

[Exhibit marked No. 5.]

WARRANT FOR THE RETURN OF JOHN HARVEY TO MRS. BENT.

Warrant for
return of
John Harvey
to Mrs. Bent.

New South Wales }
To Wit. } To John Redman, Chief Constable, or to
Thomas Colebrook, one of the Constables of
Sydney in the Territory aforesaid, or to
any other Constable of the same place.

WHEREAS John Harvey, a Prisoner Servant of Mrs. Eliza Bent of Sydney aforesaid, hath, by Warrant of this date Under My Hand and Seal, been Apprehended and brought before me The

Honorable Jeffery Hart Bent, Judge of the Supreme Court in the said Territory, and Ex Officio Magistrate throughout the same, The said John Harvey being Charged with withdrawing himself from the Service and against the Consent of the said Mrs. Eliza Bent; And Whereas the said John Harvey hath confessed his absence from such Service and expressed his readiness to return to the same, and that he did not wilfully so remain Absent but was retained by William Broughton, Esquire, to whom he had hired himself; it therefore manifestly Appearing that the said John Harvey ought to be returned to the Service of the said Mrs. Eliza Bent as heretofore; I do hereby order and require you the said Constables or some or one of you to convey the said John Harvey to the House of the said William Broughton, Esquire, for the purpose of Obtaining and receiving the Articles of Wearing Apparel and other Effects to him belonging, and Afterwards to Convey and deliver over the said John Harvey to the said Mrs. Eliza Bent as her Prisoner Servant as heretofore.

Given under My Hand and Seal this Twenty fifth day of June One Thousand Eight hundred and sixteen.

JEFFERY HART BENT,

Judge of the Supreme Court, N. S. Wales.

[Exhibit marked No. 6.]

THE DEPOSITION OF WILLIAM BROUGHTON.

Territory of New South Wales, County Cumberland, To Wit.	}	Before D'Arcy Wentworth, Esqre., One of His Majesty's of the Peace for said Territory.	}	Deposition of William Broughton.
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THE Examination of William Broughton, Esqre., who being duly sworn, Deposeth that about Five Months ago a Man, named John Harvey, came to his House and Offered his Services as a Cook; that Examinant asked him in whose employ he last was; that he replied "the late Mr. Bents," on whose decease he was granted permission by his Mistress to employ himself for his own Advantage; that on Questioning him further as to whether he had any testimonials of good Character, he replied not, but added that he had no doubt he could obtain them, and with that intention then left Examinant, first being instructed to call again on the following Monday; that he did so and stated that Mrs. Bent was indisposed, but that if Mrs. Broughton would call on her any afternoon she (Mrs. Bent) would speak to his Character; that upon the foregoing representation, Examinant was induced to hire said Harvey at a Wages of Twenty five pounds Currency P'r Annum; but previously Examinant further Questioned him as to how he had disposed of his time since the decease of his Master (being a lapse of nearly three Months at that time), to which

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he replied that he had employed himself at Baking, but finding that it did not Answer his purpose, he had formed the intention of again going into a Gentleman's Service; that the said Harvey remained in his Service for Nearly three Months before any Application was made for the Man, when he was informed One Morning that a Constable had been sent to demand him as Mrs. Bent's Servant; that the Man refused to go upon the Grounds that he had not left Mrs. Bent's employ without her Consent and Approbation; that about ten days or a fortnight after Examinant was informed that Lieutenant Hemsworth had met One of Examinant's Servants in the Curricie, and had told him to desire the Cook to wait upon him at twelve O'Clock; that the Cook informed Examinant that he had waited on Mr. Hemsworth and that Mr. Hemsworth had told him that Mrs. Bent was not desirous to have him in particular; that a Man who could cut Grass and get Wood and Water would Answer her purpose; in Consequence of which information, Examinant in a day or two afterwards made Application to Mr. Hutchinson, the Principal Superintendant, to furnish Mrs. Bent with a person of that description in lieu of a Man who he Examinant had turned into Government some time before; that Examinant heard nothing further about the business till yesterday Morning; that he met a Constable named Colbrook in George Street, who stated that he was going to Examinant's House by Mr. Bent's directions to take away the Cook; that by reason of the Circumstances before stated having been Corroborated by Mr. Hutchinson relative to Mrs. Bent having given her Consent for the Cooks employing himself for his own Advantage, He Examinant replied that he could not think of giving him up, but that if Mr. Bent had anything to say on the subject, he Examinant would be glad to hear it from him; that between the hours of Eleven and three a Warrant was issued by Mr. Bent (as Examinant understands) and the Cook taken thereunder from Examinant's House in his absence; that about seven O'Clock Yesterday Evening the same Constable came to Examinant's House with the Cook, stating that he had a Warrant to take away the Bedding and Clothing belonging to the Cook; that Examinant asked to see the Warrant, which was then produced, and it not appearing to state matter of fact, Examinant considered it an unjustifiable One, and Accordingly not only refused Allowing the required Articles to be delivered, but detained the Cook; that in about an hour afterwards the Constable came back and Stated that Mr. Bent was extremely Angry at his Conduct, and desired him to bring the Cook before him, to which Examinant replied that his doors were lock'd and that he could not think of Admitting any person into the House on such

a business; that soon afterwards Mr. Redman, the Chief Constable, came on the same business, and was replied to by Examinant in the like terms.

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Deposition of
William
Broughton.

W. BROUGHTON.

Sworn before Me this 27th day of June, 1816.

D. WENTWORTH, J.P.

[Exhibit marked No. 7.]

THE DEPOSITION OF WILLIAM HUTCHINSON.

WILLIAM HUTCHINSON, Principal Superintendant, examined, Deposeth that, shortly after the Decease of the late Mr. Bent, he was sent for by Mrs. Macquarie, who stated that she had received a letter from a Man named Harvey, who had been Cook to the late Mr. Bent, offering his Services to her, and asked Examinant's opinion of the Man; That Examinant having thereupon suggested his doubts as to the Man having sufficient Qualifications for Principal Cook at Government House, Mrs. Macquarie declined hiring him; that some time Afterwards Mr. Broughton Applied to him respecting the said Harvey, and Examinant informed him that He, Harvey, had been a Servant in the Employ of the late Mr. Bent and had obtained Mrs. Bent's permission to be on his own hands; further saith that no report has ever been made to Examinant of said Harvey being an Absentee.

Deposition of
William
Hutchinson.

WILLM. HUTCHINSON, P. Sup'd't.

Sworn before Me, 27th June, 1816.

D. WENTWORTH, J.P.

[Paper marked No. 8.]

THE EXAMINATION OF WILLIAM BROUGHTON.

WILLIAM BROUGHTON ESQUIRE again examined, Deposeth as follows:—On thursday, the 27th of June, between Nine and ten O'Clock in the Morning, as I was passing by the House of William Gore, Esquire, Provost Marshal, he was standing at his front Gate and requested me to stop, when he informed me that he had a Writ from Mr. Justice Bent to bring me before him at his Chambers to Answer for a Contempt to him as Judge of the Supreme Court; Mr. Gore then asked me as to my intentions on that head, to which I replied that I should submit to his Authority by Attending with him on Mr. Justice Bent whenever he, Mr. Gore, thought Proper. Mr. Gore about two O'Clock on the same day called on me at the Commissariat Store and took me into Custody; on being brought before Mr. Justice Bent in about an hour afterwards, Mr. Bent explained in a brief manner and in a general way that he had issued his Writ for my Appearance to answer for a Contempt to him as Judge of the Supreme Court;

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that he had taken the Depositions of two Constables, who had deposed that I had made Use of these Words "that I would not attend to his Warrant or any other Judge's." I told Mr. Bent, that I had come there in Compliance with his Writ, not to answer to any interrogatories on the Subject of the allegations contained therein, and that I had obstructed his Warrant on the Grounds of it being illegal, and which I considered his Proceedings against me altogether to be; at the same time I begged leave to remark that, if he was sitting there in the Capacity of Judge of the Supreme Court, I had to remind him that that Court had been adjourned, and that until it was again convened and the Members associated with him were Sitting, I could not consider where I then was a Court at all; Mr. Bent replied that he was not Sitting as Judge of the Supreme Court; I requested Mr. Bent to inform me in what Capacity he was Sitting; to which he made no reply, but told me that unless the Man (meaning the person alluded to in the Warrant) was given up, he would Commit me to Prison; to which I replied he might use his Pleasure and send me to Prison if he pleased; he then Answered in a very Violent and passionate Manner, that he would and keep me there as long as he was Judge of the Supreme Court, and turning to Mr. Gore said that he, Mr. Gore, was to consider me in his Custody. I then told him that I meant to give in Bail, to which he replied, he would not take Bail as it was for a Contempt. Upon leaving the Judge's Apartments, I requested Mr. Gore to allow me to walk to the House of a Friend, pledging My Honor at same time that I would be at his Disposal whenever he pleased; having seen my friends and informed them that Mr. Bent had refused my Bail, I returned to Mr. Gore, who informed me that he had not received any Warrant of Committal, and as I pledged My Honor to be forthcoming whenever he wanted me, he told me I might dispose of myself Until he called for me. On the following Day (Friday, the 28th of June) Mr. Gore again came to the Store and took me into Custody and brought me before Mr. Bent; after having waited about half an hour at his Chambers, Mr. Bent made his Appearance; he again repeated in a brief Manner the Grounds on which he had issued his Writ; he Cited several Cases on which I had Offended, and said he had sent for me to know what I had to say; I told Mr. Bent that I had already stated to him that I did not mean to answer any interrogatories touching the allegations contained in His Writ, as I considered his proceedings towards me altogether illegal and improper; to which he Answered in a hasty and passionate manner that I, as a Magistrate, Committed many illegal Acts; I told him I was not

aware of any; he said "You have issued Warrants to Compel persons in the interior of the Country to come to Sydney to sign Vouchers"; I told him his information was incorrect and denied having ever signed any such Warrant; he replied that he had higher Authority than mine, he had my Superior Officer's; I told him I had once issued a Summons for a person to Attend, who had omitted to sign Vouchers at the time of receiving payment; to which he replied "that was not right"; he then dwelt a good deal on the impropriety of My Conduct and his forbearance, Citing the Conduct of Lord Chief Justice Willes, who had imprisoned two British Admirals and several Post Captains for a similar Offence, and who were afterwards obliged to make a public Apology in the paper, thereby endeavouring to induce me (as I conceived) to make him an Apology; I told Mr. Bent that if he supposed I had come there for the purpose of making any Concessions for the injuries I had received from him, he was much mistaken; I reminded Mr. Bent of the Question I had put to him the preceding day, as to whether he was sitting there as Judge of the Supreme Court or as a Magistrate; to which he replied, "as Judge of the Supreme Court." I said that he had told me the day before that he was not sitting as Judge of the Supreme Court; he replied that he had no right to answer any such Questions; I then reminded him that as the Court was adjourned that I could not consider him sitting as Judge thereof, until it was again Convened and the Members thereof sitting; that I as a Magistrate was One of the Members and his Associate Judge; he replied he knew nothing of me, neither as a Magistrate or Judge; I told him I could not help expressing my surprise at such a Declaration as he had recognized me as a Magistrate by having Sworn me in as a Member of the Supreme Court, and that I had taken my Seat with him as the Judge thereof; he replied "Your Commission is in this Office and it is an illegal one." I told him I could not say whether it was a legal One or not; that I understood it had been made out by his Brother and that I had been Sworn in by him; that I never had Questioned the legality of his Acts, having entertained too great a regard for him; he then told me that unless I removed the Obstructions given to his Warrant by delivering up the Man, he would Commit me to Prison; I told him he might use his Pleasure and again reminded him that I had Offered Bail to which he replied, "I will not Accept of Bail"; he then signed the Warrant of Committal and handed it to Wm. Gore, whereupon Mr. Gore imprisoned me in Sydney Jail; I then addressed a Letter to His Excellency the Governor on the Subject of my Imprisonment and His Excel-

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lency having been also Apprized that I was refused to be admitted to Bail, a Warrant of Discharge was made out, and I was thereupon liberated.

W. BROUGHTON.

Sworn before Us this 29th day of June, 1816.

G. MOLLE, Lieut.-Governor, N. S. Wales.

[Exhibit marked No. 9.]

MR. JUSTICE BENT TO PROVOST-MARSHAL GORE.

MR. JUSTICE BENT is astonished that Mr. Gore should allow William Broughton, Esquire, brought before him by Virtue of a Writ of Attachment to depart without an Order made, and that when Mr. Gore well knew that a Commitment was making out; the Writ itself not being returned, Mr. Justice Bent will be under the necessity of issuing a Writ of attachment against Mr. Gore if such Conduct is not satisfactorily explained and Amended.

JEFFERY HART BENT, Judge.

[Exhibit marked No. 10.]

PROVOST-MARSHAL GORE TO MR. JUSTICE BENT.

Provost-Marshals Office, Sydney, the 28th June, 1816.

MR. PROVOST-MARSHAL Acquaints Mr. Justice Bent, that pursuant to his Writ of Attachment to him directed, he had the Body of William Broughton of Sydney, Esqre., before him the said Justice at his Chambers in Sydney aforesaid, and that he had then there the aforesaid Writ, if called on to return it; and further that pursuant to the Verbal Order of Mr. Justice Bent, Mr. Provost Marshal does consider the Body of William Broughton, Esqre., to be still in his Custody.

W. M. GORE, P.-M.

[Exhibit marked No. 11.]

MR. JUSTICE BENT TO PROVOST-MARSHAL GORE.

MR. JUSTICE BENT has received the Provost Marshal's Note and has to inform him that his Verbal Order was to detain William Broughton, Esquire, till the Commitment was made out by the Clerk, and he ought not to have been allowed to depart. If the Provost Marshal has him still in his Custody, He will bring him before Mr. Justice Bent at three O'Clock this day.

JEFFERY HART BENT, Judge.

Friday, 28th June, 1816.

[Paper marked No. 12.]

THE DEPOSITION OF THOMAS COLBROOK.

THOMAS COLBROOK, Constable, examined, Deposeth as follows:—About the hour of ten O'Clock in the forenoon of Thursday last, when on duty at Mr. Justice Bent's, I received directions from

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Gore's alleged
misconduct
censured by
J. H. Bent.

Explanation
made by
W. Gore.

W. Broughton
to appear before
J. H. Bent.

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Thomas
Colbrook.

George Davey, the Butler, to go to Mr. Broughton's and bring John Harvey to Mrs. Bent, which instructions Davey stated were given to him by Mr. Bent. I accordingly proceeded towards Mr. Broughton's, but meeting with Mr. Broughton in George Street I stated to him my business; he asked me had I a Warrant or a Letter; I replied not; Mr. Broughton then said that he could not think of letting the man go nor would not until further Orders; I returned and informed Mr. Bent of what Mr. Broughton had said; Mr. Bent desired me to wait till a Warrant was made out; in a few Minutes afterwards a Warrant was made out and handed to me by Mr. Bent with directions to go fetch Harvey pursuant to it; I went to Mr. Broughton's House and having apprized Harvey that I had a Warrant to bring him before Mr. Bent, he said I had no Occasion for one, that he would have come without it and then Accompanied me to Mr. Bent's. Mr. Bent had some Conversation with him, which I did not hear, and Mr. Bent then desired him to go into the Kitchen and Cook the Dinner. Harvey asked Mr. Bent whether he should go and fetch his things, Mr. Bent said No, that he should send for them; between the hours of five and six that Evening, Mr. Bent gave me a Warrant and desired me to take Harvey with me to Mr. Broughton's to get his things and bring him back to Mrs. Bent. On going to Mr. Broughton's, I was required to go up Stairs; Mr. Broughton demanded to see the Warrant; I shewed it him; he sent for Harvey; he asked Harvey was he willing to remain in his Service or did he wish to go back to Mrs. Bent; Harvey said he would sooner remain in Mr. Broughton's service; Mr. Broughton said "I will protect you then, and no Judge's Warrant shall take you out of my House, for I have got the Governor's permission to Keep You." Mr. Broughton then said to me you may give my Compliments to Mr. Bent, and no Judge's Warrant shall take him Off my premises, for I have got the Governor's permission to Keep him; I went back to Mr. Bent and told him what Occured; he then told me to go to Mr. Redman, the Chief Constable, and tell him to Execute the Warrant with me; Mr. Redman Accompanied me to Mr. Broughton's, and upon again applying for Harvey, Mr. Broughton said he should not go.

THOMAS COLBROOK.

Sworn before me, this 29th day of June, 1816.

D. WENTWORTH, J.P.

[Exhibit marked No. 13.]

THE DEPOSITION OF JOHN HARVEY.

JOHN HARVEY examined, Deposeth that he was a Servant in the employ of the late Mr. Bent, and shortly after the Decease of that Gentleman was called into Mrs. Bent, when at Breakfast

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with Mr. Justice Bent, whereupon he was informed by her that she did not intend to keep a Cook, and would allow him to go on his own hands during the time she was in the Country, adding that she would apply for a Ticket of Leave for Examinant, but that she did not like to be under a Compliment to the Governor; that he left Mrs. Bent's Service that day, and followed the Baking business for about three Months when not finding it to his advantage to continue in that line he applied for a Situation as Cook to Mr. Broughton; that Mr. Broughton refused to hire him Unless he obtained a Character from Mrs. Bent; that he Accordingly Applied to Mrs. Bent on the same day on that head, and she stated that she was then indisposed, but that if Mrs. Broughton called on her she would give Mrs. Broughton a Character of Examinant; that he then again called on Mr. Broughton and stated what Mrs. Bent had said, whereupon he hired Examinant; that in about three Months after he had been in Mr. Broughton's Service, a Constable named Patrick Field called on him and stated that Mrs. Bent had sent to know when Mrs. Broughton could spare him (Examinant); to which Examinant replied that he thought it very extraordinary Mrs. Bent sending for him as she had discharged him, and that he could not think of going Until he saw Mr. Broughton; that on the same Evening he was informed by a fellow Servant that an Officer whom he believed to be the Officer that went to Mrs. Bent's desired him to tell Examinant to go to his rooms at twelve O'Clock the next day; that about Seven O'Clock the following morning, the Servant of Lieutenant Hemsworth of the 46th Regt. (the Officer Alluded to) called on Examinant and stated that his Master wanted to see him directly; that in about Quarter of an hour afterwards he waited on Lieutenant Hemsworth, who thereupon informed him that Mrs. Bent wanted to engage him again or wanted him back again (he is not certain which), but at the same time added that she did not want him in particular, nor to disturb him from his Situation; that if she got a person who could Cut grass, that that would do; to which Examinant replied that he would mention the matter to Mr. Broughton, which he Accordingly on the same day did; that Examinant heard nothing further of the business Until last Wednesday (the 26th of June) when he was taken from the House of Mr. Broughton under a Warrant issued by Mr. Justice Bent before whom he was thereupon brought, and after receiving from him a Short reprimand for not immediately Complying with the Warrant, he was Ordered into the Kitchen to Cook Dinner; that after Dinner Mr. Justice Bent came into the Kitchen and desired him to go with the Constable to Mr. Broughton's for his things; that he thereupon Accompanied the

Constable, who informed him that he had a Warrant for the purpose; that upon Arriving at Mr. Broughton's the Constable and him were Ordered Up Stairs, whereupon Mr. Broughton asked Examinant if he had any desire to return to Mrs. Bent, to which he replied "by no means"; that Mr. Broughton then Observed to the Constable that no Warrant, which Mr. Justice Bent sent there, should take Examinant out of the House, and added that if Mrs. Bent had either Written or sent to say that it was her wish to have him back, he would have let Examinant gone; that he heard the whole of what passed on that Occasion, and did not hear Mr. Broughton allude to the Warrant of any Judge except that of Mr. Justice Bent; further saith that he has not on any Occasion expressed a Wish to leave Mr. Broughton's Service, neither does he wish it.

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Deposition of
John Harvey.

his
JOHN X HARVEY.
mark

Sworn before Us, this 1st day of July, 1816.

G. MOLLE, Lieut.-Governor, N. S. Wales.

[Exhibit marked No. 14.]

THE DEPOSITION OF LIEUTENANT CARNE.

THOMAS CARNE, Gentleman, Lieutenant in His Majesty's 46th Regiment of Foot, examined, Deposeth that he was Sitting in the Parlour in Company with Mr. Broughton at the time Colbrook, the Constable, and John Harvey Came there on Wednesday Evening last; that the Constable produced a Warrant from Mr. Justice Bent Authorizing him to take the Clothes of John Harvey from the House of Mr. Broughton and to return Harvey to Mr. Bent; that Mr. Broughton, Understanding from Harvey that it was not his Wish to return to Mrs. Bent, said to the Constable give my compliments to Mr. Bent, as I consider his Warrant on this occasion illegal, I will not obey it, but will give the Man Protection in my House as long as he Chuses to stay in it; that he heard the whole of the Conversation which passed on that Occasion, and that Mr. Broughton did not speak of any Warrant, but the one alluded to; that Mr. Broughton repeatedly observed to the Constable that had Mrs. Bent written a line to Mrs. Broughton, saying that she was in want of the Servant, that he should have gone, was he the best servant he ever had.

Deposition of
Lieutenant
Carne.

Questioned by the Lieutenant Governor as President.—Did You on the Occasion stated hear Mr. Broughton say to the Constable that he would not suffer Harvey to be taken out of His House on any Judge's Warrant? *Answer.*—I did not.

2nd Question.—Could Mr. Broughton have said so without your hearing it? *Answer.*—He could not.

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Deposition of
lieutenant
Carne.

3rd Question.—Did Mr. Broughton assign any reason for refusing to comply with the Warrant? *Answer.*—Yes! that he had the Governor's Authority for retaining Harvey in his Service and repeatedly directed the Constable to tell Mr. Bent so, and I myself repeatedly told the Constable not to mistake the message but to deliver it correctly to Mr. Bent.

THOS. CARNE, Lieut. 46 Regt.

Sworn before us same time,

G. MOLLE, Lieut.-Govr., N. S. Wales, July 1st, 1816.

[Exhibit marked No. 15.]

THE DEPOSITION OF JOHN REDMAN.

Deposition of
John Redman.

JOHN REDMAN, Chief Constable, examined, Deposeth, that between the hours of Eight and Nine O'Clock on last Wednesday night he was called upon by Thomas Colbrook, Constable, who thereupon handed him a Warrant from Mr. Justice Bent directing him to take into Custody John Harvey, then a Servant in the Employ of Mr. Broughton, and to bring him before the said Mr. Justice Bent; that he immediately proceeded to the residence of Mr. Broughton, where on Arriving he rang the Bell and Mr. Broughton answered from the Veranda; that upon informing Mr. Broughton that he had Mr. Bent's Warrant for the Apprehension of John Harvey, Mr. Broughton replied that he would not then Open his Doors or his Gates for any Warrant on such an Occasion, or words to that Effect; And Mr. Broughton then added, that if Mrs. Bent had sent any proper person with a Message to request the services of that Man, that he Mr. Broughton would have given him up however great his Services, or words to that effect; and Mr. Broughton then further said, that if Mrs. Bent would send the following Morning by any Proper Person he would send the Man back to her; further saith that he afterwards waited on Mr. Bent the same Night, and repeated to him what Mr. Broughton had said, Whereupon he replied that he had nothing to do with Mr. Broughton and Mrs. Bent; that he issued his Warrant upon a Complaint and that he expected it executed.

Question from the President.—Did you on the Occasion stated hear Mr. Broughton say to the Constable that "he would not suffer Harvey to be taken out of his House on any Judge's Warrant"? *Answer.*—I did not.

2nd Question.—Could Mr. Broughton have said so without Your hearing it? *Answer.*—He Could not.

JOHN REDMAN, Chief Constable.

Sworn before Us, same time,

G. MOLLE, Lieut.-Govr., N. S. Wales, July 1st, 1816.

[Exhibit marked No. 16.]

THE EXAMINATION OF PROVOST-MARSHAL GORE.

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William Gore,
provost-
marshal.

MR. GORE, Provost Marshal, questioned by the Lieutenant Governor, President of the Meeting.

“Do you recollect on Thursday last, whilst Mr. Broughton was in your Custody at the Chambers of Mr. Justice Bent, Mr. Broughton having asked Mr. Bent if he was Sitting there in his Capacity of Judge of the Supreme Court, at same time reminding Mr. Bent that that Court had been adjourned and that until it was convened again and the Members Associated with him were sitting that he Mr. Broughton did not Consider it a Court at all.”

Answer.—Yes! I recollect Mr. Broughton having addressed Mr. Bent to the above Effect and I have an indistinct recollection that Mr. Bent replied that he had not issued the Warrant against him as Judge.

Question.—“Do you recollect on the following day when Mr. Broughton was again brought before Mr. Bent, his Asking him in what Capacity he Mr. Bent was then Sitting, whether as Judge of the Supreme Court or as a Magistrate, and what was the reply.”

Answer.—Mr. Bent distinctly told him that he was Sitting as Judge, and Mr. Broughton then reminded him that he Mr. Bent had the day before said he was not sitting as Judge; to which Mr. Bent thereupon replied that he was not bound to answer any Questions.

Question.—“Do You recollect whether Mr. Broughton made any observations to Mr. Bent as to his being a Magistrate and a Member of the Supreme Court, and what was his Answer.”

Answer.—I do, and that Mr. Bent replied that he did not consider Mr. Broughton a Judge of the Supreme Court, nor was he clear that he was a Magistrate at all his Commission being directed “To my Justice,” instead of it being directed to him as “One of the King’s Justices,” whereupon Mr. Broughton said that his present Commission was approved of and he believed had been made out by his (Mr. Bent’s) Brother, the legality of whose Acts he never doubted.

Question.—“Do you recollect on the first day Mr. Broughton offering Bail.”

Answer.—I do, and Mr. Bent replying that he would take no Bail; it was for a Contempt and he would keep him in Jail as long as he was Supreme Judge.

W. M. GORE.

Sworn before Us, same time,

G. MOLLE, Lieut.-Govr., N. S. Wales, July 1st, 1816.

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—
Examination of
J. R. O'Connor.

[Exhibit marked No. 17.]

THE EXAMINATION OF MR. J. R. O'CONNOR.

QUESTIONS by the Lieutenant Governor as President of the Meeting to John Richard O'Connor, Gentleman.

Question.—"Do You recollect on Friday last, whilst Mr. Broughton was at the Chambers of Mr. Justice Bent, Mr. Broughton asking him in what Capacity he Mr. Bent was then Sitting, whether as Judge of the Supreme Court, or as a Magistrate, and what the Answer was?"

Answer.—I do, and Mr. Bent in an irritable manner replied that he sat there as Judge.

Question.—"Do You recollect that Mr. Broughton remarked that that Court had been adjourned, and until it was convened again and the Members associated with Mr. Bent were sitting, he, Mr. Broughton, could not consider that a Court, adding that he Mr. Broughton was a Magistrate and as a Member of it, one of Mr. Bent's associate Judges, and what was Mr. Bent's reply?"

Answer.—I recollect Mr. Broughton having addressed Mr. Bent to that Effect, and Mr. Bent in reply said he did not acknowledge him as a Judge, and doubted his being a regularly appointed Magistrate.

Question.—"Do You recollect that when Mr. Bent replied that he was Sitting there as Judge that Mr. Broughton remarked that he Mr. Bent had the day before said that he did not sit as Judge, and what Mr. Bent's reply was?"

Answer.—I do, and Mr. Bent replied that he was not bound to Answer any Questions.

Question.—"Do you recollect Mr. Broughton had the day before Offered him Bail, and what was Mr. Bent's reply?"

Answer.—I do, and Mr. Bent replied that Bail was never taken in such cases.

J. R. O'CONNOR.

Sworn before Us, same time,

G. MOLLE, Lieut.-Govr., N. S. Wales, July 1st, 1816.

[Exhibit marked No. 18.]

THE DEPOSITION OF MR. GEORGE JOHNSTON, JUNIOR.

Deposition of
George
Johnston,
junior.

GEORGE JOHNSTON, JUNIOR, Gentleman, examined, Deposeth as follows:—On Friday last (June 28th, 1816) Mr. Gore, the Provost Marshal, came down to the King's Store about two O'Clock, where Mr. Broughton then was; Mr. Gore informed him that he had received a Letter from Mr. Justice Bent wherein he Ordered him to bring Mr. Broughton before him at his Chambers at three O'Clock; Mr. Gore then read the same to Mr. Broughton, who thereupon declared his willingness to attend him, and they

forthwith proceeded to Mr. Justice Bent's Chambers in Company with Mr. O'Connor and Myself; we remained some time in the Room before Mr. Bent made his Appearance; he at length Came in and taking his Seat addressed himself to Mr. Gore, and expressed himself highly displeas'd with his Conduct in allowing Mr. Broughton to depart from his Chambers, and to be at large the preceding day without his Knowledge, and further stating that he had acted highly irregular and improper in doing so; that he had likewise taken the advice of certain persons as to the legality of his proceedings; that he had Consulted thereon Mr. Wentworth, Mr. Crossley and Mr. Chartres. Mr. Bent said that his legal Knowledge was the best in the Colony, far superior to that of any of the before named persons or them all put together, and in saying so, he thought he did not say much for himself either, adding that if his proceedings were illegal the responsibility would fall upon him, not upon Mr. Gore; and concluded by threatening to get him removed from his Situation; to this Mr. Gore replied that he possessed a right in common with all His Majesty's Subjects to Obtain the best advice he could, but more particularly so in doubtful cases, a right he should not fail to avail himself of whenever he required it; That as to Mr. Broughton being at large, Mr. Bent had not delivered to him the Warrant to Commit him to Prison, and that he considered he had Acted in every respect According to Mr. Bent's directions. Mr. Broughton having at the same time pledged his Word and Honor to be forthcoming whenever he might want him, which Mr. Broughton declared he had done. Upon this Mr. Bent (who Appeared very Warm) interrupted Mr. Broughton, and told him he should make such observations as he thought Proper to Mr. Gore, and again repeated that he had behaved highly irregular. Mr. Bent now addressing himself to Mr. Broughton told him he had Ordered him to be brought before him to endeavour to bring him to Reason; that if he still persisted in the line of Conduct which he had pursued the day before, he should be obliged to commit him to Prison; he stated that in the present instance he had even Acted with delicacy towards him; to which Mr. Broughton answered that he had certainly acted with a great deal of delicacy towards him in sending a Constable to his House at ten O'clock at Night, without any preliminary steps whatever, to take away his Servant; but prior to his making any other observations he wished most strongly to impress Mr. Bent's mind that he did not come there with a View of making any Concessions or Apology whatever for his Conduct, particularly after the injuries he had received at his hands; that he still denied the legality of his proceedings in Issuing a Warrant, as Judge of

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Deposition of
George
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the Supreme Court, of which he himself was a Member and likewise a Magistrate, to the Provost Marshal to take him into Custody and bring him before him, Mr. Bent, for a Contempt Offered to him when that Court was not sitting; he would however say that had Mrs. Bent expressed to him a Wish to have had the Man in question back again, or had Mr. Bent in the first instance written to him to that Effect, and which was no more than One Gentleman might have expected from another, he would have given him up immediately; but on the Contrary Mr. Bent, he Considers, had behaved towards him with the greatest indelicacy; Nay Mr. Hemsworth, an Officer of the 46th Regiment, had ordered his Son to send the Man to his Barracks as he wanted him; now what right this Gentleman had to interfere with his Servant or any part of his family he was entirely at a loss to conjecture. Mr. Bent replied that the Man was still Mrs. Bent's servant, and that he was only allowed to be on his own hands on Condition of returning to Mrs. Bent's service whenever she might require him. Mr. Broughton replied that Mrs. Bent was well aware of the Circumstance of his having hired the Man; that previous to his doing so, he had sent the Man himself to Mrs. Bent for a Character; she told him to make her Compliments to Mr. Broughton and say that being indisposed she could not write, but if Mrs. Broughton would favor her with a call in the Course of the Week, She would give her any information she might require on that Subject; that moreover she had told the Man when he left her that She would have Applied to The Governor for a Ticket of Leave for Him, but did not wish to lay herself Under a Compliment; from all these Circumstances (Mr. Broughton Continued) it must Clearly Appear that the Man had not Quitted Mrs. Bent's Service on the Conditions Stated by Mr. Bent, but was perfectly at liberty to hire himself without any restraint whatever. Mr. Broughton again repeated that he did not make this explanation with a View of Offering any Concession for the way in which he had acted, and again denied the legality of Mr. Bent's proceedings; here Mr. Bent again became very Warm and told Mr. Broughton that he did not consider him as a Magistrate; that his Commission was made out improperly; to this Mr. Broughton Answered that it had been made out by his (Mr. Bent's) Brother and that he never doubted the legality or Correctness of his proceedings; Mr. Bent replied that Mr. Broughton, in his Capacity of Magistrate, had been guilty of many illegal Acts, and that in detaining this Man he had broken through the Colonial regulations; Mr. Bent said he (Mr. Broughton) had also issued illegal Warrants to bring down People from the Country to the Commissariat Office to Sign

Vouchers; this Mr. Broughton positively Denied; Mr. Bent said he had it from high Authority; he had it from his (Mr. Broughton's) Superior Officer; that for the Contempt with which he had treated his (Mr. Bent's) Warrants, Two Rear Admirals and twelve Post Captains had been obliged to make an Apology in the Public Gazette to Lord Chief Justice Willes, Although they were Supported by the Admiralty. Mr. Bent then read from a paper five distinct Charges, the first he said rendered Mr. Broughton liable to have an information filed against him in the Criminal Court for a Misdemeanor, the following three I don't recollect, and the last was that Mrs. Bent might have her Action at Law against him for Damages for Depriving her of her Servant; Mr. Broughton Answered that he might use his pleasure, but must again deny the legality of his proceedings, and also declared that he should make no Concessions whatever; Mr. Bent then said that he should Commit him to Prison and desired the Provost Marshal to return his Writ, which being done he delivered to him a Warrant to Commit Mr. Broughton to Prison. Examinant saith that to the best of his recollection and belief the foregoing Statement was the purport of the Conversation which took place between Mr. Bent and Mr. Broughton.

1816.
31 Aug.

Deposition of
George
Johnston,
junior.

GEO. JOHNSTON, JUNR.

Sworn before Us, this 2nd day of July, 1816.

G. MOLLE, &c., &c.

[Paper marked No. 19.]

GOVERNOR MACQUARIE TO SECRETARY CAMPBELL.

Sir, Government House, Sydney, 5th July, 1816.

His Honor Lieutenant Governor Molle and Mr. Judge Advocate Garling having waited on me Yesterday and delivered me the Proceedings and Resolutions of the late Meeting of the Sydney Magistrates together with the several Documents and Depositions referred to in the said Proceedings; all which having been perused and fully approved of by Me, I now transmit to you the said Proceedings and Documents to remain in your Office for the purpose of being submitted to the District Magistrates of the Colony for their perusal and Signatures, in the Event of their Concurring in the Resolutions passed by the Sydney Magistrates. With this view, I request you will forthwith write Circular Letters to the several District Magistrates apprizing them that the Resolutions and Documents, alluded to, lye at your Office for their Perusal and Signatures (in Case they feel so disposed) the first time they happen to be at Sydney on any other Business.

Proceedings
and decision
of Sydney
magistrates to
be submitted
to district
magistrates.

I am, &c.,

L. MACQUARIE.

1816.
31 Aug.

[Paper marked No. 20.]

CIRCULAR LETTER TO ALL THE MAGISTRATES IN THE INTERIOR OF
NEW SOUTH WALES.

Gent'n, Secretary's Office, Sydney, 5th July, 1816.

I have it in Command to inform You that the Proceedings of a Meeting of the Magistrates of Sydney, which took place on the 29th Ult., and was thence Continued by Adjournments until Yesterday, have been Submitted to His Excellency the Governor for his information on a Subject of emergency and Importance, and those Magistrates having therein expressed a Wish that His Excellency would adopt some mode of submitting those proceedings accompanied by the several documents on which they were founded to Your Consideration, being from Circumstances expressed therein debarred the advantage of Your Consultation, I have the honor to inform You that those proceedings and documents are now at my Office for your individual perusal at such time as you may Please to inspect them, and for Your Signature of Approval in Case those Proceedings should Coincide with Your Own Sentiments.

I have, &c.,

JNO. THOS. CAMPBELL, Secy.

[Paper marked No. 21.]

REVEREND SAMUEL MARSDEN TO SECRETARY CAMPBELL.

Sir, Sydney, 10th July, 1816.

Having carefully perused the Proceedings of the Bench of Magistrates, and the various Documents submitted to my inspection, agreeably to the wish of the Magistrates Communicated to me through the Medium of Your Official Letter, Under Date of the 5th Instant, I have to request you would inform the Magistrates that I conceive it would be incorrect in me to give any Opinion upon these Proceedings, not being present when the Depositions were taken upon which they were grounded.

I have, &c.,

SAMUEL MARSDEN, J.P.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(A private despatch per ship Atlas.)

31st August, 1816.

[A copy of this despatch is not available.]

Circular letter to district magistrates re proceedings of Sydney magistrates.

Marsden's refusal to express opinion on the proceedings.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1816.
12 Sept.

(Despatch per ship Harriet; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

Sir, Downing Street, 12th September, 1816.

This Letter will be delivered to you by Mr. Emmett,* who is stated to have proceeded to New South Wales as a Free Settler in 1807, but afterwards returned to this Country and was detained as an Evidence in Colonel Johnston's Court Martial.

I am directed to acquaint you that Lord Bathurst has granted permission to Mr. Emmett to return to the Colony, and from the favorable Character which has been given of him and the means of Settlement and Cultivation, which he is understood to possess. I am to desire that he may receive as favorable an Allotment of Land, as may be consistent with the Regulations established on this point, together with the usual Indulgences granted to Settlers of his Class.

Permission for Emmett to return as a settler.

I have, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 76, per ship Sir William Bensley; acknowledged by Governor Macquarie, 4th April, 1817.)

Sir, Downing Street, 14th September, 1816.

14 Sept.

I herewith transmit to you the Copy of a letter, which has been addressed to me by Lord Sidmouth, recommending that James Knowles, who was convicted of Felony at a Special Sessions holden at Lancaster in May, 1812, and conveyed to New South Wales in the Ship Fortune, should receive a Free Pardon if his Conduct since he has been in the Colony has been such as to entitle him to that Indulgence; and I am to desire that, provided you have had no reason to disapprove of his Behaviour during that period, you will extend to him the Indulgence specified in the enclosed Letter.

Free pardon to be granted to James Knowles.

I have, &c.,

BATHURST.

[Enclosure.]

LORD SIDMOUTH TO EARL BATHURST.

My Lord, Whitehall, 30th August, 1816.

Application having been made to me in favour of James Knowles, who was convicted of Felony at a Special Sessions holden at Lancaster in May, 1812, and who was conveyed to New South Wales in the Ship Fortune, I am to request that Your Lordship will communicate to The Governor of that Colony that under the Circumstances, which have been reported to me on

* Note 41.

1816.
14 Sept.

Free pardon
to be granted to
James Knowles.

behalf of James Knowles, I feel disposed to recommend that the Prisoner should receive a Free Pardon; but in making this Communication, I beg that it may be expressly Notified to the Governor that it is not intended by this recommendation to bias him in his decision upon the propriety of granting such Pardon, but that it is left entirely to him to judge whether the Conduct of the Prisoner, during the time he has been in the Colony, has been such as to entitle him to the indulgence of being allowed to return to this Country.

I have, &c.,

SIDMOUTH.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

(Despatch per ship Sir William Bensley; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

20 Sept.

Commendation
of lieutenant-
colonel Sorell.

Sir, Downing Street, 20th September, 1816.

I beg leave to introduce to your favourable Notice and Protection Lieutenant Colonel Sorell, who is the Bearer of this Letter, and has been appointed to the Situation of Lieutenant Governor of Van Diemen's Land; and I am directed by Lord Bathurst to request that you will afford him every assistance and support in enabling him to execute the Duties of his Office.

I have, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 77, per ship Sir William Bensley; acknowledged by Governor Macquarie, 4th April, 1817.)

1 Oct.

Seeds of plants
to be collected
for Emperor
of Austria.

Sir, Downing Street, 1st October, 1816.

The Emperor of Austria having expressed a desire to be supplied with the Seeds of the Choicest Plants, which are the Produce of New South Wales, I have received the Commands of His Royal Highness The Prince Regent to desire that you will give directions for collecting them and transmitting them to me with as little Delay as the Circumstances will admit.

I am also to call your particular Attention to the necessity of the Seeds being well cleaned and purified from Insects previous to their being packed, and to their being protected as far as possible from The Effect of damp. In order to prevent Confusion, it will also be necessary to affix to each parcel the Name of the Plant of which it may contain the Seed.

I have, &c.,

BATHURST.

* Note 42.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1816.
3 Oct.

(Despatch per ship Sir William Bensley; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 3rd October, 1816.

I am directed by Lord Bathurst to enclose to you an Assignment of Two Hundred Male Convicts shipped on board the Sir William Bensley for the Colony under your Government.

Assignment of convicts per ship Sir William Bensley.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Fame; acknowledged by Governor Macquarie to Earl Bathurst, 4th April, 1817.)

Sir, Downing Street, 3rd October, 1816.

I am directed by Lord Bathurst to enclose to you an Assignment of Two Hundred Male Convicts shipped on board the Fame for the Colony under your Government.

Assignment of convicts per ship Fame.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(A private despatch per ship Harriet.)

Sir, Downing Street, 16th October, 1816.

16 Oct.

I am directed by Lord Bathurst to introduce to your Notice, Protection, and Good Offices, the Bearer of this Letter, Mr. Henry Thrupp, who will also deliver to you an Official Letter from his Lordship instructing you to allot to him a Grant of Land with the usual Indulgences.

Commendation of Henry Thrupp.

I have, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 21st October, 1816.

21 Oct.

Lord Bathurst having given permission to the bearer, Mr. John Atkinson, to proceed as a Settler to New South Wales, I am directed by his Lordship to desire that you will make him a Grant of Land in proportion to the means which he may possess of bringing the same into Cultivation, and extend to him the other Advantages usually granted to Settlers of his Class.

Recommendation of John Atkinson as a settler.

I am, &c.,

HENRY GOULBURN.

* Note 22.

1816.
23 Oct.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Shipley; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

Sir, Downing Street, 23d October, 1816.

Mr. James Williamson, who is the bearer of this Letter, being about to return to New South Wales, has made application to Lord Bathurst to have a Grant of Land allotted to him in that Colony, and I am directed therefore by his Lordship to desire that you will make to Mr. Williamson a Grant in proportion to the means which he may possess of bringing it into Cultivation, and to extend to him the Indulgences usually granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

Recommendation of James Williamson for a land grant.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Shipley; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

4 Nov.

Sir, Downing Street, 4th November, 1816.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Mr. John Smith, to proceed as a Settler to New South Wales, and I am to desire that you will make to him a Grant of Land in proportion to the means of bringing it into Cultivation, which he may be found to possess on his arrival, and extend to him the other Indulgences usually granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

Recommendation of John Smith as a settler.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Morley; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

5 Nov.

Sir, Downing Street, 5 November, 1816.

Lord Bathurst having given permission to Mr. Amos to proceed as a Settler to New South Wales, I am directed by his Lordship to desire that you will make to him a Grant of Land in proportion to the means of Cultivation, which he may possess on his arrival in the Colony, and extend to him the Indulgences usually granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

Recommendation of Amos as a settler.

9 Nov.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

9th November, 1816.

[A copy of this private letter is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1816.
20 Nov.

(Despatch per ship Morley.)

Sir, Downing Street, 20th November, 1816.

I herewith enclose to you, by direction of Earl Bathurst, an Assignment of Three Hundred Male Convicts which were shipped on board The General Hewitt, but which was accidentally omitted to be forwarded to New South Wales at the time that Vessel sailed.

Assignment of convicts per ship General Hewitt.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Morley; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

Sir, Downing Street, 22d November, 1816.

22 Nov.

It having been represented to Lord Bathurst by Dr. Quarrier, Surgeon of His Majesty's Ship Leander, that William Chamberlayne was forcibly taken away from Port Jackson about four Years back in the Frederick, South Sea Whaler, but that he is now desirous of returning to his Friends in New South Wales, I am directed by his Lordship to enclose for your Information Copies of Two Papers relating to the circumstances of the Case, and I am to desire, as he will proceed in one of the Convict Ships now under Orders for the Colony under your Command, that you will afford him all the Assistance and Protection in your power on his arrival at Port Jackson.

Return of William Chamberlain to the colony.

I am, &c.,

HENRY GOULBURN.

[Enclosure No. 1.]

AFFIDAVIT OF DR. QUARRIER.

THIS Deponent, Dr. Daniel Quarrier, voluntarily maketh oath that William Chamberlain was a Prisoner on board the Sans Souci, French Privateer, at the time of her capture by His Majesty's Ships Andromache and Briton, and that he fully believes the Statement of the boy William Chamberlain to be correct, as it was corroborated at the time by all the Crew of the Frederick who were on board the Privateer; and he further deposes that all the Statements in his Letter* of the tenth Instant, addressed to the Right Hon'ble Earl Bathurst were correct and true, as far as his knowledge and belief.

Deposition of D. Quarrier re Chamberlain.

D. QUARRIER.

Sworn before me at Portsmouth, 15 November, 1816.

SAM'L SPICER.

* Note 43.

1816.
22 Nov.

Examination
of William
Chamberlain.

[Enclosure No. 2.]

EXAMINATION OF WILLIAM CHAMBERLAIN.

QUESTIONS put to William Chamberlain on board His Majesty's Ship Leander at Portsmouth, the 15th day of November, 1816.

Where were you born? *A.* At Port Jackson in N.S.W.

Is your father alive? *A.* He was, when I came away.

What is his name? *A.* James Chamberlain.

Does he reside at Port Jackson? *A.* Yes, Sir.

What is his trade? *A.* A Bricklayer.

How came you to leave him? *A.* I was taken away by a boy belonging to the Frederick, South Sea Man.

Who was the Captain of the Frederick, and did he know of your being on board? *A.* I forget his name, but he knew I was on board. He made me very ill, until we were taken by the Privateer.

Did your Father or Mother know of your going away? *A.* No, Sir.

How long did you remain on board the Privateer before she was captured by the Andromache? *A.* Nine days.

How old are you? *A.* About thirteen.

How long is it since you left Port Jackson? *A.* I believe it is rather more than four years.

Would you wish to return to your Father, if we can obtain a Passage for you? *A.* Yes, Sir.

WILLIAM CHAMBERLAIN.

Witness: J. McDOWALL, Lieut. R.N.; R. C. HOLLAND, Lieut. R.Ms.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Morley; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

2 Dec.

Sir,

Downing Street, 2nd December, 1816.

Assignment of
convicts per
ship Morley.

I am directed by Earl Bathurst to transmit to you the Assignment of One hundred and Seventy five Male Convicts Shipped on Board "*The Morley*" for the Colony under your Government.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[*A copy of the assignment of convicts is not available.*]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 78, per ship Morley; acknowledged by Governor Macquarie, 15th May, 1817.)

4 Dec.

Sir,

Downing Street, 4th December, 1816.

With reference to that part of your Dispatch No. 7, dated 24 June, 1815, stating that the Colonial Brig Emu was so much decayed as to be unfit for the Service of the Colony, and also

transmitting the Report of a Committee of Survey held on that Vessel, I now enclose to you the Copy of a letter, which has been addressed to my Under Secretary by the Secretary of the Transport Board, containing a Copy of the Report above referred to and also Copies of a letter from Sir Jahleel Brenton and another Report made by his Direction at The Cape of Good Hope for the same purpose.

1816.
4 Dec.

Reports
relating to the
survey of the
brig Emu.

As there appears to be a very material difference between the Report made at The Cape of Good Hope and that at New South Wales, I have to desire that you will cause immediate Inquiry to be made into the circumstances of the Case, and that you will transmit to me with as little Delay as possible a full Detail of the particulars respecting it.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

SECRETARY MACLEAY TO UNDER SECRETARY GOULBURN.

Sir, Transport Office, 13th Novr., 1816.

I have the Board's commands to transmit herewith for the Information of The Earl Bathurst, a Copy of a Letter from Sir Jahleel Brenton, Bart. and K.C.B., Resident Commissioner at the Cape of Good Hope, dated the 31st of August last, together with Copies of two Reports of Survey held upon His Majesty's Colonial Brig the "Emu," referred to in the said Letter; and I am commanded to request your Attention to the difference between the Report of the state of the Emu, made at the Cape of Good Hope, and the one transmitted from New South Wales, which now appears to be totally unfounded, so that there was no cause for sending this Vessel home as unsound.

Papers for
consideration
re condition
of brig Emu.

I have, &c.,

ALEX. MCLEAY, Secy.

[Enclosure No. 2.]

SIR JAHLEEL BRENTON TO THE PRINCIPAL OFFICERS OF H.M. NAVY.

Gentlemen, Cape of Good Hope, 31st August, 1816.

I beg leave to enclose for your information the Copies of Two Reports of Survey held upon His Majesty's Armed Brig, The Emu; the report made at Port Jackson appears to be so very unfounded that I feel it my Duty to lay it before you that you may be enabled to take such Measures upon the Occasion, as you may think proper.

Incorrect survey
of brig Emu at
Port Jackson.

It is remarkable that the examination of the Foreman afloat of this Yard and the Carpenters of this Squadron were particularly directed towards the places, which had been inspected by the Surveyors of Port Jackson.

I have, &c.,

JAHLEEL BRENTON.

1816.
4 Dec.

[Enclosure No. 3.]

[*This was a copy of the survey of H.M. brig Emu, taken at Port Jackson on the 21st of April, 1815; see page 586, volume VIII.*]

[Enclosure No. 4.]

REPORT TO SIR JAHLEEL BRENTON, RESIDENT COMMISSIONER AT SIMON'S TOWN.

Sir, Simon's Town Yard, 27th August, 1816.

Survey of brig
Emu at the
Cape of Good
Hope.

Agreeably to your directions, We have been on board H.M. Armed Brig Emu, and have strictly examined her defects and find them as follows, Vizt. On boring her Timbers below the Upper Decks, We find them very Sound; have taken out fifteen feet of Plank on each above the Wales and find her Timber very good, with the exception of Two in that spare part of the Stroke on each side next the Waterways of Upper Deck, and four Standard Bolts of Lower Deck require Shifting. Timbers of Head and Head Nails require to be New; Topsides, Waterways, and Flat of Main Deck and Timber Heads require Caulking, And We are of Opinion that the Brig is perfectly Sound and Sea Worthy.

We have, &c.,

JAMES GRIGGS, Foreman.

JAMES HUGHES, Carpenter, H.M. Ship Revolutionaire.

THOMAS NICHOLS, Carpenter, H.M. Ship Spey.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 79, per ship Morley; acknowledged by Governor Macquarie, 16th May, 1817.)

5 Dec.

Sir, Downing Street, 5 December, 1816.

Issue of fuel
and rations to
commissariat
officers to be
discontinued.

Having submitted to the Consideration of The Lords Commissioners of His Majesty's Treasury that part of your Dispatch No. 11 of the 7th October, 1814, which relates to the Discontinuance of the Issue of Fuel and Rations to the Families of the Officers employed in the Commissariat in New South Wales, I herewith enclose to you the Copy of a Communication which has been received from the Treasury on the Subject, and I am therefore to desire that you will in future discontinue the Issue of Allowances in question.

I have, &c.,

BATHURST.

[Enclosure.]

SECRETARY LUSHINGTON TO UNDER SECRETARY GOULBURN.

Sir, Treasury Chambers, 22d May, 1816.

The Lords Commissioners of His Majesty's Treasury having had under their consideration your Letter of the 24th of July, 1815, and the Extract from Governor Macquarie's Dispatch enclosed, wherein the Governor recommends that the Allowances

of the Commissariat in New South Wales may be reduced, in order that they may be made equal to those granted to the Civil Departments in that Colony.

1816.
5 Dec.

I am commanded by their Lordships to acquaint you, for the Information of the Earl Bathurst, that it is not the intention of this Board that the Commissariat Officers should draw rations for their Families. In regard to the rate of pay, it appears that the Commissariat Officers at New South Wales receive precisely the same Pay as Officers of their Rank at every other Station (except the West Indies) where a large Pay is issued, and their Lordships are of Opinion that this rate of Pay is not larger than is necessary and proper with reference to the nature of their duties and the responsibility of their Situation. Whether the Salaries of the Civil Servants of the Colony are, or are not, adequate to the nature and importance of their Duties my Lords must submit to the consideration of the Earl Bathurst, having only to observe that the Issue of Rations from the Public Stores to Civil Servants appears to them to be very objectionable and should not be resorted to except in cases of extreme necessity.

Pay and allowances for commissariat officers.

I am, &c.,

S. R. LUSHINGTON.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Shipley; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1817.)

Sir, Downing Street, 12th December, 1816.

12 Dec.

I herewith transmit to you by the direction of Earl Bathurst the Assignment of One Hundred and Twenty five Male Convicts shipped on board The Shipley for the Colony of New South Wales.

Assignment of convicts per ship Shipley.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

WAR OFFICE TO GOVERNOR MACQUARIE.

(Despatch per ship Almorah; acknowledged by Governor Macquarie, 20th September, 1817.)

18th December, 1816.

18 Dec.

[A copy of this despatch is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Almorah; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 20th Decr., 1816.

20 Dec.

I am directed by Earl Bathurst to acquaint you that his Lordship has granted permission to Mr. George William Barnard to proceed as a Settler to New South Wales, and I have to desire

Recommendation of G. W. Barnard as a settler.

1816.
20 Dec.

that he may receive a Grant of Land, proportioned to his means of cultivation and the encouragement usually given to Settlers of his Class.

I have, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Canada; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

21 Dec.

Sir,

Downing Street, 21st Decr., 1816.

Recommendation of Johnson and Henderson as settlers.

I am directed by Earl Bathurst to acquaint you that His Lordship has granted permission to Messrs. Johnson and Henderson to proceed as Settlers to New South Wales, and I have to desire that they may receive Grants of Land proportioned to their means and the encouragement usually given to Settlers of their Class.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch marked "Separate," per corvette L'Uranie; acknowledged by Governor Macquarie, 28th February, 1820.)

1817.
17 Jan.

Sir,

Downing Street, 17th Jany., 1817.

Assistance to be given to M. de Freycinet.

A Communication having been made to His Majesty's Government by His Excellency the Marquis D'Ormond, announcing it to be the intention of His Majesty The King of France to dispatch Monsr. de Freycinet upon a Voyage of Circumnavigation in Command of the Urania, Corvette, and requesting the assistance of the British Authorities in Colonies, which may be visited in the prosecution thereof, I have to request that you will be pleased, in the event of M. de Freycinet touching at New South Wales, to afford him every facility in your power both in regard to the repairs, which the Urania may stand in need of, and of the supplies, which may be required to enable him to proceed in execution of the Service upon which he is employed.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 80, per ship Almorah; acknowledged by Governor Macquarie, 12th December, 1817.)

24 Jan.

Sir,

Downing Street, 24th Jany., 1817.

Free pardon granted to George Carter.

I herewith transmit to you the accompanying Pardon, which His Royal Highness The Prince Regent has been graciously pleased to grant to George Carter, who was convicted of receiving Stolen Goods at the last Summer Assizes at York and sentenced

to fourteen years Transportation and I have to desire that you will give the necessary directions in order that the Prisoner may receive the benefit thereof.

I have, &c.,

BATHURST.

1817.
24 Jan.

[Enclosure.]

[A copy of the warrant of pardon is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 81, per ship Ahnorah: acknowledged by Governor Macquarie, 12th December, 1817.)

Sir, Downing Street, 24th Jany., 1817.

Having referred to the consideration of His Royal Highness The Commander in Chief your letter of the 28th Jany. last, relative to the very improper conduct of Major Murray in disposing of Government property and applying the Money to his own use, and also for leaving the Colony without calling in the promissory Notes issued by him, I have now to acquaint you that, as Major Murray has retired from His Majesty's Service, His Royal Highness has no controul over him.

Impossibility
of recovering
moneys due by
major Murray.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 82, per ship Almorah: acknowledged by Governor Macquarie, 4th December, 1817.)

Sir, Downing Street, 24th Jany., 1817.

I herewith transmit to you an Extract from a Representation, which has been made to me with respect to the present state of the Colony under your Government.

Representations
re Macquarie's
government.

You will, I am confident, be most anxious to afford me the most explicit information as to all the circumstances therein stated; but there are two points, affecting as they do to a great degree your character and conduct in the Administration of the Colony, to which I am more particularly anxious to call your attention. The first is that which relates to the state of Prostitution, in which it is stated that the Female Convicts during their voyage to the Colony are permitted to live with the Officers and Seamen of the Ships, in which they are embarked. As such a practice is in direct contradiction to all the information, which has hitherto reached His Majesty's Government, and as it is utterly destructive of every principle upon which such persons have been transported, it is most necessary that it should be accurately, and early investigated. I have therefore to desire that you would immediately examine, as to this point, in the most

Macquarie to
submit a report.

Alleged
prostitution of
female convicts
on transports.

1817.
24 Jan.

formal and explicit manner all the Passengers, who may have recently come to the Colony in Female Convict Ships, and transmit for my information the result of such examination.

Condition
of the gaol,
and sentence
passed on
Michael Hoare.

The state of the Gaol and the Sentence inflicted on the four Men, who were tried at the January Sessions of 1816, equally require explanation; and with this view I am to desire that in your report, as to the other circumstances referred to, you state to me the Sentences of the first Prisoner referred to in the enclosed Paper, the Crime of which he was found Guilty, and the length of time during which he had been in confinement. I am also to desire a Specification of the Offence, which appeared to the acting Judge Advocate to authorize the Sentence passed on Michael Hoare and his associates. I have, &c.,

BATHURST.

[Enclosure.]

EXTRACT OF A LETTER FROM*

dated New South Wales, 13th March, 1816.

THE Convicts in the actual employ of Government have no Habitation found them, there are no Government Buildings for their accommodation, and they have to pay Two, Three, and Four Shillings a Week for their lodging each man, that is without fire or any other comfort than mere Shelter! Suppose there is only Two Hundred Prisoners in that state, and that the average each man pays for his lodging is three Shillings a Week, it amounts to the Sum of Fifteen Hundred and Sixty Pound a year. A large sum to be collected from the earnings of such prisoners as may be Industrious after they have done their Government task; But there are few of that Character, the greater part is paid by the Public, and the daily robberies that are committed may in a great measure be accounted for by the number of Men and Women Convicts that are at large, the Men have not only to find the means of paying for their lodging and fire &c., but are tempted by the Women, who are similarly situated, to commit excesses which are not only attended with expence, but have the dreadful effect of familiarising their minds to every kind of wickedness. No place is so well calculated to reform the minds of the abandoned as this is under suitable Regulations. Nothing has so good an effect upon them, or is more likely to produce a reform in their immoral and Vicious habits, or to make them good Servants and hereafter useful Members of Society, as the Prospect of obtaining their Emancipation after they have spent a certain number of years in Industry and Morality, which facts should first be stated by a Clergyman and also by their Employer. It may be said this is the present practice;

Criticism of
Macquarie's
administration
of the convict
system.

* Note 44.

to which I reply that Interest is more powerful than Good behaviour, many Convicts very shortly after their arrival here get their Emancipations, and it has lately become customary for Emancipations to be obtained by Persons doing or getting done a certain quantity of work for Government; as for Instance, William Bradbury came a Convict into this Colony about four years ago, he has never done a day's Work for Government, and he has obtained his Emancipation by hiring a Man to Work his (Bradbury's) Horse and Cart three Months on a New Road that was making by Government; This He told Me! Others have mentioned to me similar Instances. It is very discouraging to those who have been many more years in the Colony and whose Conduct has been equally good, but who have not either the Interest or means of obtaining their Emancipations in that manner. It makes them careless, they feel no Interest in what they are doing, and driven to a State of Despondency they continue to pursue the same wicked path to which they have been so long Accustomed. There is an Order by which every Male Convict is obliged to leave his Master's premises to attend the Constable of the District every Sunday to be mustered. This takes them away from their home, gives them an opportunity of making new acquaintances, and of forming plans for committing robberies; induces them under pretence of going to Muster to absent themselves the whole Day, and they frequently return home late at Night in a state of Intoxication. This Order I am convinced the Governor persuades himself is productive of great public benefit; indeed he told me so; but like many others I have repeatedly felt its ill effects. Would it not be more likely to effect a reformation in the Minds and Morals of the Men and to prevent Numbers of robberies, If the Masters, I mean those of respectability who were not within the limits of a church, were to be allowed to assemble his Servants and to have Prayers read to them every Sunday. If it did not succeed I know of no Evil that could arise from it.

The Women, bad as they are, are really to be pitied; the principal place for their reception is at Parramatta; there such as are not sent to Service go to the Factory to work, and after they have done what is required of them by Government, with the exception of such as are punished by Fine, are let loose upon the Inhabitants to find a lodging where they can, there not being any Public Building to lodge them in; then it is that they pick up those Men whom I have before alluded to as procuring lodgings where and how they can; robberies are the result, the Inhabitants are continually upon the alarm, and every vicious propensity is gratified by these disgraceful means.

1817.
24 Jan.

Criticism of
Macquarie's
administration
of the convict
system.

Treatment of
the female
convicts.

1817.
24 Jan.

Prostitution of
female convicts
on transports.

It is customary when the Female Convicts embark for this Country that every Sailor be allowed to live with a Woman during the Passage, and many are suffered or contrive to remain on Board whilst the Ship remains in Harbour after the Prisoners are landed; were that to be prevented, instead of living in a state of Debauchery, they would on their Passage have time to reflect on their past Conduct, and it is to be hoped many by that means might be reformed.

Condition of
the gaol at
Parramatta.

Last Week in Company with the Revd. Samuel Marsden who is the Principal Magistrate at Parramatta, I visited the Jail, and horrid to relate I saw a Prisoner who had nearly lost the use of his Limbs and Faculties by confinement on Bread and Water in the Jail. In a Cell I saw a Prisoner perfectly mad, chained to the Wall, and in two other Cells, I saw four other Men two in each Cell; their Names and Sentences are in the enclosed List, which also contains against Michael Hoare, James Gilchrist, Edward Doyle and John White (the four Men) a Copy of the most dreadful Sentence I hope ever heard of. I understand it has been ascertained that Human Nature cannot exist without endangering the faculties the half of twelve Months upon Bread and Water, but here is the additional Sentence of two years imprisonment in the Gaol should they by any miracle survive the first twelve Months confinement in a Solitary Cell upon Bread and Water; and after that transportation to New Castle for Life?

Sentences
passed on four
convicts.

- | | |
|--------------------|---|
| 1. Michael Hoare | } Three Years Imprisonment in His Majesty's Gaol at Parramatta; The first Twelve Calendar Months thereof to be kept in Solitary Cells upon Bread and Water. |
| 2. James Gilchrist | |
| 3. Edward Doyle | |
| 4. John White | |

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 83, per ship Almorah; acknowledged by Governor Macquarie, 12th December, 1817.)

Sir, Downing Street, 24th Jany., 1817.

His Royal Highness The Commander in Chief has transmitted to me an extract from your letter of the 21st March last, relative to the wish of Captain Brabyn and four Men of the Veteran Company at New South Wales to become Settlers in that Colony; and I have to desire that you will give the necessary directions for complying with their request, and extend to them the indulgencies usually granted to Settlers of their class.

I have, &c.,
BATHURST.

Permission for
captain Brabyn
and privates
of veteran
company to
become settlers.

EARL BATHURST TO GOVERNOR MACQUARIE.

1817.
24 Jan.

(Despatch No. 84, per ship Almorah; acknowledged by Governor Macquarie, 12th December, 1817.)

Sir, Downing Street, 24th Jany., 1817.

The Agent for New South Wales has represented to me that two Bills have been drawn upon him one for the Sum of £75 9s. 9d., being for the pay of Mr. Edward Luttrell from the 25th August to the 24th Decr. 1815, and the other for the Sum of £82 2s. 6d. being for the pay of Mr. J. Mileham from the 25th of June to the 24th Decr. 1815, both as first Assistant Surgeons during the same period at 10s. per diem. As I presume some mistake has occurred with respect to these bills, I have directed the Agent to pay them under the assurance that the Amount overdrawn shall be deducted from a future Bill. I have therefore to desire that you will give the necessary directions accordingly.

Payment
of salaries to
Luttrell and
Mileham.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 85, per ship Almorah; acknowledged by Governor Macquarie, 12th December, 1817.)

Sir, Downing Street, 30th January, 1817.

30 Jan.

I have the honor to acknowledge the receipt of your Dispatches of 1816 to No. 9 inclusive, which have been duly laid before His Royal Highness The Prince Regent. I regret that you should have experienced any inconvenience or difficulty from not receiving more regularly the commands of His Majesty's Government upon the points submitted for their consideration; you cannot but be aware how much the Length and uncertainty of a Voyage to New South Wales must at all times interfere with a very regular communication, but in the instances of which you complain a consideration of the dates, at which your Dispatches were received in this Country, which I have stated in the Margin,* will sufficiently explain the reason why at the date of your last Dispatch of March, 1816, you had not received the expected reply.

Despatches
acknowledged.Reasons
for delay in
forwarding
instructions.

It is a Source of great Gratification to the Prince Regent to learn the continued Advancement and Improvement of the Colony notwithstanding the unfavorable circumstances of adverse Seasons and excessive Drought. The Importation of Corn from Bengal is a Measure, which under ordinary circumstances is liable to Objection as interfering most materially with the Agriculture of the Colony, and though I cannot but approve the

Criticism of
importation
of grain.

* Dispatches of January, 1814, received 2d October, 1814; October, 1814, rec'd June, 1815; June, 1815, rec'd December, 1815.

1817.
30 Jan.

Grain to be
imported from
Tasmania.

Motives that induced you to resort to an Importation, I much regret that you did not confine it to Corn* grown in Van Dieman's Land, where the abundance of the Harvest offered a resource against the Evils, of which you were apprehensive, without any of the prejudicial consequences attending an Importation from Bengal. It is indeed on other grounds most important that an encouragement of this nature should, whenever it is practicable, be given to Van Dieman's Land. The fertility of the Soil and the Regularity of the Seasons appear to insure in that Island a never failing Harvest, and nothing can retard the progress of its Agriculture but a want of demand for its produce.

The
appointment of
naval surgeons
to transports.

It has been most satisfactory to me to learn† that the recent arrangements, made for the Medical Attendance on the Convicts during their passage, have been attended with such beneficial Effects, and that there is no more cause for lamenting the prevalence of that Sickness and subsequent Mortality which took place on board the Ships of the Year preceding. As Instructions for the accommodation of the Naval Surgeons during their Stay in the Colony were duly transmitted to you on the 1st of April last, you can be under no uncertainty in future as to the measures which you are authorized to adopt in similar Cases.

Proposed
conditional
pardon for
convicts ex
Francis and
Eliza.

I entirely concur with you in opinion† as to the advantage of giving encouragement to the Convicts of the Francis and Eliza, who conducted themselves with so much propriety on the Capture of that Ship by an American Privateer, and have directed a communication to be made to the Secretary of State for the Home Department as to the propriety of granting them a Conditional Pardon.

The case of
Parker.

The Settlers, who have recently arrived in the Colony, must I fear have experienced considerable Inconvenience from the neglect of taking with them the usual Letter of Introduction with which it was my intention to have furnished them. With respect to Mr. Parker,† I have since directed Mr. Parker to make a special communication to you under the Impression that he might have been induced to reform his Conduct and to live in a manner better suited to his rank in Society and the respectable Family of which he is a Member. I much regret to learn that there is at present so little prospect of his Amendment. You will be the better judge how far his mode of Life has resulted from the distressed Situation, in which he has accidentally been placed, and will not withdraw from him your protection without giving him a fair opportunity of redeeming his Character. At the same time, if his Conduct should continue to be distinguished only by profligacy and drunkenness, you will not consider yourself bound in consequence of my previous Recommendation to extend

* Note 45. † Note 46.

to him more Favour or Indulgence than he is from his Situation entitled to. With respect to Samuel Leigh,* a Methodist Preacher, I have no difficulty in authorizing you to permit his Residence in the Colony, so long as he shall continue to conduct himself with propriety and Decorum in the exercise of his Ministry; but as I am in common with yourself aware of the ill consequences, which might result from the Admission of less quiet and inoffensive Sectaries into Society like that of New South Wales, I shall not fail to exercise great Caution in sanctioning their Embarkation for the Colony.

1817.
30 Jan.

—
Permission for
S. Leigh to
reside in the
colony.

I have to approve the following appointments specified in your Dispatch No. 7* :—

Approval of
appointments ;

Mr. West to be Assistant Surgeon ;

Mr. Luttrell to be Ditto Do. at the Derwent.

I have also to approve the payment, which you have made to Mr. Evans of £100, in consideration of his Fatigue and Extra Expences on his Journey into the Interior, and the Allowance, which you have made to Mr. Drummond, of his Salary as Naval Officer at the Derwent from the Date of his arrival at Sydney.

and of
payments to
G. W. Evans and
J. Drummond.

The Importance of extending the Knowledge, which has been acquired of the Country on the other side of the Blue Mountains, is more strongly enforced by the limited Discoveries, which have up to the present period been made. The Country appears to possess Resources increasing in proportion to its distance from the Mountains, and it would be most desirable that no opportunity should be omitted of ascertaining with more accuracy than could be expected from the first discoverer its Geography, population and capabilities of Improvement. You will not impute to me any intention of disparaging Mr. Evans's Exertions, when I express my doubts as to his possessing the Talents required to explore the Country with Advantage, and when I recommend that some person should be selected for that purpose, who unites to Mr. Evans's Perseverance and courage, some knowledge of those sciences which an Intelligent Traveller ought to possess. As it appears to me most probable that the necessary qualities may be found united in some of the Officers of the Regiment stationed in the Colony, I would wish particularly to direct your enquiries to this point. I am not indeed without hopes that I may be able to point out some Officer specifically of the Regiment now ordered out, as able and willing on his arrival to conduct an Expedition into the Interior; but, as from the circumstances of the 48th Regiment being in Ireland and taking its departure from that Country, my expectations may be disappointed; I would not have you omit any opportunity, which may offer, of making such a Selection from those now quartered

Explorations to
be conducted.

Qualifications
of G. W. Evans.

Selection of
a leader for
exploring
expeditions.

* Note 47.

1817.
30 Jan.

in the Colony. The Instructions, forwarded to you in my dispatch of the 9th April last, will sufficiently explain the leading Object of enquiry, and it is not too much to expect that the Intelligence of the person employed should supply whatever may be deficient in that Memorandum. When my Dispatches of the 4th Decr., 1815, reach you, you will observe that you had only anticipated the directions* which I had there conveyed to you.

I have entirely to approve the discretion,* which you have exercised, in not giving to Mr. Lang, to whom I had given the Letter of Recommendation, the grant which I had suggested in my Letter, and in not complying with the request of Mr. Inglis's Memorial. At this distance from the Colony, it is impossible to ascertain what are the just claims of Individuals, or what is the Extent of Land they already possess, and I have therefore been particularly careful in all cases to leave an opportunity of rectifying in the Colony any error into which I may have been led by interested or erroneous Representations. The Principle,* which you have laid down, of not making new grants of Lands, or of confirming those previously made by Colonel Paterson, except in the Cases of Persons actually resident in the Colony, who are disposed to cultivate, is one in which I cordially concur, and I shall not fail to attend to the Statements contained in Paragraph No. 24 of your Dispatch No. 7 whenever claims of that Nature may be submitted to my decision.

In my adverting to Surgeon Mountgarrett's Memorial, I cannot avoid expressing my Dissent from the principle* upon which you have been led to recommend that Officer for a pension on his retirement. If his Conduct had been free from blame, I might have considered his Misfortunes and length of Service as giving him a title to charitable consideration; but, after your Statement that his Conduct is of so doubtful a Character as under any circumstances to render his removal from Office desirable, I cannot consent to recommend him for a remuneration which is in all cases to be confined to those who have acted in the performance of their Duty with propriety.

In the event of your still deeming it necessary to displace Mr. Mountgarrett and Mr. Smith, I have no objection to the appointment of Doctors Bowman and Bromley, if provision should have been made for those Gentlemen who have proceeded from this Country with recommendations for Medical Appointments.

I observe with satisfaction that the Public Works in progress at the date of your dispatch† were likely to be so soon completed. I am however sorry to find that there are yet others, which you considered it necessary to undertake without a previous authority

Approval of
Macquarie's
discretion re
land grants.

Refusal of
pension for
Mountgarrett.

Tentative
approval for
appointments
of Bowman
and Bromley.

* Note 48. † Note 49.

from this Country. Admitting that the altered Situation of the Colony requires an improved Residence for the Governor, I can see no reason why the plan of the Building proposed should not have been first submitted to His Majesty's Government, accompanied by an Estimate of the Expence, and approved by them before the Work was commenced. In acting otherwise you have incurred a heavy responsibility, and should the plans when transmitted (as I desire they may be by the first opportunity) not meet with the Sanction of the Treasury, it will be impossible for me to authorize the Expence incurred. With a view therefore to your own protection, it will be expedient if the work be not begun, or in no great Advance, to defer it till the proper Authority is given for its commencement, or if in a State of Progress, which will not admit of its being suspended, to take especial care that the building be not in point of Extent, or convenience, or expence, such as to risk its Sanction by the Treasury on the Ground of its being disproportioned to the wants of the Colony.

With respect to the other points not particularly adverted to in this dispatch, I have not failed to make the necessary Communication to the several Departments, to which their decision belongs, and I shall, as replies are received, communicate them for your Instruction and Guidance.

I have, &c.,

BATHURST.

1817.
30 Jan.

Disapproval of erection of new government house without previous sanction.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Almorah; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 30th January, 1817.

I am directed by Earl Bathurst to acquaint you that his Lordship has granted permission to Peter Downie to proceed as a Settler to New South Wales, and I am to desire that he may receive a Grant of Land proportioned to his means of Cultivation, and the encouragement usually given to Settlers of his Class.

Recommendation of Peter Downie as a settler.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Canada.)

Sir, Downing Street, 30th January, 1817.

I am directed by Earl Bathurst to acquaint you that he has granted permission to Francis Able to proceed as a Settler to New South Wales, and I am to desire that he may receive a Grant of Land proportioned to his means of cultivation and the Encouragement usually given to Settlers of his Class.

Recommendation of Francis Able as a settler.

I am, &c.,

HENRY GOULBURN.

1817.
31 Jan.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Dick; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 31st January, 1817.

I am directed by Earl Bathurst to acquaint you that he has given permission to Mr. Charles Reid to proceed as a Settler to New South Wales, and I am to desire that he may receive a Grant of Land proportioned to his means of Cultivation and the Encouragement usually given to Settlers of his Class.

I am, &c.,
HENRY GOULBURN.

Recommendation of Charles Reid as a settler.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch marked "Private and Confidential," per ship Dick; acknowledged by Governor Macquarie, 24th September, 1817.)

4th February, 1817.

4 Feb.

[A copy of this despatch is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 86, per ship Dick; acknowledged by Governor Macquarie, 24th November, 1817.)

6 Feb.

Sir, Downing Street, 6th February, 1817.

I have received your despatch No. 4 of 1816,* announcing to me the Seizure of an American Ship by Mr. Vale, the Colonial Chaplain, and the measures which you thought it necessary to adopt with respect to that Gentleman.

Acknowledgment of despatch.

Illegality of court martial on Benjamin Vale.

It was not without considerable Surprize that I learned your determination of bringing him to a Court Martial upon the charges, which you ultimately preferred against him. Admitting that it was a matter of doubt whether Mr. Vale's Appointment might not be considered so far a Military Commission of Chaplain to His Majesty's Forces, as to bring him within the Provisions of the Mutiny Act, yet had you proceeded with that consideration which would have befitted the occasion and referred, as it behoved you, to the Act under which you claim the Authority so to try him, you would have seen that Military Chaplains can only be brought to Trial for the Offences specified in the 4th and 5th Articles of the first Section of the Articles of War, and that those Offences are either Absence from Duty, Drunkenness, or scandalous and vicious behaviour, derogatory from the Sacred Character with which a Chaplain is invested. That Mr. Vale was guilty of any such offence cannot be pretended; it is not even imputed in the Charges that there was any vice or turpitude,

* Note 50.

reflecting on his moral Character, in the act which he had committed, and the decision of the Court still further negatives any such Supposition. The whole of your proceedings against him were consequently illegal, and it is therefore utterly out of my power to give them any sanction or approbation; and although I feel that Mr. Vale's Conduct was in many points of view extremely reprehensible, and should willingly have interposed with a view to its Correction, yet I have now only to lament that you should, in a moment of irritation, have been betrayed into an act which, at the same time that it exposes you personally to considerable risk, cannot fail to diminish your Influence among the more respectable part of the Community, who justly look upon the Law as the only true foundation of authority.

I have, &c.,
BATHURST.

1817.
6 Feb.

Censure of
Macquarie
for his action
re Vale.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 87. per ship Dick; acknowledged by Governor Macquarie. 10th December, 1817.)

Sir, Downing Street, 8th February, 1817.

8 Feb.

Circumstances consequent upon the restoration of Peace have rendered it most important to explore, with as little delay as possible, that part of the Coast of New Holland which was not surveyed or examined by the late Captain Flinders,* and it being further on other accounts most desirable that that Continent should if possible be circumnavigated by some person competent to Complete the Task, which Captain Flinders so ably began; I have received the Commands of His Royal Highness The Prince Regent to direct your immediate Attention to that subject. Upon consultation with the Lords Commissioners of the Admiralty, it has appeared most adviseable that the Expedition should be altogether Colonial, both with a view to expence and to the easier execution of the Service itself, and Lieutenant King,† by whom this dispatch will be delivered to you, is the Officer to whom it has been thought expedient to entrust the Command and Conduct of the Expedition.

The coast of
Australia to be
explored and
circum-
navigated.

Lieutenant
King appointed
to command
expedition.

I have therefore to signify to you The Commands of The Prince Regent that you place at the disposal of Lieutenant King either of the Colonial Vessels, which he may consider best suited to his purpose, or (if it has not already been dispatched to its Destination) the Vessel, which you were instructed to prepare for the King of The Sandwich Islands. Should however any other Vessel in the Harbour appear to Lieutenant King better calculated for the Service, you will not fail, if it be at the disposal of the Colonial Government, to assign it to him, or if the

Macquarie
to provide a
vessel for
King's use.

* Note 51. † Note 52.

1817.
8 Feb.

Property of an Individual and to be hired at a moderate Rate, to enter into an Agreement for that purpose. It is on many accounts of paramount Importance that the Expedition should proceed without delay, and you will therefore aid Lieutenant King in accelerating its Departure.

Instructions
for selection
of crew ;

You will of course see the Importance of selecting with much care the Individuals, who are to serve under Lieutenant King, and I am sure you will give him the Benefit of your intimate Knowledge of the dispositions of the several persons in the Colony, in order that he may avoid the Embarrassment and Difficulty which would result from embarking with a disorderly or insubordinate Crew. If any of the Marines settled in the Colony could be induced to accompany him, it appears desirable that their Services should be secured; but at all events, as it is desirable that he should in addition to the Seamen under his Command have some few Military, an endeavour should be made, in the event of the Marines declining to accompany him, to obtain the voluntary Offer of Service on the part of some well conducted Men of the Regiment now stationed in the Colony.

and for
equipment of
expedition.

I forbear to enter into any other particulars with respect to the mode in which the Vessel should be fitted or the provision necessary to be made for the Expedition; you will on these and on all other points conform, as much as is in your power, to the Wishes of Lieutenant King, and withhold no Information or assistance which can enable him to execute the Instructions which he has received for his Guidance.

I am, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 88, per ship Dick; acknowledged by Governor Macquarie, 12th December, 1817.)

14 Feb.

Ralph Clarke
to accompany
King ;

Sir, Downing Street, 14th February, 1817.

A person named Ralph Clarke, who has served for some time as a Non-commissioned Officer in the Royal Marines, being about to proceed by One of the Vessels now under dispatch for New South Wales, in order that he may accompany Lieutenant King in the Expedition, which he is about to undertake, and having expressed a wish to become a Settler in the Colony, I am to desire that if, upon his Return from that Service, he can furnish you with satisfactory proof that Lieutenant King has been satisfied with his Conduct and exertions, that You will allot to him a Grant of Land with the Indulgences usually granted to Settlers of his Class.

and to receive
a land grant.

I have, &c.,
BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1817.
14 Feb.

(Despatch per ship Lord Eldon; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 14th February, 1817.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Nicholas Williams, to proceed to New South Wales as a Free Settler, and I am to desire that you will make to him a Grant of Land in proportion to the means, which he may possess on his arrival in the Colony of bringing it into Cultivation, and extend to him the Indulgences usually granted to Settlers of his Class.

Recommendation of Nicholas Williams as a settler.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Eldon; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 14th February, 1817.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Thomas Stevenson, to proceed to the Colony of New South Wales as a Free Settler, and I am to desire that you will make to him a Grant of Land in proportion to the Means which he may possess on his arrival in the Colony of bringing it into Cultivation and extend to him the Indulgences usually granted to Settlers of his Class.

Recommendation of Thomas Stevenson as a settler.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 1 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord, 22nd March, 1817.

22 March.

Availing Myself of Your Lordship's observations on the subject of the distillation of Spirits, as expressed in a passage of Your Lordship's Dispatch No. 58 dated 4th December, 1815, and hoping by some additional information, which I have sought and obtained on that subject, to be able to point out its expediency still more forcibly than heretofore, I am led to hope that I shall be enabled to convince Your Lordship of its being a measure fraught with incalculable advantages to the Struggling Colony in its present unfurnished state, in regard to productions wherewith to barter or pay for its imports.

Advocacy of the establishment of a distillery.

In the first place, My Lord, a wholesome Spirit from Barley and other Grain would be obtained in substitution for the ardent and deleterious Spirit with which our Market is supplied from India, the regularity of the Supply, so to be obtained from our

Advantages of spirit distilled in the colony.

1817.
22 March.

own produce, affording the reasonable hope that the consumption will be more moderate than what is known to be the case on occasions of fresh Arrivals, which never fail to excite a temporary dissipation, productive of many evils.

Financial
benefits to
the colony.

2ndly. All the money, which now goes out of this Country in payment for the imported Spirits of India (for as I have already observed we have no produce to give in Exchange) would be retained in it or rendered available in paying for the Imports of Manufactures and produce from the Mother Country. The Distillery would in fact be a means of encreasing the Imports from thence, whereby the real comforts of this people would be much promoted, and our Money would find its way to England instead of to India. The Quantity Annually imported may be averaged at 70,000 Gallons, and the price paid, being at the lowest average 7s. 6d. per Gallon, of course the Amount £26,500 would be thus saved from being remitted to India for a base destructive Spirit.

Probable
increased
market for
grain.

3rdly. The additional quantity of Grain, which the Farmers would be induced to cultivate in consequence of the Establishment of a Distillery, would be regulated in a great degree by the demand from the Distillery; and the experience of two or three Years would bring the Cultivators to a Knowledge of what additional Market would be thereby afforded for the Sale of their Grain, which being thus regulated, the general quantity would be soon equalized with the Consumption.

Advantages of
alternation
in crops.

4thly. By the demand thus created a very large encrease to the quantity of Grain now grown would be the necessary consequence; and as it is deemed essential to good farming that a *variety* of Crops should be taken, instead of a constant repetition of the same Grain from the same Soil, The Growth of Barley, which is now very little Cultivated (in consequence of there being neither Distilleries nor Breweries to consume it) would become an object of much attention, and the encrease in the Quantity of Land taken into Cultivation would be at least equal to the extent, necessary for the production of the Barley so to be consumed. In speaking of Barley, it being the best fitted for Distillation, I do not mean to preclude Oats, Rye, and Bere, each of which answers the same purpose very well.

5thly. The change of Crops could not fail to make the Husbandman Cultivate even more than the absolute consumption of *Wheat alone* would pay him sufficiently for, in order that he might have his ground in good heart and readiness for the production of Barley or the other descriptions of Grain suited to Distillation. An emulation would even be excited among the growers of those Grains, which would be taken off their hands

at the Distillery only according to their relative or absolute Quantity, at least with a much greater regard to those particulars, than is now paid or can well be expected to take place in the reception of Wheat at the Government Public Stores, Those in the latter situation, who are appointed to receive it, having no immediate personal Interest at stake. Thus from the necessity imposed by the Distillery in regard to the quality of the Grain to be used there, an improved system of Husbandry would take place and the Quality of the Wheat itself would be improved by the General progress of Cultivation, whereby Government would be eventually benefitted in its purchases by the obtaining a superior quality of Grain.

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22 March.

Anticipated
improvement
in quality of
grain.

Such my Lord are the general grounds on which I found the expediency of the System of Distillation. I shall now point out what will probably be among the consequences of it premising however that the influx of Convict Labourers has been latterly, and is likely to continue, on a scale fully proportioned to the encrease of Demand for their Services (if not exceeding it); it is not much to be apprehended that any encrease of Wages will take place to discourage the Cultivator, on the contrary I am decidedly of opinion that the price of Labor will fall below its present rate, which is considerably lower than what I found on my arrival here.

Probable
effects on the
price of labour.

The floods, to which the rich low Grounds on the Banks of the Hawkesbury and Nepean are so subject, and which have this present Season repeatedly swept away all the produce of the Husbandman's toil, have for Years past induced Me to urge the Settlers in those Quarters to retire their residences and their Cultivation also to the higher Grounds beyond the reach of the Floods, and to appropriate the lower Lands to pasturage for their Herds and Flocks; But as these infatuated People have not heretofore been persuaded to do so, I conceive the local Establishment of the Distillery, such as I shall recommend, would operate more effectually than any other means to induce them to make their industry available in a more certain way than at present.

Expected
precautions
against the
effects of
floods.

I would propose that One large Distillery should be Established by one or more Wealthy Individuals at Sydney, and that none should be sanctioned elsewhere. Here the process could be carried on cheaper than any where else in as much as the Spirit would be immediately on the Spot where the principal Demand (without the expence of carriage) would be, and all the expences of erecting the buildings, the supply of fuel and utensils, would be easier procured and cheaper than in the Interior.

One distillery to
be established
in Sydney.

Another Argument of no light Consideration is that the Revenue would be much better and easier Collected at Sydney,

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22 March.

Advantages of
the location
at Sydney.

under the immediate Eye of Government, than it would be elsewhere; whilst by placing the Distillery at Sydney, the encouragement to the farmers settled equidistant with those of the Hawkesbury and Nepean in the New Districts of Airds, Appin, Bringley &c. would operate in a fair manner in regard to those places, and also most powerfully on the former to seek secure places for Cultivation, so as to enable them to enter into competition with the latter in a common Market, where the purchaser would only look to the combined circumstances of Quality and price without considering what increased expence and risk the farmers on the former had to contend with.

Preferential
duty in favour
of local spirits.

As a new Undertaking, I am inclined to think it would be advisable to reduce the Excise or Duty to be paid on the home production to 5s. per Gallon, and to advance that on imported Spirits at 10s. In making this suggestion I do not apprehend that the Revenue would ultimately suffer, whilst the difference would certainly operate in the first instance as a very great Bounty in favour of the Colonial production, and I entertain no doubt that even under the increased Duty, Foreign Spirits would be imported, and could be afforded considerably cheaper than those produced here for a Year or two at least; so soon however as our own Spirits could be produced sufficiently cheap to exclude foreign, the Duty might be advanced on both, still keeping up the proportion on the latter, but at the same time improving the Revenue from the former up to a reasonable Amount.

Magisterial
approval of
a distillery.

Such My Lord are the reasons and Arguments I am enabled from my own observation to adduce in favour of this Measure, and I am supported in my opinions by the Sense of all the Magistrates of the Colony to whom I submitted a Series of Queries on the subject. They unanimously agree in declaring it to be a Measure most highly desirable for the encouragement of Agriculture, the Security of the Country against the risk of insufficient supplies of Grain, the improving the morals of the People, and the preserving their Health.

Proposed
limitation of
distilling by
maximum
price of grain.

I omitted to state in its proper place that in the event of Your Lordship authorising this Measure, it would be incumbent on the Government to establish a Maximum Price for Grain, so far as it would regard the Consumption by Distillation. With this View of its expediency, I conceive that whenever the price of Wheat should rise beyond 12s. per bushel (the other Grains observing a due Ratio) in the Sydney Market, then Government should interpose and prevent the Distillation from proceeding.

Adverting to that part of Your Lordship's Dispatch, wherein you desire to be informed of the Regulations in detail under which

I would propose the Establishment of a Distillery, and to Collect the Duties, and prevent the evils which without Regulation it would give rise to.

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22 March.

The Regulations, which should be adopted for the important purposes mentioned by Your Lordship, should be certainly as efficient as possible, but to give a precise description, of what they should actually consist in, is more than my present information will enable me to do. My Idea is, that the Revenue should be raised on a calculation arising out of the Combined circumstances of the measure or solid Contents of the Still, and the Proof or Strength of the Spirits produced, with the additional Consideration of the Number of Times it could be wrought in any Specific given period; whereby a Weekly, Monthly, or Annual Composition of the Duty might be made; and not by the Quantity said to be wrought off, as in the latter case it would be the Interest of the Distiller to Under-rate the quantity made, in order to avoid the Duty, whilst the means of detecting the fraud might be difficult to come at. I believe the Distillers in Great Britain and Ireland pay Duty according to the combined Ratio of the Capacity of the Stills and the Strength of the Spirits in the manner I propose here, and hence it becomes at their own risk and loss if they neglect to employ their time as fully as the calculation will require. It would however be discouraging and consequently impolitic to strain the Amount of Duties by the gauge of the Still to the utmost extent of its Capability, if wrought with the greatest degree of attention. Allowances should be made for the Various Accidents to which the Machinery of such an Undertaking would be liable in every place, but greater Allowances should be in justice made here than perhaps anywhere else, owing to the greater difficulty of getting repairs effected. However altho' this is the mode which I have considered most practicable and efficient for the Collecting the Revenue, I am not prepared to say it is absolutely the best, indeed I am not aware of what other plans have been adopted for the purpose.

Proposed
regulations for
the distillery.

If the Establishment of the Distillery should obtain Your Lordship's Sanction, I would solicit Your Lordship to transmit me those Regulations which have been found best calculated in the British and Irish Distilleries at once to secure the Revenue and to relieve the Distiller from a too frequent intrusion of the Excise Officer, who is at home found to be frequently corrupt, and thence to be a Weighty Tax himself on the Distiller.

Request
for copies
of British
regulations.

As the Secrets of Distillation must be fully known to the Supervisors or Guagers, who are entrusted with the Collection of the Revenue arising from the Distilleries, it would be

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Collector of
revenue to be
appointed in
England.

indispensably necessary that an honest intelligent Person in this Line should be sent out on a liberal Salary, or with allowances sufficient to prevent his resorting of *Necessity* to fraudulent means in Combination with the Distiller to the prejudice of the Revenue. I am sorry, My Lord, I am not enabled from any knowledge of the business of Distillation to submit a regular Code for the Conduct of it in this Country; but I suppose the Regulations from home, such as I have alluded to, might be rendered here with due Regard to local circumstances, fully adequate to the protection of the Revenue and the guarding against the Evils to which such a System is particularly liable.

Proposed
establishment
of a brewery.

In addition to distilled Spirit of good Quality which would be hereby produced, I have no doubt a considerable Quantity of good Beer would also be made to the exclusion of a very destructive beverage produced from Peaches, called Cyder, and a very inferior Quality of Beer now made from Maize or Indian Corn. The Hops this Country produces being of a Quality little, if at all, inferior to those of Kent, I would expect very shortly to see Ale and Beer of sound and good quality made in sufficiency not only for the Consumption of the Colony itself, but also as an Article of Supply, which would be eagerly sought after by the Shipping frequenting this Harbour, and even at no very distant day that it would be favourably received in the Indian Market.

Such, My Lord, are the advantages which I anticipate to result in the first instance from the Establishment of a Distillery; I conceive several others of Minor consideration would also be produced, and finally I am not able to discover what mischief or inconvenience could possibly result from it, either to the Public or the Crown. The general opinion here is, on the Contrary, decidedly in favour of the Measure as opening a field for Industry and the exertion of Capital by securing an encreased Demand for produce.

I have, &c.,
L. MACQUARIE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

26 March.

Recommendation of
S. Abrams as
a settler.

Sir, Downing Street, 26th March, 1817.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Mr. Samuel Abrams, to proceed to New South Wales as a Free Settler, and I am to desire that you will make to him a Grant of Land in proportion to the Amount of Property which he may be able to employ in the Cultivation of it.

I am, &c.,
HENRY GOULBURN.

* Note 22.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lord Eldon; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

1817.
28 March.

Sir, Downing Street, 28th March, 1817.

Lord Bathurst having given permission to Mr. Thomas Florance to proceed as a Settler to New South Wales, I am directed by his Lordship to desire that upon his arrival, he being the Bearer of this Letter, you will make to him a Grant of Land in proportion to the Means which he may possess of bringing it into Cultivation, and extend to him the Indulgences granted to Settlers of his Class.

Recommendation of T. Florance as a settler.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 2 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 29th October, 1818.)

My Lord, Sydney, N. S. Wales, 29th March, 1817.

29 March.

The observation and experience of the few Months, intervening betwixt my taking Charge of this Government and the first opportunity that occurred for my making an Official communication to His Majesty's Ministers, exposed so clearly to My View the very distressed situation of this Colony by means of its not having an adequate circulating Medium of legal or real Value, that I was induced, in my Dispatch of the 12th of March, 1810, to make a representation thereon to Lord Castlereagh, then His Majesty's Principal Secretary of State for the Colonies, and in a subsequent Dispatch of the same Year dated the 27th October, addressed to Lord Liverpool, who was then at the Head of the Colonial Department, I made a further Communication on the same subject.

Former despatches on the want of a proper circulating medium.

In both these communications I took the liberty to suggest the Establishment of a Colonial Government Bank as what appeared to me the most easy and at the same time the most effectual remedy for the evil complained of. The plan, I hinted at, I considered would be least objectionable on the score of expence to Government and most likely to obtain the fullest degree of Confidence with the Public. It was suggested to me and strongly recommended by Lord Caledon, whom I had the honor to see in the Government of the Cape of Good Hope on my way hither, and to whom I feel much indebted for the information He was so good as to give Me on the subject of the Bank, His Lordship had some time previous Established at the Cape.

Former proposal for establishment of a government bank.

Your Lordship's predecessors in Office did not however deem it expedient to authorize the adoption of the Measure here, and it was of course dropped by me.

1817.
29 March.
Difficulties
caused by the
want of specie.

The many serious difficulties and actual Distresses, sustained by the deficiency of an adequate Circulation of legal Money (altho' in some measure relieved by the introduction of 40,000 Dollars* ordered hither by Lord Liverpool in the latter end of 1812), have still continued to be subjects of much regret with me, as they have evidently tended to check in a very great Degree the industry, and to repress the progress towards wealth, of the more Active and enterprizing part of the Society.

Regulation of
the issue of
promissory
notes.

Finding it was not in my power to strike effectually at the root of the evil by the Establishment of a Government Bank in the manner I had proposed, my next efforts were directed to the rendering the existing System of Paper Circulation as little irksome as possible to the Public. With this view I consulted with and obtained the legal opinion of the late Judge Advocate Bent, who did not at that time study to render his own Official Duties nugatory for the purpose of drawing the imputation of inefficiency if possible on my Government, as was afterwards the case.

Practices
adopted in
the issue of
promissory
notes.

The advice, Mr. Bent gave, perfectly coincided with my own private opinion, and on the 30th of June, 1810, I issued a strong Proclamation,† framed by Him, as my Law Adviser, strictly prohibiting under severe penalties the further issue of Notes of Hand, other than such as expressed in specific terms, *payable in Sterling Money* only, wherein our Mutual object was to check the destructive issue of what was termed *Currency Notes*, the nature of which was such that the depreciation in the relative Value, when in comparison with Sterling Money, actually became the Chief source of profit and advantage (however extraordinary such circumstances may appear) to the Issuers of those Notes. To exemplify this Paradoxical position to Your Lordship I shall make a Case, such as occurred daily. A issues his Currency Notes for a sum expressed payable, say at 25 per Cent. Discount (which in other Words is he issues £125 of his Notes, for which he receives value in property to the Amount of £100 Sterling, and promises payment on Demand £100 Sterling), and, according to the degree of his address or Cunning, he is enabled to send abroad in a short time a large Quantity of his Notes, frequently to the Amount of several hundreds, and sometimes even to the Amount of some thousands of pounds. As soon as these Notes get into a very general circulation, enquiry begins to be made about the Validity of the Issuer, and alarm being excited the holders hasten to demand payment. A complains that his secret enemies have conspired to depreciate his Notes in order to ruin him, and professes himself totally unable on the emergency to pay agreeably to his promise. The course of redress by Law having been, as your Lordship is already aware, much obstructed and

* Note 53. † Note 54.

by various Circumstances rendered almost unattainable for some Years past in this Colony, the Creditors retire, and determine rather to meet the first loss, than to seek recovery of the whole by an Appeal to the Courts of Justice; and each from one circumstance or other prefers negotiating the Notes so held by him at an encreased Discount, amounting not unfrequently to the various sums of 50, 75, and even 100 Per Cent.

1817.
29 March.

Practices adopted in the issue of promissory notes.

When the depreciation has thus attained its lowest level, then A, by his private Agent, purchases up the Notes, so depreciated, frequently at the rate of 175 or £200 for £100 Sterling, whereby on the Original issue, He makes, at the expence of the Public, a profit equal to 50 or 75 P'r Cent.

Thus have I endeavoured to explain to your Lordship that the Depreciation of Personal Credit is made the Actual source of real profit to the same person at the expence of the public and to the total ruin frequently of the unwary Creditors.

The Proclamation issued by me, on that occasion, was followed up by certain Government Orders, which, by the advice of Mr. Bent, I also gave out; and a degree of advantage was evidently derived from the Measures in as much as some persons of greater regard to Character then Commenced the issue of Notes; this however did not last long, for unfortunately for the colony, Mr. Bent (whose pecuniary embarrassments were great) became himself interested in the system of Colonial Currency, and connected himself with others, still more deeply concerned in it; and thus the measure, which He had himself advised and even framed the Proclamation for effecting, became by his Connivance a Dead Letter.

Temporary improvement of the currency.

Effect of Ellis Bent's participation in the issue of notes.

Since Mr. Bent's Death, I have learned, with much regret and astonishment, that He had latterly admitted Actions to be brought into Court, when he presided, for the recovery of the Amount of Notes of Hand, which had been actually drawn for *Currency* instead of Sterling Value, in defiance of the Proclamation alluded to, and which by the terms thereof were rendered illegal and irrecoverable. By these Means, the Old and base System of fraud, as exercised in the issue of *Currency Notes*, returned upon the Country, and at the time of Mr. Judge Advocate Wylde's Arrival it was overflowing with the Currency circulation, which by Means of Mr. Bent's irregular and inconsistent Conduct had again grown into use.

Irregularities permitted by Ellis Bent.

I have entered thus far into the detail of the history of the Colonial Currency, and brought it down Nearly to the present period, in order to shew Your Lordship by what means my efforts have been in the first instance frustrated in endeavouring to obtain a fair and just Medium of Circulation to meet the

Reasons for failure of Macquarie's efforts.

1817.
29 March.

exigencies of the Country in lieu of a Sterling Circulation of Gold and Silver Coin, and in the second to point at the difficulties to which I and Mr. Judge Advocate Wylde have been subjected in consequence. These I have now to bring before Your Lordship.

Consequences of
Ellis Bent's
irregular
conduct.

The innovation, which Mr. Bent had connived at in regard to Admitting Actions to be brought in the Court, over which He presided, on illegally drawn Notes, having defeated the measure aimed at in my Proclamation and subsequent Orders, it was early remarked, with equal Surprize and astonishment by the present Judge Advocate, that Actions to an immense Amount were then bringing before *him* for adjudication, in actual Contravention of the Proclamation and Orders alluded to. The Mass of Property thus at stake, and which must have been inevitably lost to those who held the illegally issued Notes, if the injunctions of the Proclamation were to be rigidly enforced, rendered it necessary that some expedient should be resorted to in order to relieve the Public from the loss which would have been sustained had the Suits or Actions been totally rejected. Upon serious and mature deliberation, I acceded to the suggestion of the Judge Advocate to suspend the operation of the Proclamation alluded to for a certain limited period, in order that the public Creditors should have an opportunity of recovering against the fraudulent Issuers of the Notes in question, and at the same time extended an Amnesty for the past to all concerned. This purpose was effected by a Proclamation which I issued on the 23rd of November, 1816, a Copy whereof is now transmitted for Your Lordship's information. Since which, No Notes have been issued but of Sterling Denomination and Value, and the future issue of a depreciated Value and Denomination is hereby prevented from taking place. But in effecting the destruction of the serious and weighty evil complained of, I have now to inform your Lordship that another of no inconsiderable importance has been created, producing a temporary embarrassment of no slight consideration. Having observed that the chief inducement under the Old System with the issuers of the Currency Notes arose out of the eventual depreciation of their Value, by such means as I have endeavoured to explain to Your Lordship, and these Motives being completely removed by the requiring that All Notes should in future be issued for and payable as Sterling Money only, the consequence has been that very few Notes have been issued at all whereby much inconvenience has arisen to All ranks of people, but particularly to the lower orders, who cannot obtain a sufficiency of Money of Sterling Value to enable them to effect their necessary purchases.

Suspension
of previous
proclamation
for limited
period.

Effects of
sterling
standard on
the circulation
of notes.

The temporary embarrassment thus induced could not but be anticipated, and in order to obtain the collective sense and advice of the more sensible and respectable part of the community on the means of averting the apprehended inconvenience, I authorized the Call of a Public Meeting* for the several objects of consulting on and suggesting a Scale of prices for Labour and Wages according to the Sole Standard of a Sterling Value and Denomination, and also to devise (if practicable) some adequate means of rendering the apprehended inconvenience as little oppressive as possible. Some useful information, in regard to the mode of accomodating the prices of Labour and Wages to the Sterling Standard, was obtained from this Meeting, altho' nothing was done at it to relieve the principal difficulty.

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29 March.

Public meeting
to consider
financial
problems.

Feeling much for the temporary embarrassment to which the Sterling Standard exposed the Middle and lower Classes, I held frequent consultations with the Judge Advocate, to whose zealous and energetic efforts I am much indebted on the occasion, and the result of these was that a Meeting† of the Magistrates, Principal Merchants, and Gentlemen of Sydney, was convened, at which my favorite Measure of a Bank was brought forward, and its expediency enforced with much ability by the Judge Advocate and a few other Gentlemen. The Measure being brought forward at a time, when its benefits stared every Man so completely in the face as the only means whereby the Public Distress could be fully averted, it was embraced by the Meeting at large, and resolutions were entered into for the purpose of establishing a Colonial Subscription Bank. Other Meetings have since taken place in order to mature the system previously agreed on, and altho' there has been much opposition to the measure especially from those who felt interested in the Old System, I have now the inexpressible Satisfaction of informing Your Lordship that by the indefatigable exertions of a few Gentlemen, truly and liberally interested for the Public Benefit (among whom I must class foremost Mr. Judge Advocate Wylde, Mr. Secretary Campbell, Thos. Wylde, Esquire, Senior, and Sir John Jamison) the plan of a Subscription Bank with a Capital of £20,000, divided into £100 Shares, has been so far advanced that at this time it is expected the Bank will be opened for the usual purposes of Loan, Discount, and Deposit, on or about the 8th day of April next, under the Management of Seven Directors, one of whom is termed the President of the Bank. When I state the capital of the Bank at £20,000, I do not mean to have it understood that that Sum has been actually subscribed, but merely to let Your Lordship know that this Sum is what has been Calculated sufficient for the desired purposes, and that Shares are open to that extent. Those

Meeting to
consider the
formation of
a bank.

Decision to
establish a
colonial bank.

Plan for
formation
of a bank.

* Note 55. † Note 56.

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29 March.
Advantages
to be derived
from the bank.

Macquarie's
approval of
the plan.

Charter granted
to the Bank of
N.S.W.

Election of
J. T. Campbell
as president
of the bank.

Proposed
participation
of government
in the bank.

Rules and
regulations
of the bank.

already subscribed for Amount to £7,000, with which it is hoped that a very great relief will be afforded in the present emergency by the issue of Bank Notes, and I entertain the most sanguine hopes that the further grand Desideratum of a Public Credit will be effected both at home and abroad in behalf of this place, which has heretofore languish'd from the very circumstance of the degrading and degraded Circulation of a Colonial Currency. After having expressed my approbation so fully of this Measure, I need scarcely add that I have encouraged, as far as in my power, the efforts which have been made for its final and legal Establishment, Fully impressed with the utility and beneficial consequences of the establishment of a Bank on the terms proposed; and, at the same time feeling the necessity for its obtaining a legal sanction and authority, I have had no hesitation in granting a Charter of Incorporation to the Proprietors in the Name of the President, Directors and Company of the Bank of New South Wales, granting to them the usual rights and privileges of a corporation for the Term of Seven Years, provided the same shall meet, on this reference being made to Your Lordship, the approbation of His Royal Highness The Prince Regent.

The Gentleman, who has been unanimously Elected by the Proprietors to fill the situation of President of the Bank, is Mr. Campbell, My Secretary, whom I have already expressed my good opinion of in my Dispatch No. 4 of 1815, dated 24th March, 1815, to your Lordship. Mr. C., who had been for some Years employed in various Departments of the Bank of Ireland, and had a principal part in the Establishment and conduct of the Bank at the Cape of Good Hope, is peculiarly well calculated to conduct the affairs of the Bank with the fullest advantage to the proprietors and to the satisfaction of the Public, and is likely to uphold the Credit and Respectability of the Establishment by the possession of a character of Strict Integrity, Honour, and Superior talents.

I do not my Lord at this time advise or recommend His Majesty's Government to sanction or direct this Government to become associated with the Proprietors in the capital of the Bank, as is the Case in the Bank of Bengal and in that of Mauritius; but I would certainly advise that, in the event of the Bank being conducted for a year or two with discretion and success, that this Government should either become a party in it, or that it should at least make it the Depository and Medium of all Government Monies and payments.

I do myself the honor to transmit Your Lordship herewith a Copy of the Rules and Regulations entered into by the Subscribers to the Bank, which form the Ground Work whereon I have granted the Charter, A Copy whereof also Accompanies this

dispatch. The Memorial of the Directors, bearing Date the 12th of February, is attached to the Rules and regulations and the charter is dated on the same Day. In consequence of finding much difficulty to obtain Subscribers to the Bank, unless the rate of Interest to be charged therein should be advanced from 8 to 10 per Cent., and being aware of the profits of Trade being perfectly adequate to the bearing that advance or indeed a Much greater, I have granted permission accordingly in the Charter for the Charge of 10 Per Cent. being therein made on Loans and Bills Discounted.

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29 March.

Legal rate
of interest.

As throughout the previous measures and consultations on the expediency of the Bank Establishment, I have already acknowledged much obligation to Mr. Judge Advocate Wylde for his intelligent and zealous Co-operation, so have I now to add, my being much and altogether indebted to him for the form of the Charter, which I believe will be found to reflect much Credit on His legal knowledge and experience.

Assistance
given by
Judge-advocate
Wylde.

If this Establishment, from which I augur more real benefit to arise to this Colony than from any other Public Measure which has ever taken place in it, should be viewed in the same Light by Your Lordship, I would earnestly entreat that Your Lordship would solicit, and procure for it, a charter from His Royal Highness the Prince Regent, in terms of that which I have ventured to grant, if it should be considered (which however the Judge Advocate and Judge of the Supreme Court do not question) that I have overstepped the just bounds of My Authority therein. In soliciting a Charter from His Royal Highness the Prince Regent if it should be deemed necessary on the ground of my not being legally Competent to make it, I must solicit Your Lordship's kind extenuation of my error, as arising from the full conviction of my own judgment and the nature of my commission that I am possessed of the right, and that from my being supported in this opinion by the Legal Opinions of both Mr. Judge Advocate Wylde and Mr. Justice Field, and further that I have been led into the exercise of this Authority by the sole motive that the Establishment so formed will be productive of incalculable benefit to the Mercantile and Agricultural Interests of the Colony, and will redound to its future Credit, and form an Era in its true respectability which will hereafter be looked back to with Public Gratitude, and be eventually the means of relieving the Mother Country from a great proportion of the weighty expence which it has at present to bear, in consequence of the hitherto relatively depressed energies of this Colony. Again Soliciting Your Lordship's favorable consideration to the Bank of New South Wales,

Proposed
royal charter
for the bank.

Anticipated
advantages
to be derived
from the bank.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

1817.
29 March.Proclamation
relating to
the issue of
promissory
notes.

PROCLAMATION.

By His Excellency Lachlan Macquarie, Esquire, etc., etc.
WHEREAS it has ever been an Object of Consideration with Government to establish in this Colony and its Dependencies, as soon as Expediency might permit, a Circulation only of Sterling legal Currency and Value.

And Whereas with this View public Proclamations and General Orders have at different times been made and published forbidding any Currency within the same at any Rate but of Sterling legal Value, and further Ordering and declaring that no Promissory Note or Notes for the Payment of any Sum or Sums of Money should be good or valid in Law for the Recovery of the Amounts therein specified, but such as were drawn for a Sum or Sums of Sterling Amount and Value.

And Whereas to prevent and restrain the Circulation of any other or Colonial Currency, and to render effectual the above Measures and Purpose, all and every Person and Persons whatever were forbidden and prohibited on any pretence to issue or cause to be issued, or to Negotiate, or to receive in Payment any Promissory Note or Notes for the Payment of any Sum or Sums of Money in Currency directly or indirectly, expressing the Rate of exchange or relative Value between the Sum or Sums payable by the same Note or Notes and Sterling Money or any Government or Public Bills or Notes whatever.

And Whereas it has been represented and made known that the said Proclamations and Orders have not been duly observed, kept, and regarded; but that the same have been unwarily, incautiously, and negligently infringed upon, disregarded, and violated, whereby great and serious Mischiefs, losses, inconveniences, and penalties may arise and be incurred.

And Whereas to put an End to the Evils and Mischiefs of a Colonial Currency from Continual Fluctuation in real Value, by unlawful combinations in that respect or otherwise, it now seems expedient to authorise and permit the Circulation of Sterling Money, or Promissory Note or Notes for the Payment of the same in Sterling Value and amount only.

It is therefore ordered and declared, upon the Authority aforesaid, that all and every Person or Persons whatsoever, who shall have in anywise infringed upon, disregarded, or Violated any Proclamation or Public Order with regard to the matter aforesaid, shall stand, and be, and are hereby indemnified, free, and acquitted with regard to the same; and shall have, possess, and enjoy all the Rights, Privileges and Claims, both at Law and

in Equity, as if the Proclamations and Orders aforesaid had never been given made and published.

It is hereby further also Ordered and Declared by the Authority aforesaid that, from and after this 23rd day of November Instant, it shall not be lawful for any Person or Persons whomsoever to issue, or cause or procure to be issued, or to negotiate or to cause or procure to be negotiated, or assist in Negotiating or passing, or to receive in Payment any Promissory Note for the Payment of any Sum or Sums of Money, which does not in some part of the said Note, in direct and Certain Words, express and declare that the Amount thereof is to be paid in Sterling Money or Value.

And it is hereby further also Ordered and Declared by the Authority aforesaid that any Person or Persons whosoever issuing, or causing or procuring to be issued, any Promissory Note for the Payment of any Sum or Sums of Money to or for any Amount of less or other than Sterling Value, so to be expressed and declared in some part of the said Note, from and after this said 23rd Day of November Instant, shall, upon Conviction thereof before any Two of His Majesty's Justices of the Peace, forfeit and Pay to any Person giving Information of the same, treble the Nominal Sum Secured or made payable by such Note so unlawfully issued, Negotiated, or received in Payment, together with all Costs incurred in recovering the same, to be assessed by the said Justice before whom this Conviction shall be had; The said sum so forfeited, together with the Costs in Default of Payment thereof to the said Justices or one of them, within three Days after Notice of such Conviction, to be recovered by Distress and sale of the Offender's Goods and Chattels, or the Offender to be imprisoned in some one of His Majesty's Gaols in this Territory until the same be paid.

Given under my Hand at Government House, Parramatta,
this twenty third Day of November in the Year of our
Lord 1816. LACHLAN MACQUARIE.

By Command of His Excellency,

J. T. CAMPBELL, Secretary.

God save the King!

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 2.]

THE CHARTER OF THE BANK OF NEW SOUTH WALES.

GEORGE THE THIRD, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To all, to whom these Presents shall come, Greeting. WHEREAS His Majesty's Subjects, trading to and residing in the Colony of New South Wales and its Dependencies, lie under great difficulties for

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want of a due Supply of Money and an improved, certain and increased Circulating Medium within the same; AND WHEREAS it is expedient that those difficulties should be removed, and the same will be removed in a great degree by the Establishment of a Colonial Bank upon a Funded Joint Stock Capital, and under certain Laws, Liberties, Provisions, and Regulations in that respect, Now Know Ye that I, Lachlan Macquarie, Esquire, Captain General and Commander in Chief in and over His said Majesty's Territory of New South Wales and its Dependencies aforesaid, by Virtue of, and as far as the Powers and Authorities so vested in me extend, in consideration of the Premises and of the Memorial and Petition of John Thomas Campbell, D'Arcy Wentworth, Alexander Riley, Thomas Wylde, John Harris, William Redfern, and Robert Jenkins, Esquires, for and on the behalf of themselves and other the Subscribers for the raising of a Fund for establishing a Bank in Sydney in the said Territory, to be called or denominated "*The Bank of New South Wales*," praying me as such Governor, as aforesaid, to Give, Grant, Ordain, and Permit to and on behalf of themselves and other the Subscribers to and Proprietors in the said Bank Stock certain rights, Immunities, and Privileges, so as to indemnify and secure them, and other the said Subscribers to the said Bank, their Heirs, Successors, and Assigns against all risque or liability beyond the Amount of the Shares, so respectively taken by each, of and in the said Capital Stock of the said Bank, *Have* thought fit to give, grant, ordain, and permit, and, by these Presents, Do for Myself and Successors, Will, give, Grant, Ordain and Permit that the said John Thomas Campbell, D'Arcy Wentworth, Alexander Riley, Thomas Wylde, John Harris, William Redfern and Robert Jenkins, Esquires, and all other the Subscribers, Contributors to, and Proprietors in and of the Fund, hereby and in that respect authorized to be raised, and for the purposes hereby and herein now declared, limited and set forth, shall and may, and the said John Thomas Campbell, D'Arcy Wentworth, Alexander Riley, Thomas Wylde, John Harris, William Redfern, and Robert Jenkins, and other the Subscribers and Proprietors as aforesaid, Are hereby Authorized and permitted to raise Constitute and Establish at Sydney in this Territory A Bank to be denominated "*The Bank of New South Wales*" for the General and customary uses and purposes of deposit, Loan, and Discount, charging and claiming in respect thereof no higher Rate than Ten per Cent. per Annum, on a Fund and Capital Stock of Twenty Thousand Pounds Sterling to be Collected, Raised, and Funded, in and by Two Hundred Shares or Subscriptions of One Hundred Pounds each, in respect of the said Capital

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the Bank of
New South
Wales.

Stock, Certificates whereof under the Signatures of three or more of the Directors to be appointed as hereinafter mentioned, shall be duly made and granted, and become and be transferable by indorsement or otherwise, Provided the same be registered in the Bank Books to be kept for that purpose. *And I do further Will, Ordain, Grant, Appoint, and declare, by and according to the Authority aforesaid, that the Subscribers to and the Proprietors of the said Shares in the said Stock or Capital of the said Bank, their Executors, Administrators, and Assigns, shall be and they are hereby henceforth, for and until the Term of Seven Years next after the date of these presents, be fully compleat and ended, Created, Constituted, Erected into, and are a Body Corporate and Joint Stock Company by the Name and Title of "The President and Company of the Bank of New South Wales," with transferable Stock, and with Succession and a common Seal, and with all such Powers, Rights, Capacities, Immunities, and privileges, as are usually granted and given and in any respect belong or are incident thereto. And I do further Will, Ordain, direct, and declare that the said Bank shall be managed and conducted by Seven of the Proprietors thereof, to be called Directors (One of the same Directors being Nominated and appointed President of the Board of Directors and Chairman of all Meetings of the said Proprietors), to be Elected and Appointed once in every Year by Ballot at a General Meeting of the said Proprietors, to be Convened for that purpose, or as is herein after in that respect ordered and Set forth. And the said Seven Directors so elected and appointed, or a Board of any four of them (The President or a Director as his Deputy to be so by him appointed being one), shall and may, and are hereby authorized and empowered, after being duly and respectively sworn before the Judge Advocate or other Magistrate of the Territory to a faithful discharge of the Trust reposed in them to manage, represent, Conduct, and regulate the said Body-Corporate and Joint-Stock Company of the said Bank, to make Calls and enforce Payment of the Subscriptions thereto in such Sums and proportions in respect of the Shares respectively taken in the Stock of the said Bank, to issue Notes for and on the behalf and on the Account of the said Bank, payable on Demand or otherwise, to Order, make and declare from time to time such Dividend or Dividends and the rate or rates thereof upon the actual Profits of the said Bank during the Periods for which such Dividend or Dividends shall be made, to Nominate and appoint such Officers, Clerks, or Servants to and of the said Bank, and to make such Bye-Laws, Rules, and Regulations for the Management and carrying on of the Business concerns and affairs of the said Bank and for the*

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Wales.

Conduct, Guidance and Control of the Officers and Clerks thereof, as may appear to and be determined by them in the said respects or any or either of them expedient and necessary. PROVIDED that such rules, Bye-Laws, and regulations be not repugnant and Contrary to these Presents or the Principles on which the said Bank is Constituted, and be approved and Confirmed by the General Proprietors at the next General Meeting. AND PROVIDED ALSO that each of the said Seven Directors, so appointed on the part of and by the said Proprietors, reside during the said Office in the Town of Sydney, or within Two Miles of the same, and be and are absolutely and Unconditionally Free. AND I do further Will, Ordain, direct, and declare that Two of the said Seven Directors, so first appointed by the Proprietors of the said Bank, shall go out of Office at the expiration of One Year from their said appointment by Lot, and two other of the remaining Five, so first appointed Directors, at the expiration of the Second Year in the like Manner, but afterwards Annually by rotation of Seniority; and that the said Directors so going out by Lot or rotation shall be re-eligible to be re-elected by the said Proprietors, and if duly elected or such other Proprietors, as shall then be duly elected and appointed, shall become and be the Junior Directors of the said Bank; And that the said Proprietors of the said Bank shall be at liberty, and are hereby Authorized, to remove the said President or any other of the Seven Directors by a Plurality of Votes, every Proprietor of One Share in the said Capital Stock for the first Six Months from the date of the Presents, and afterwards every Proprietor of One Share for Three Months previously at the least, except the same be acquired by inheritance or Bequest, being entitled to give on this and every other Question, resolution and Proceeding at or before any Public Meeting of the Proprietors in respect of One Share, one Vote, Two Shares, two Votes, Four Shares, three Votes, Seven Shares, four Votes, and Ten Shares or more Five Votes, for any Misconduct or any other Justifiable cause in the Discretion of the said Proprietors at any time during the Period of his or their Appointment, and to call a Public Meeting of the Proprietors in that respect or upon and in respect of any other cause Circumstance or account, that to them or any Ten of them shall seem meet and expedient so to do upon Ten days Notice thereof in the *Sydney Gazette* or other Newspaper Published at Sydney. AND THAT in the Event of the Death, removal, or resignation of the said President or any one of the other Directors. A general Meeting of the Proprietors shall be Convened and take place within Twenty one days after such Death, removal or resignation, Notice thereof to be advertized once at least in the

said *Sydney Gazette* or other Newspaper published at Sydney, and a Successor be then and there elected and appointed, in Manner as aforesaid, to Act as a Director for such Period of the Year as shall at the time of such removal, resignation or Death remain unexpired. And I do further Will, Ordain, direct, and Appoint that the Books and Accounts of the said Bank shall be balanced twice in every Year on the Thirtieth day of June and the thirty first day of December of and in every year, and a statement or report of the Balance so taken and attested by a Majority of the said Directors shall be submitted to the Proprietors at a General Meeting to be convened by Public Notice in the Newspaper within twenty one days after each of the above respective Periods, and that a Copy of the said statement or report, Attested also by the Directors, shall be transmitted within three days after every such General Half Yearly Meeting to Me, the said Governor or My Successor. And that the Proprietors of the said Bank, so constituted as aforesaid, shall not, as a Company and Body Corporate, directly or indirectly Trade, or Suffer any Person in Trust for the said Bank to trade with any of the Effects of the said Company and Body Corporate in the buying or selling of any Merchandize or Goods, except in dealing in Bills of Exchange and buying and selling Bullion or Plate; And that the said Proprietors of the said Bank shall not as a Company and Body Corporate have Power to Purchase or Hold Lands, Tenements, or Hereditaments for the benefit of themselves or their Successors within the Territory or its Dependencies, except so far as the due management of the business of the Bank may require to be taken into and be in the actual Occupation and Use of the said Bank and Company, and to Sell and dispose of Lands, Tenements, and Hereditaments under Mortgages and Forfeitures in respect of Loans and Advances of Money made by the said Proprietors upon Pledge and Security of the same.

IN WITNESS Whereof I have set My Hand and Caused the Great Seal of the Colony to be affixed to these Presents at Sydney, this Twelfth day of February, One Thousand, Eight Hundred and Seventeen.

LACHLAN MACQUARIE.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 3.]

BANK OF NEW SOUTH WALES.

THE following Rules and Regulations for the Conduct and Management of the Bank of New South Wales (when Incorporated by Charter from His Excellency the Governor), framed

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The charter of
the Bank of
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Rules and
regulations of
the Bank of
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Rules and
regulations of
the Bank of
New South
Wales.

Establishment
of the bank.

Capital of
the bank.

Charter.

Business.

Board of
directors.

by a Committee appointed for that purpose, were submitted to a General Meeting of the Subscribers on Friday, the 7th of February, 1817, And Unanimously approved and adopted subject to His Excellency's approbation:—

1. That a Bank shall be established at Sydney in New South Wales, on the _____ Day of _____, to be denominated the Bank of New South Wales, under a Charter to be granted by His Excellency the Governor of the Territory, and thereby shall be incorporated and become a Joint Stock Company for the Term of Seven Years, or such other Term as His Excellency may think fit.

2. That the Bank shall be established on a Capital Stock of £20,000 Sterling, to be divided into 200 Shares of £100 each.

3. That a Power under the Charter shall be solicited and so obtained to any and such amount at any time during the said Term, as His Excellency The Governor may be pleased to sanction and permit.

4. That it shall be lawful for the Proprietors of the said Bank, at any time during the said Term, to surrender the present Charter of Incorporation to His Excellency the Governor, and to accept from him a New Charter instead thereof.

5. That the Bank shall be established for the general and Customary Purposes of Discount, Loan, and Deposit.

6. That the Bank shall be managed by Seven Directors to be appointed separately by Ballot at a General Meeting by the Individual Proprietors of the Bank, and that the said Directors, previously to entering upon their charge, shall be sworn before the Honorable The Judge Advocate of the Territory to a faithful discharge of the Trust reposed in them.

7. That no person shall be eligible as a Director of the said Bank on the part of the Proprietors or Subscribers, who shall not be himself a Proprietor of, or a Subscriber to the Capital Stock of the said Bank, and who shall not reside in the Town of Sydney, or within 2 Miles of the same, and who shall not be absolutely and unconditionally free.

8. That the Directors to be appointed by the Proprietors shall be elected by Ballot at a General Meeting to be held on Friday, the 7th day of February next.

9. That two of the Directors appointed by the Proprietors shall go out annually, and after the Second Year shall go out by rotation.

10. That, at the expiration of the first Year, two of the Seven Directors shall go out by *lot*, and two of the remaining 5 at the expiration of the Second Year in the same manner, but afterwards annually by rotation of Seniority.

11. That the Directors, so going out by lot or rotation, shall be eligible to be re-elected, and shall then be considered as the Junior Directors.

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Rules and regulations of the Bank of New South Wales.

Board of directors.

12. That one of the 7 Directors shall also be appointed by the Proprietors President of the Board of Directors and Chairman of all Meetings of the Proprietors, subject in all respects to the same Regulations as the other Directors, but he may be re-elected President by the other Proprietors so long as he may continue in the Direction.

13. That the Proprietors shall be at liberty to remove the said President or any other of their Directors by Plurality of Votes, for any Misconduct or other justifiable cause at any time during the Period of his or their appointment.

14. That in the event of the Death, removal, or resignation of the President, or any one of the other Directors, a Meeting of the Proprietors shall be called and take place within 21 days after such Death, Removal or resignation, and the said Call shall be advertized at least once in the *Sydney Gazette* or other Newspaper published or to be Published at Sydney, for the purpose of electing a Successor who shall be appointed to Act for the unexpired period for which his Predecessor was to have served.

15. That the Subscribers to the Bank shall be entitled to Votes in all their Meetings according to the Shares they hold, agreeably to the following Scale, Namely—

Voting powers of shareholders.

1 Share shall give	1	Vote
2 Shares	2	Votes
4 Do.	3	Do.
7 Do.	4	Do.
10 Do. and upwards	5	Do.

16. That, after the first Six months, no Person shall be allowed to Vote at any General Meeting of Proprietors, who shall not have possessed and duly registered the Share or Shares on account of which he may Claim the Right to Vote for a Period of 3 Months at the least, except the same be acquired by Inheritance or Bequest.

Qualifications for voting.

17. That at the first Meeting of the Proprietors the list of Subscribers shall be produced by the Secretary to determine the Right of Voting, and at all subsequent Meetings a Similar list shall be produced by the Directors.

18. That Certificates shall be granted under the Signature of three or more Directors, of whom the President shall be one, for the Shares in the Bank, and such Shares shall be transferable by indorsement provided the Transfer be Notified and Registered in the Bank Books.

Share certificates.

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Rules and regulations of the Bank of New South Wales.

Meetings of directors.

Provision for absence of president.

Directors to take charge in turn.

Officers to be appointed.

Balance-sheet to be prepared half-yearly.

Dividends.

19. That the Directors shall be competent to make such Bye-Laws or Rules for the Management of the Business of the Bank and for the Conduct of their Officers, as may appear to them necessary, provided that such Rules or Bye-Laws be not repugnant to the principles on which the Bank is constituted, and subject to the approbation of the next General Meeting.

20. That three Directors at least, together with the President, shall be necessary to form a Board of Directors, and in case of an equal Division of Votes of the Directors present, the President shall have a casting Vote in addition to his Vote as a Director.

21. That in the event of the absence of the President arising from Sickness or other cause, he shall be allowed to nominate any one of the Directors to preside for him during such absence, and the Acting President shall be competent to exercise all the functions and Rights appertaining to the Situation of President.

22. That the Directors shall establish a Rotation among themselves, by which three of them shall officiate Alternately for one week, for the Dispatch of the Public Business and the General Superintendance of the Bank, and the signature of such Three Directors shall be considered necessary to all accounts, Deeds, Obligations and other Papers of the Bank requiring Attestation.

23. That the President and Directors shall appoint a Secretary and a Cashier and such other Officers as shall be found necessary, but the annual expense of the establishment shall not in the first instance exceed the sum of £600, except with the sanction of the Proprietors to be obtained at a General Meeting.

24. That the Office of Secretary and Cashier shall be held by the same Person, who, previously to receiving charge of it, shall give security for the faithful and due discharge of his Duty.

25. That the Offices of Head Accountant, Clerk of Discount, and Principal Book-keeper to the Bank shall be held by the same Person, subject to the controul of the Directors.

26. That the Books of the Bank shall be balanced every Six months, Vizt, on the 30th Day of June, and 31st day of December of each year; and a Statement of the Balance, attested by the Majority of the Directors, shall at each period be submitted to the Proprietors in a General Half Yearly Meeting, to be convened within 21 days after each of the above respective periods, and that a Copy of the said Statement or Report, attested by the Directors, shall be transmitted in three days after the said General Meeting to His Excellency The Governor.

27. That the first Dividend shall be made on the 1st day of Feby., 1818, and after that date a Dividend shall be made every Six months, Viz., on the first day of February, and the first day of August in each and every Year.

28. That the Rate of the Dividend shall be determined by the Directors upon the ground of the Actual Profits of the Bank during the period for which such Dividend shall be made.

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Rules and regulations of the Bank of New South Wales.

29. That all unclaimed Dividends shall be held in Deposit, payable on Demand, and the Directors shall not be at liberty to appropriate such Dividends to the payment of Demands on the Bank.

30. That the Notes to be issued by the Bank shall be of the following Denominations or Values, and in such proportion as the President and Directors shall from time to time deem expedient. Vizt. 2s. 6d., 5s., 10s., £1 0s. 0d., and £5 0s. 0d., and that no Notes shall be issued of less Value than 2s. 6d., or of more than £5 0s. 0d. Sterling.

Issue of bank notes.

31. That all Notes of the Bank shall be signed by Two of the Directors of the week, as well as by the Cashier, and Counter-signed by the Principal Book-Keeper as being entered in the Books of the Bank.

32. That the following General Rules shall be observed by the Directors themselves in the Conduct of the Bank, as nearly as Circumstances will permit.

33. That they shall not discount Bills of Exchange, Notes of Hand, or other Negotiable Securities, having a longer term than three Months to run and that Bills of Exchange, Notes of Hand, or other Negotiable Securities, having only Two months to run, shall have a preference to those of longer date, where they may be in other respects deemed equally good. The Discount or Interest to be in all cases deducted in the first instance.

Discount.

34. That they shall not make Loans or Mortgages of Landed Property for a longer period than Twelve months.

Loans on landed property.

35. That the amount to be advanced in Loan, either on Land or on Land and Houses, shall not in the whole exceed the Proportion of one-fifth of the Actual Bank Capital.

36. That advances shall be made on Deposits of Bullion or Plate for terms not exceeding Nine months, and that a Note of Hand shall be given for the sum to be advanced, in addition to the Security by the Deposit of the said Bullion or Plate, and that no advance on Bullion or Plate shall be made to an Amount exceeding one half of their estimated value.

Advances on bullion or plate.

37. That the Directors may receive Deposits of Bullion or Plate or such Articles of Value, as will not require much room, and may be easily Kept in a place of Security, such Deposits to be restored on Demand to the Proprietor or Proprietors.

Property received for safe custody.

38. That they shall not charge Interest or Discount Bills at a higher rate of Interest than Ten per Cent. per Annum.

Rate of interest.

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Rules and regulations of the Bank of New South Wales.

39. That they shall not make any Advances on Loan to any Individual or Company for a greater Amount at any time than £500 Sterling.

40. That they shall not Grant any Loans on the Deposit of Bank Stock Certificates.

41. That no Interest shall be paid on Deposits, unless by special Agreement at the time of such Deposits being made, and that the Person depositing money shall engage not to call for the same or any part of it without giving them three full months notice thereof. And the Directors are not to allow more than 8 pr. Cent. to be paid on any Deposits whatever.

42. That the Directors shall not contract Debts on account of the Bank or the Company of the Proprietors by Bond, Bill, Note, or otherwise, unless by the special authority of a Public Meeting of the Proprietors convened for that purpose.

43. That the Directors shall receive Deposits of Cash, and keep running Accounts with Merchants and other Individuals, but they shall not at any time suffer the said Accounts to be overdrawn.

44. That Persons possessing Store Receipts or Government Bills on the Treasury may receive the Notes of the Bank in exchange for them without any charge or reduction, the said Store Receipts and Bills on the Treasury being deemed to all intents and purposes Cash, or they may Deposit such Receipts or Bills as Cash, and keep a running Account thereon, subject to the same restriction as in the preceding Regulation.

45. That the Cashier or any other Officer of the Bank shall not pass Drafts to the Debit of Individuals, or pay the same, otherwise than on the authority of the Directors for the day, and should any Draft be paid without such authority, the Cashier shall be dismissed forthwith, and his Salary made answerable for any Loss which may be incurred thereby.

46. That the Officers of the Bank shall not Carry on Trade, nor Act as Agents or Brokers, or engage in any separate Business whatever, but shall confine themselves strictly to their Duty as Officers of the Bank.

47. That the Bank shall be absolutely and altogether precluded from Trading, but this restriction shall not be considered as preventing the Directors from receiving Bullion or Plate in deposit for Loans, as specified in Article 36, or debar them from making Sale of such Bullion or Plate, when not redeemed by the due Payment of the Loans made thereon.

48. That should the Conduct of a Director, or any transaction of the Bank, or other circumstance appear to any Number of the Proprietors to render a General Meeting necessary or expedient, they shall be at liberty (provided the Number be not less

Fixed deposits.

Powers of directors.

Current accounts.

Store receipts and treasury bills.

Drafts to be debited by order of directors.

Officers forbidden to engage in trade.

Trading by bank prohibited.

Special meetings of proprietors.

than Ten) to summon a General Meeting by the Secretary on giving 10 Days Notice in the *Sydney Gazette* or other Newspaper in Sydney.

1817.
29 March.

Rules and regulations of the Bank of New South Wales.
Provision for increase of capital.

49. That should it be hereafter deemed advisable to increase the Capital Stock of the Bank, the Proprietors shall be allowed to subscribe for said Additional Stock in proportion to the Interest they respectively hold in the Bank at that Time, or to Transfer such right by Sale, Gift, or otherwise, to any other Person; but if they do not avail themselves of such Privilege, then a Public Subscription shall be opened for that Purpose, or in the event of Shares being disposeable at a rate above Par, then and in such Case the said Shares shall be sold to the highest Bidder or Bidders, and the Profits made on such Sale added to the General Profits of the Bank.

50. That in order to provide for the filling up Shares, which may remain unoccupied, Applications in Writing will be received by the Secretary of the Bank, and submitted to the Committee of the Week, and the Parties applying shall be admitted to subscribe in the order in which their applications may be preferred.

Applications for shares.

Sydney, 29th Jany., 1817.

JNO. WYLDE, J.-A., N.S.W., Chairman.	FREDERICK GARLING.
G. MOLLE, Lt.-Governor.	RICHARD JONES.
J. T. CAMPBELL.	J. HARRIS.
ALEXR. RILEY.	JAMES BIRNIE.
THOS. WYLDE.	J. R. O'CONNOR.
GEORGE HOWE.	S. LORD.
EDWD. EAGAR.	JNO. GILL.

At a General Meeting of the Subscribers to the Bank of New South Wales held pursuant to Public requisition on Friday the 7th Instant, John Thomas Campbell, Esquire, being requested to take the chair, the foregoing Fifty Rules and Regulations (prepared by the Committee of Fifteen,* which had been appointed for that purpose) were submitted and read, and being then moved one by one were unanimously carried.

Adoption of the rules by subscribers.

The Subscribers then elected Seven Directors in Conformity with the said Rules and Regulations, and the following Gentlemen, having been ballotted for, by lot were chosen, Vizt:—

Election of directors.

D. Wentworth, John Harris, Robert Jenkins, Thomas Wylde. Alexr. Riley, William Redfern, and John Thomas Campbell, Esquires.

The Meeting then Unanimously Elected John Thomas Campbell, Esquire, President of the Board of Directors, and Adjourned. Sydney, Friday, 7th February, 1817.

Election of president.

* Note 57.

[Enclosure No. 4.]

1817.
29 March.
Memorial of
the president
and directors
of the Bank
of New South
Wales.

THE MEMORIAL of John Thomas Campbell, D'Arcy Wentworth, Alexander Riley, Thomas Wylde, John Harris, William Redfern, and Robert Jenkins, Esquires, for and on the behalf of themselves and other the Subscribers for Raising a Fund for establishing a Bank in Sydney in the said Territory, to be called or denominated "*The Bank of New South Wales.*"

To His Excellency Lachlan Macquarie, Esquire, Captain General, Governor and Commander in Chief in and over His Majesty's Territory of New South Wales and its Dependencies, etc., etc.

Sheweth,

That in Pursuance of Certain Public Resolutions, entered into at a Meeting held on the Twenty second day of November last by Command of Your Excellency to take into consideration the state of the Circulating Medium within the Colony, and what would be the best Means of improving the same, and which have since been submitted to the review of Your Excellency in that respect,

That Your Memorialists have proceeded upon the reasons and considerations stated in the said Resolutions (and to which Your Memorialists would more particularly refer) to establish a Bank at Sydney in New South Wales for the purposes of Discount, Loan, and Deposit, and have provided and agreed upon such laws, Rules, and Regulations, as to Your Memorialists seem best adapted for the General Conduct and Management of the Bank and a due Concern for the Public Interest involved therein.

Your Memorialists deem it incumbent on them to call Your Excellency's attention to the increased Rate of Interest, proposed therein in favour of the Bank, and to advert to the state of the legal Interest of Money within this Territory, established at Eight per Cent., as compared with that of Twelve per Cent. prevailing at Bengal, China and other places with which this Colony must chiefly have Commercial Intercourse and Trade, and to which the Merchants and Traders, and therefore the Public of this Territory, must in some respect become chargeable in all Mercantile Transactions and Investments. And Your Memorialists have respectfully to suggest that the present rate of Interest at Eight per Cent. has been continued for so long a period as from the Year One Thousand, Eight hundred and four, when the same was settled by Proclamation* up to the present time, when the Value of Money must be acknowledged to have increased in a very considerable degree, when no private Loans can be obtained but at very considerable advance of Interest, and when Money can be used to even much greater advantage in Commercial purposes and Adventures.

* Note 58.

Your Memorialists therefore trust that in consideration of a due comparison between the Rates of Interest in Neighbouring Countries and this Colony, of the greatly increased Value of Money within the same, of the Public Advantages the Establishment of the Bank will afford, and the necessity of encouraging Persons to become subscribers to the same, the Rate of Interest at Ten per Cent. as suggested will be considered and approved of by Your Excellency as a fair proper and reasonable charge upon Loans made of the Bank Capital, thus removed from all other use whatever, and necessarily retained in Fund for the Public Security.

1817.
29 March.

Memorial of
the president
and directors
of the Bank
of New South
Wales.

Memorialists beg leave therefore to present the said Laws, Rules, and Regulations to Your Excellency for consideration and approval, and humbly to Petition Your Excellency to grant on behalf of themselves and other the Subscribers to the Bank, by a Charter under the Colonial Seal, all the Rights, Immunities, Privileges, and Title of a Corporation, and of a Joint Stock Company, upon such restrictions and for such Term as to Your Excellency may seem meet, so as to Indemnify and secure Your Memorialists and other the Subscribers to the said Bank against all Risk or Liability beyond the amount of the Shares, respectively taken by each, of the Capital Stock of the said Bank, and to bestow such powers, capacities and privileges, as in Your Excellency's discretion may best advance those public and private Interests, which Your Memorialists have in desire to promote by that beneficial Establishment, Your Excellency is now humbly Solicited to support Sanction and approve.

And Your Memorialists will ever have the same in due Memory,

JNO. THOS. CAMPBELL, President.

D. WENTWORTH

ALEXR. RILEY

THOS. WYLDE

J. HARRIS

WM. REDFERN

R. JENKINS

} Directors.

Sydney, 12th Feby., 1817.

The Original of the foregoing Memorial, with an Attested Copy of the annexed Rules and Regulations, were presented to His Excellency the Governor on Saturday the 15th February, 1817, by the President accompanied by all the Directors of the intended Bank of New South Wales, and the same were most graciously received, and a Charter promised in Terms of said Memorial.

Presentation
of memorial
and rules to
the governor.

True Copies:—JNO. THOS. CAMPBELL, Secy.

1817.
31 March.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 3 of 1817," per H.M. brig Kangaroo;
acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,
My Lord, 31st March, 1817.

Despatches
acknowledged.

1. I now do myself the Honor to acknowledge the Receipt of Your Lordship's two separate Dispatches under dates the 4th of December, 1815, and 24th of July, 1816, with their respective Enclosures and accompanying Documents on the subject of the present Expences of the Colony and the Reduction thereof as far as may be practicable, pointing out the Necessity of my accurately Investigating on the Spot every Branch both of the Civil and Military Expenditure of the Colony with a View to its immediate Reduction, and directing me to transmit to Your Lordship as early as possible the Result of that Investigation.

Inability to
make large
economies.

Proposed
retrenchments
in the
commissariat.

2. In compliance with Your Lordship's Commands, I have minutely and Accurately Examined and Investigated every Branch of Civil and Military Expenditure of this Colony, and after giving this Important Subject the Most Serious and Mature Consideration and Viewing it in all its Bearings, I am greatly Concerned to report to Your Lordship that I am as Yet unable to point out, or to make any Considerable Retrenchment in the present Expences of the Colony, Consistently with its interior Prosperity and Safety, with the two Exceptions of discontinuing altogether the Victualling Settlers and their Servants at the Expence of the Crown and the reducing a part of the Commissariat Establishment, which last is in my opinion Unnecessarily expensive, on which Subject I intend addressing a Separate Dispatch to Your Lordship by this Conveyance.

Proposal to
discontinue
victualling free
settlers and
their servants.

3. It was always My Intention to have Submitted to Your Lordship, at the Expiration of the present Year, the Expediency (with a View to Economy) of discontinuing altogether the Victualling of Free Settlers and their families and Servants coming out from England to reside in this Country and of only allowing such, as were permitted to come, Grants of Land and Convict Servants *off the Stores*, in proportion to the Capital they should bring out to be employed in the Cultivation and Stocking of their Farms. I am now decidedly of opinion that there is no necessity whatever in the present improved State of the Colony for extending any further Indulgences to persons of this latter Description, and therefore take the Liberty to recommend and respectfully submit to Your Lordship's Consideration that all Free Settlers and other persons, who shall be permitted to Come out to reside in this Colony after the 31st of December next, should be distinctly given to Understand, before they leave

England, that they are not to receive, Expect or demand, on their Arrival in this Colony, any thing more from Government than Lands and Convict Servants off the Stores in proportion to their Means of Cultivating the one, and Maintaining the other; for as all Sorts of Provisions are now sufficiently Abundant in the Colony and Can be purchased at Very Moderate Prices, there Can be no Difficulty in their procuring at all times any Quantity of Provisions they may require for themselves, their families and Servants.

4. As however it would be, in my humble opinion, very bad Policy on the Part of Government, Not to Hold out every reasonable Encouragement to Persons, who have been Convicts, to Settle in the Colony *permanently* on their becoming Free, either by servitude or Absolute Pardon, and also to persons of the same Description who become Free in the Colony by Conditional Pardons, I respectfully recommend and Submit to Your Lordship's humane Consideration that All persons, that have Come out as Convicts and may be deemed deserving of Grants of Land from the Crown in Terms of the King's Instructions to me on this Head, should themselves and Families, with one Male Convict Servant to each such Settler, be Victualled at the Expence of Government for Six Months, at the Expiration of Which Period they will be able to Maintain themselves in Case they are Sober and Industrious people. Victualling them for three Months only would answer no good purpose, as their Crops in the Ground Could not possibly be reaped in that time to subsist them, so that at the Expiration of the three Months they would be under the Necessity of Quitting their Farms and returning again to Common Labor. Whereas by Victualling them for Six Months, they will have Sufficient time to reap and gather in part of their Crops, such as Maize, Potatoes, Peas &c. &c. I am however at the same time of opinion that it will be unnecessary even to Victual Emancipated Convict-Settlers for any Length of time, or to continue doing so at all, after the Expiration of three Years from the present time; for there is every Reason to Conclude from present Appearances and the rapidly Improving State of the Colony that All Sorts of Provisions and the real Necessaries of Life will be as moderate and low in this Country, before the Expiration of three Years from this date, as in any Country in the World. The Quantity of Stock that will be reared and the Quantity of Land that will be under Cultivation, by the time herein mentioned, must be Immense, and Consequently the Reduction in the present prices of both Provisions and Labor must be very great. When this well-founded Expectation is Once realized (which I am well persuaded it will, even sooner than the

1817.
31 March.

Proposal to
discontinue
victualling free
settlers and
their servants.

Proposed
victualling of
emancipist and
expiree settlers
for a limited
period.

Anticipated
reduction in
prices.

1817.
31 March.

time I have mentioned) there Can be no necessity whatever for Victualling any Description of Settlers in this Colony, and this of itself will go a great Length in the Reduction of the present Expences of it, for, in fact the Victualling of so many persons forms the great and principal Article of Expence of this Colony to the Mother Country. I would therefore most respectfully but strongly recommend that no person whatever should be permitted in future to come out to reside in this Colony, who has not a sufficient Capital to Maintain himself in it. What are generally denominated *Gentlemen Settlers*, or Settlers of the first Class, Come out here Miserably poor, depend principally on the Indulgences granted them by Government, and very Seldom attend to Cultivating their Lands or Increasing the Internal Resources of the Colony, giving up the whole of their time to the Rearing of Cattle or Shop-keeping; and now, after Seven Years Experience, I am perfectly Satisfied in My own Mind that the best and Most Useful Description of Settlers are the Emancipated Convicts, to the Exertions and Industry of whom are to be attributed the present improved State of the internal Resources of the Colony.

Criticism of
"gentlemen
settlers."

Preference for
emancipist
settlers.

5. In reference to the Suggestions, Contained in the Letter* from the Secretary to the Treasury Addressed to the Under Secretary of State for the Colonies under date the 5th of January 1816 in respect to the Advantage, which the Public would derive in point of Economy from Opening the Market of the Colony to general Competition and abolishing the practice heretofore adopted of regulating the Price of the leading Articles of Consumption, and referring to a Letter* written by Deputy Commissary General Allan here to the Commissary in Chief on this Subject, and in Obedience to Your Lordship's Commands, as Contained in Your Lordship's Letter of date 24th July last, directing Me to furnish Your Lordship with a detailed explanation of my Sentiments on this Subject and the Reasons upon which they are founded, I do myself the Honor to report to Your Lordship that the System now in force, in regard to fixing the price of such Grain and Animal Food as were required for the Use of Government, has prevailed exactly as it is now ever since the original Establishment of this Colony in 1788; and that it has been found by All preceding Governors to answer best, both in regard to the Interests of the Crown, and that of Individuals hitherto; and as far as my own Experience and Judgment can serve to guide me, I am thoroughly Convinced that it would not be for the Interests of the Crown, nor for that of the Colonists in general, to Change the Old System for any New one at present; as soon as the Colony is further advanced in Agriculture, and Stock more generally diffused among the Middling and

Proposals for
market reforms.

Necessity for
fixation of
prices.

lower Classes of Settlers, I am of Opinion the Mode of Supplying the King's Stores by Tender might be resorted to with great Advantage to Government, and without Injury to the Colonist, and I am further of opinion that it would be adviseable to resort to this Mode of Supplying All the Wants of Government in About two years hence at farthest, as by that time, the Increase of both Stock and Grain must be great and very generally diffused; Whereas, if this New Mode was to be now adopted, I am certain that the greater part of the Grain grown in the Colony, and Also the principal part of the Stock Reared in it, would be immediately purchased up by about half a dozen of Monied Men, who would thus Monopolize the greater part of the Grain and Stock in the Colony, and Compel Government to purchase it at any exorbitant prices they might think proper to demand for the same; Whilst the poor and industrious lower Class of Settlers would entirely be excluded from furnishing the Stores with the produce of their Farms, whilst these few Rich Monopolizers would purchase from them on such Terms as their Avarice Might induce them to prescribe. This is not an idle or unsupported Theory, as I found my Conclusion on Occurrences and Facts which have taken place in the Colony three Years since, when there was an Artificial Scarcity Created and Industriously Circulated by a few Avaricious and Wealthy Settlers on the plea of the unproductiveness of the then past Harvest. On this Artificial Scarcity taking place, I called on the Grain Growers to give in Tenders for Supplying the King's Stores, on which occasion Government was Compelled to pay as high as fifteen Shillings per Bushel for the greater part of the Wheat purchased that Season for the Use of the King's Stores, altho' it was afterwards discovered that there was more than a Sufficient Supply of Wheat within the Colony at that Moment for Maintaining the whole population. The great Graziers would in the Same Manner raise the Price of Meat required for the Use of Government, were it not for the powerful Check I have always hitherto had upon them in being Able to resort to the Government Herds for supplying the Stores for a few Months at least with fresh Meat at the Moment of any such Combination being attempted. It certainly would be desirable in every point of View to Assimilate as nearly as possible the Mode of Conducting the Public Departments in this Colony with those at Home and in His Majesty's other Foreign Dominions, but this Can only be done here by slow Degrees and progressively for some few Years to Come, this Colony being Composed of such discordant Materials, under peculiar Circumstances, and differing widely, almost in every respect, from every other Colony belonging to the British Empire,

1817.
31 March.

Supplies by
tender proposed
in two years.

Dangers of a
monopoly.

Cornering of
supplies.

Previous
experience
of tenders.

Government
control of
meat supply.

1817.
31 March.

Criticism of
Allan's proposal
to obtain
supplies by
tender.

and consequently governed by particular Usages and Customs Connected with its Original Establishment and Nature of its peculiar Population. I cannot Conclude my observations on this Subject without adverting slightly to Deputy Commiss'y General Allan's Letter to the Commissary in Chief, wherein he recommends that the King's Stores should be supplied *by Tenders*. This Officer could not be supposed to be a Competent or Impartial Judge of the Expediency of such a Measure, for he had not been above 14 or 15 Months in the Colony when he wrote the Letter alluded to, and in that time he had purchased Cattle on his own private Account to a great amount, in Conjunction with another Civil Officer, and between them would be Able to Supply the King's Stores, by Tender, for a Considerable time, had that Mode been resorted to; and I have good Reason to believe Mr. Allan was much more Influenced by Views of private Gain, than by any Benefit to be derived by the Public in suggesting that the King's Stores should be supplied by Tenders. I possess neither Lands nor Cattle in this Colony and am therefore not likely to be Influenced by any Views but those which I Conceive to be the most advantageous for the Interests of the Crown and the general Prosperity of the Colony and its Inhabitants. Under these Circumstances I should Strongly recommend that the present System for Supplying the Stores by regulating, according to Circumstances, the prices of Grain and animal food should be continued 'till the 31st of December, 1818, after which period I am of opinion the System may be Safely and advantageously Changed to that of Supplying All the Wants of Government by Tender.

Prices to be
fixed until end
of year 1818.

Macquarie's
regret at his
failure to
economise.

6. It has ever been my most ardent and Sincere Wish to make every possible and practicable Reduction and Retrenchment in the Expences of this Colony; and I assure Your Lordship that it is a Subject of most sincere Regret to me that I have not been able to Succeed in this Wish in proportion to my own Original Expectations and the Actual Necessity for such Reduction, a Variety of Expences having been Unavoidably Incurred within the last Four Years which I had not then Contemplated. In these Unexpected Expences I must Include the lavish Disbursements of Lieut. Governor Davey in Van Diemen's Land, by making extravagant Disbursements and Unnecessary Purchases on Account of Government, Contrary to my most positive orders and Instructions. A very great Expenditure has also been Incurred by this Government in defraying the Amount of Victualling and passage of the Numerous Detachments of Troops belonging to Regiments in India, which (owing to the Weak State of the 46th Regt.) were sent hither from England as Guards in the

Principal items
of expenditure.

Several Convict Ships, and for which Detachments I had of Course to provide Passages to India, some times at a very high Rate. The Strength of the 46th Regiment having been however lately Increased supersedes the Necessity of sending any more Detachments belonging to Regiments in India, as Guards for Convicts sent to this Colony, Consequently this Expence now Ceases. Another very great additional Article of Expence, in the Accounts of this Colony, is the Constant supplies and Repairs required by the Government Brigs, Kangaroo and Emu, sent out some time since for the Service of the Colony, but which have been lately at my Suggestion ordered Home; they proved of very little Use and have been an intolerable Expence, first and last, and I am therefore sincerely glad that they have both been recalled. The last additional Unexpected Expence, I shall now mention, is that of Victualling the Free Wives and Children of Convicts, sent out here at the Expence of Government. The Indulgence is most humane and highly advantageous in view to the Improvement of the Morals of the Husbands, who thus have their Wives and Children sent out to them, but the Expence of Supporting those Women and Children is very Considerable; for, tho' they promise in England to Maintain themselves after their Arrival here, not one in ten of them is able to do it, even with the Assistance of the Labor of their Husbands, Who are always assigned to their Wives off the Store. I would therefore respectfully recommend that no Free Women should be permitted to come out to this Country in future who Cannot produce Unquestionable Proof that they Can Maintain themselves in it without occasioning any Expence to Government.

1817.
1 April.

Expence on
H.M. brigs
Kangaroo
and Emu.

Victualling
of families
of convicts.

7. In pursuance of the Commands Contained in Your Lordship's Letter under date 4th December, 1815, I have very Maturely Considered the Various Suggestions made by Your Lordship in regard to the several extra Allowances of Rations, Servants, Fuel, Lodgings, and Clothing given to different Descriptions of Civil Officers in this Colony, which tho' to each of those separately appear Small, and of no great Value, amount in the Aggregate to a very large Sum annually; And I entirely Concur in opinion with Your Lordship that it would be highly advantageous to the Interests of the Crown, and not at all Injurious to the Individuals themselves, to Abolish the Whole of those Extra Allowances and Commute them to Money, Allowing to each Officer, who is deprived of them, an adequate addition to his present Salary, and giving to those Subordinate Officers, such as Overseers, Constables, Watchmen and Under-Clerks, who only receive Rations and Slop Clothing, an adequate annual Salary in lieu of such Allowances, whatever time it may be deemed Expedient to

Rations and
allowances to
civil officers.

1817.
1 April.

Necessity for
victualling
stockmen and
shepherds.

Allowances of
government
servants.

Proposed cash
payments to
subordinate
officials.

Return of
persons holding
civil and
military
appointments.

Annual value
of rations and
slop clothing.

deprive them of them. The only Description of Crown Servants, to whom it would still be Necessary to give Rations, are the Government Stock-Men and Shepherds, who in Herding the Flocks and Herds in the Forest are at too great a distance from any Market to purchase the Necessary Provisions for their Subsistence; but this Exception would be of No great Consequence; the Practice hitherto, which has prevailed in the Colony ever since its original Establishment, of Allowing every Overseer and various other Descriptions of Subordinate Officers, who receive no Salaries, each a Male Convict Servant, Clothed and Victualled at the Expence of the Crown, is attended with Many bad Consequences, and certainly ought to be Abolished as soon as practicable. These Male Convict Servants are Hired out by their Masters, who on an average receive twenty five pounds for their Labor per Ann'm. It is difficult to find out those Men at any time they are required to appear, as they roam about the Country at large in search of Employment, and not Unfrequently Commit Robberies which are not easily discovered from their having no fixed places of Residence. This of itself is a very great Evil, and highly Injurious to the Prosperity and Police of the Colony. I would therefore strongly recommend that I may be authorized to abolish this Practice entirely as soon as the Increase of the Colonial Funds will admit of a pecuniary Compensation being made to all Subordinate Officers who have Convict Servants allowed them. Each of these Convict Servants Costs the Crown for his provisions and Clothing about twenty five Pounds per Annum and I would propose that this Sum should be paid to each Subordinate Officer entitled to a Convict Servant.

8. Herewith I do myself the Honor to transmit to Your Lordship the Nominal Return of Persons, Holding Civil and Military Appointments in this Territory at the present time, made out agreeably to the Form I received Enclosed in Your Lordship's Dispatch under date 4th December, 1815, and in which are Included All Civil Officers, Superior and Subordinate, who receive Salaries and extra Allowances, specifying each Description of the latter. The Allowances of Rations, Fuel, Lodging Money (where Government Quarters are not found them) and Forage for Horses are issued here to the Several Officers, according to their respective Ranks, on the same Scale and in the Same Proportions as at Home to the Officers of the Corresponding Ranks. The Value of a Full Ration has always been reckoned here equal to Fifteen pounds per Ann'm; and the Slop Clothing Issued Annually to Convicts, and other persons entitled thereto, equal to Ten pounds p'r Ann'm. And on this Scale, I would recommend the Consolidation of these two particular Allowances to be made at whatever

time they are withdrawn altogether. The other Extra Allowances of House Rent, Fuel and Forage Money, may be paid for in Money, agreeably to the Practice at Home; and I should be extremely happy to see the Whole of these Extra Allowances Abolished and Commuted to Money. Those Civil Officers who are already provided with Good Government Quarters would of Course retain them, and not be entitled to any Addition to their Salary on that Account; but, for the other Extra Allowances, they ought to receive a fair and reasonable pecuniary Compensation, the Provisions particularly being of very great Assistance to those Civil Officers who have large families to support.

1817.
1 April.

Allowances to
be commuted
to money
payments.

9. I cannot more properly Close this Dispatch upon Retrenchments and Reduction of Public Expenditure, than by reporting to Your Lordship that I have Commenced the present Year by a Reduction of Upwards of Six thousand pounds Sterling per Ann'm in the Expences of the Colony, Commencing on and after the 25 of January last, which I hope will Serve as Proof to Your Lordship of my sincere and anxious Wish to bring the Expences of the Colony within more reasonable Limits than they are at present. This Reduction Arises in the price of the Article of Animal Food, supplied for the Use of His Majesty's Stores, which I have reduced from Seven pence to Six pence per pound, and which, Considering the Immense Increase of Horned Cattle in the Colony, is in my Judgment a very fair and liberal price, and tho' this Reduction occasioned some little Discontent and Murmuring at first, the People in general are now perfectly well reconciled to the Measure as a necessary One of Economy; there are at present very Nearly Four thousand full Rations Issued daily in the different parts of this Territory, Consequently an equal Number of pounds of fresh Meat, the Amount of which at one penny per pound is Upwards of Six thousand pounds Sterling. By the latter End of the Year 1818 I hope I shall be able to reduce the price of Animal food to Five pence per pound, as the Cattle in the Colony must be very greatly Increased by that time; and I trust the Number of Persons Necessarily Victualled at the Expence of the Crown will also be Considerably diminished; so that I conclude the Reduction in the Public Expenditure, in reducing the Price of fresh Meat to Five pence, will at least equal the Savings of the present Year, Namely, Six thousand pounds. In the Article of Wheat, I do not think it will be practicable to make any reduction in the price of it Yet for a Couple of Years, but by that time I am hopeful some Reduction may Also be made in that Article.

Reduction
of public
expenditure.

Reduced price
of animal food.

Proposed
further
reductions.

I have, &c.,

L. MACQUARIE.

1817.
1 April.
Return relating to persons holding civil and military appointments.

[Enclosure.]

List of Names, etc., of Persons holding Civil and Military Appointments in the Territory of New South Wales and its Dependencies on the 31st of March, 1817.

Names.	Appointments or Nature of Office.	By whom Appointed.	Yearly Salary.	Whether Paid at Home or by the Colony.	Extra allowances received in the Colony.						Remarks.
					Lodging Money or Quarters.	Forage for Horses.	Rations for Himself or Family.	Fuel.	No. of Govt. Servants.		
Lachlan Macquarie, Esqre.	Governor	The Crown	£ s. d. 2000 0 0	At Home	Quarters	Forage	Rations	Fuel	None	Commander of the Forces.	
George Molle, Esqre.	Lieut't Governor	Do.	400 0 0	At Home and by Colony.	"	Do.	"	Do.	"	Lt. Col. Com'g 46th.	
John Wylde, Esqre.	Judge Advocate	Do.	1200 0 0	At Home	"	None	"	None	"	Himself only Victualled.	
Barron Field, Esqre.	Judge of Supreme Court	Do.	800 0 0	To:	"	"	"	"	"	"	
Frederick Garling, Esqre.	Solicitor	Do.	300 0 0	Do.	None	"	"	"	"	"	
John Thomas Campbell, Esqre.	Secretary to Government	Governor Macquarie	365 0 0	At Home and by Colony.	Quarters	"	"	"	"	"	
Rev'd. Samuel Marsden	Principal Chaplain	The Crown	350 0 0	At Home	"	"	"	"	"	"	
William Cowper	Assistant Chaplain	Do.	260 0 0	Do.	"	"	"	"	"	"	
Robert Cartwright	Do.	Do.	240 0 0	Do.	"	"	"	"	"	"	
Henry Fulton	Do.	Do.	182 10 0	Do.	"	"	"	"	"	"	
John Yowl	Do.	Do.	182 10 0	Do.	"	"	"	"	"	"	
D'Arcy Wentworth, Esqre.	Principal Surgeon	Do.	365 0 0	Do.	"	"	"	"	"	"	
Do.	Superintendent of Police	Governor Macquarie	200 0 0	By the Colony	"	"	None	"	"	"	
James Mileham, Esqre.	Ist. Assist. Surgeon	The Crown	182 10 0	At Home	"	"	Rations	"	"	"	
William Redfern, Esqre.	Assist. Surgeon	Do.	136 17 6	Do.	"	"	"	"	"	"	
Major West, Esqre.	Do.	Governor Macquarie	136 17 6	Do.	"	"	"	"	"	"	
Mr. William Evans	Do.	Do.	91 5 0	To.	"	"	"	"	"	"	
William Gore, Esqre.	Provost Marshal	The Crown	91 5 0	Do.	"	"	"	"	"	"	
Thomas Wyde, Esqre.	Clerk of the Peace	Governor Macquarie	No Salary.	Do.	None	"	None	"	"	Not Victualled Himself and Family	
J. W. Lewin, Esqre.	Coroner	Do.	80 0 0	By the Colony	"	"	Rations	"	One	Victualled	
Mr. Thomas Hobby	Assist. Do.	Do.	40 0 0	Do.	"	"	"	"	"	Himself and Do.	

[Enclosure]—continued.
List of Names, etc., of Persons holding Civil and Military Appointments, &c.—continued.

Names.	Appointments or Nature of Office.	By whom Appointed.	Yearly Salary.	Whether Paid at Home or by the Colony.	Extra allowances received in the Colony.						Remarks.
					Lodging or Quarters.	Forage for Horses.	Rations for Himself.	Fuel.	No. of Govt. Servants.		
John Piper, Esqre.	Naval Officer.....	The Crown	£ s. d. Receives 5 pr. Cent. on Duties Collected	.....	Quarters	None	None	None	None	None	Himself only Victualled.
Mr. Alfred Thrupp	Assist. Do. Do.	Governor/Macquarie ..	No Salary	.....	None	.....	.....	.....	.....	.....	Do, and Family Victualled.
Mr. George Dowling	Wharfinger	Do.	2½ pr. Cent. on Goods landed.	.....	.....	.....	.....	.....	.....	.....	" " " " " "
Mr. James Stewart	Ass't Do.	Do.	91 5 0	At Home	Quarters	.....	.....	.....	.....	.....	" " " " " "
Mr. William Cosar	Master Boat Builder	Do.	50 0 0	By the Colony	.....	.....	.....	.....	.....	.....	" " " " " "
Mr. Stephen Milton	Boatswain and Harbour Master.	Do. ....	.....	.....	.....	.....	.....	.....	.....	.....	" " " " " "
John Oxley, Esqre.	Surveyor Gen'l of Lands.	The Crown	273 15 0	At Home	.....	.....	.....	.....	.....	.....	Himself only Victualled.
James Meehan, Esqre. ..	Dy. Surveyor Gen'l of Do.	Governor/Macquarie ..	136 17 6	Do. ....	.....	.....	.....	.....	.....	.....	" " " " " "
Do Do.	Collector of Quit Rents etc.	Do.	91 5 0	By the Colony	.....	.....	.....	.....	.....	.....	" " " " " "
Mr. Mich'l Robinson	1st.Clerk Sec'y's Office	Do.	60 0 0	Do.	None	.....	.....	.....	.....	.....	Himself and Family Vict'd.
Joseph Cowgill	Ass't Do. Do Joseph Sumpter Mr. Joshua Jno. Moore ..	Do.	25 0 0	Do. ....	.....	.....	.....	.....	.....	.....	" " " " " "
Peter Plomer		Do.	30 0 0	Do. ....	.....	.....	.....	.....	.....	.....	" " " " " "
Do Do.		Do.	30 0 0	Do. ....	.....	.....	.....	.....	.....	.....	" " " " " "
Do Do.		Do.	80 0 0	At Home	.....	.....	.....	.....	.....	.....	" " " " " "
Mr. John Gurner	Clerk to Judge Advocate.	The Crown .....	.....	At Home	.....	.....	.....	.....	.....	.....	Himself only Victualled.
Mr. John Gurner	Clerk to Judge of Sup. Court.	Do.	80 0 0	By the Colony	.....	.....	.....	.....	.....	.....	" " " " " "
Mr. Rowland Hassall	Super't of Govt Stock.	Governor/Macquarie ..	100 0 0	At Home	Quarters	.....	.....	.....	.....	.....	" " " " " "
William Chalke	Overseer Do. Do.	Do.	50 0 0	By the Colony	.....	.....	.....	.....	.....	.....	Himself and Family Vict'd.
Thomas Arkell	Do. Do. Do.	Do.	50 0 0	Do. ....	.....	.....	.....	.....	.....	.....	" " " " " "
Mr. Robert Jones	Ass't Sup't of Police	Do.	60 0 0	Do.	None	.....	.....	.....	.....	.....	" " " " " "

1817.
1 April.
Return relating to persons holding civil and military appointments.

1817.
1 April.Return relating
to persons
holding civil
and military
appointments.[Enclosure]—continued.
LIST of Names, etc., of Persons holding Civil and Military Appointments, &c.—continued.

Names.	Appointments or Nature of Office.	By whom Appointed.	Yearly Salary.	Whether Paid at Home or by the Colony.	Extra allowances received in the Colony.						Remarks.
					Lodging Money or Quarters.	Forage for Horses.	Rations for Himself or Family.	Fuel.	No. of Govt. Servants.		
Mr. George Chartres	Clerk to Sup't of Police.	Governor Macquarie	30 0 0	By the Colony	None	None	None	None	One	Himself and Family Vict'd.	
Mr. William Hutchinson	Princ'l Sup't of Convicts.	Do.	75 0 0	At Home	"	"	"	"	Two	"	
Mr. John Redman	Chief Constable	Do.	60 0 0	By the Colony	"	"	"	"	One	"	
William Thorne	Ass't to Do.	Do.	10 0 0	Do.	"	"	"	"	None	"	
Mr. John Jaques	Jailor	Do.	60 0 0	Do.	"	"	"	"	One	"	
Jonathan Green	Ass't to Do.	Do.	30 0 0	Do.	"	"	"	"	None	"	
Mr. George Howe	Government Printer	Do.	60 0 0	At Home	"	"	"	"	"	Himself only Victualled.	
Mr. Richard Fitzgerald	Superin't, Windsor	Do.	50 0 0	Do.	"	"	"	"	One	"	
Mr. Richard Rouse	Do. Parramatta	Do.	50 0 0	Do.	"	"	"	"	"	Himself and Family Vict'd.	
Mr. Samuel Bradley	Do. Sydney	Do.	50 0 0	Do.	"	"	"	"	"	"	
Mr. Francis Oakes	Do. Parramatta Factory.	Do.	50 0 0	Do.	"	"	"	"	"	"	
Mr. John Howe	Chief Constable Wind-sor.	Do.	40 0 0	By the Colony	"	"	"	"	"	"	
Mr. George Suttor	Sup't Lunatic Asylum	Do.	50 0 0	Do.	Quarters	"	"	"	"	"	
Mr. Rich'd Lewis	Sup't at Bathurst	Do.	50 0 0	Do.	"	"	"	"	"	"	
Mr. John Austin	Churen Clock Keeper . . .	Do.	10 0 0	Do.	None	"	"	"	None	"	
Richard Wade	Do. Steeple Keeper	Do.	10 0 0	Do.	"	"	"	"	One	"	
Mr. William Hill	Sup't of Slaughter House.	Do.	50 0 0	Do.	"	"	"	"	"	"	
Mr. Abraham Hutchinson	Do. of Govt. Mills	Do.	30 0 0	Do.	Quarters	"	"	"	"	Himself only Victualled.	
Captain John Gill	Acting Engineer, etc.	Do.	182 10 0	Do.	"	"	"	"	Fuel	"	
Ensign Charles McIntosh	Barrack Master	The Crown	100 0 0	Do.	"	"	"	"	"	"	
Captain James Wallis	Comm't at Newcastle	Governor Macquarie	136 17 6	Do.	"	"	"	"	"	"	
Mr. F. H. Greenway	Act'g Civil Architect	Do.	54 15 0	Do.	"	"	"	"	None	Himself and Family Vict'd	

[Enclosure]—continued.
List of Names, etc., of Persons holding Civil and Military Appointments, &c.—continued.

Names.	Appointments or Nature of Office.	By whom Appointed.	Yearly Salary.	Whether Paid at Home or by the Colony.	Extra allowances received in the Colony						Remarks.
					Lodging or Money for Quarters.	Forage for Horses.	Rations for Him- self or Family.	Fuel.	No. of Servants.		
AT HOBART TOWN, VAN DIEMEN'S LAND.											
William Sorell, Esqre....	Lieut. Governor	The Crown	£ 800 0 0	At Home	Quarters	None	Rations	Fuel	None	Himself only Victualled.	
Edwd. Abbott, Esqre....	Dy. Judge Advocate	Do.	600 0 0	Do.	"	"	"	"	"	"	
Martin Tins, Esqre.	Provost Marshal	Do.	91 5 0	Do.	None	"	"	None	"	"	
John Drummond, Esqre.	Naval Office	Do.	receives 5 p. Cent on duties Collected.		"	"	"	"	"	"	
George William Evans, Esqre.	Depy. Surveyor	Governor Macquarie	136 17 6	At Home	"	"	"	"	"	"	
Edward Luttrell, Esqre.	Actg. Surgeon	Do.	182 10 0	Do.	"	"	"	"	"	"	
Mr. Henry St. John Young	Ass't Surgeon	The Crown	136 17 6	Do.	"	"	"	"	"	"	
Revd. Robt. Knopwood ..	Ass't Chaplain	Do.	260 0 0	Do.	"	"	"	"	"	"	
Capt. Narue, 45th Regt.	Inspector of Works ..	Governor Macquarie	91 5 0	By the Colony	Quarters	"	"	"	"	"	
Mr. John Wade	Chief Constable	Do.	50 0 0	Do.	None	"	"	"	One	Himself and Family do.	
Mr. George Salter	Sup't Government Stock	Do.	50 0 0	Do.	"	"	"	"	One	"	
3 Superintendants at £50 each.	.....	Do.	150 0 0	Do.	"	"	"	"	One	"
AT PORT DALRYMPLE, VAN DIEMEN'S LAND.											
Major Jas. Stewart	Commandant	Governor Macquarie	182 10 0	At Home	Quarters	None	Rations	Fuel	None	Himself only Victualled.	
Jacob Mountgarrett, Esqre.	Surgeon	The Crown	182 10 0	Do.	"	"	"	"	"	"	
Mr. John Smith	Ass't Surgeon	Do.	136 10 0	Do.	"	"	"	"	"	"	
Mr. David Rose	Sup't Governmt stock	Governor Macquarie	91 5 0	Do.	None	"	"	None	"	"	
Mr. W. E. Leith	Inspector of Works ..	Do.	75 0 0	By the Colony	"	"	"	"	One	Himself and family do.	
Mr. Thomas Massey	Chief Constable	Do.	50 0 0	Do.	"	"	"	"	One	"	
3 Superintendants at £50 each.	.....	Do.	150 0 0	Do.	"	"	"	"	One	"

L. MACQUARIE, Govr. in Chief of N. S. Wales.

1817.
1 April.

Return relating to persons holding civil and military appointments.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
1 April.

(Despatch marked "No. 4 of 1817," per H.M. brig Kangaroo: acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

1st April, 1817.

Proposals for reforms in the commissariat department.

1. In pursuance of the intention I had the honor of expressing in my Dispatch of yesterday's date to your Lordship of making a separate communication on the subject of the present unnecessary expensive Establishment of the Commissariat Department of this Colony, I take the liberty to submit to your Lordship's consideration my opinion that a very considerable reduction may be made in this particular Department without any injury to the Public Service, and that the Duties thereof will be executed more accurately, and carried on with more regularity and fidelity, than they are at present, in the event of your Lordship's approving of my Plan and being pleased to recommend the same to The Lords Commissioners of His Majesty's Treasury for adoption.

Reorganisation of the department.

2. It having been deemed necessary by His Majesty's Government to new model the Commissariat Department of the Colony in the Year 1813, with the view to assimilate the same to the practice, established in His Majesty's other Foreign Dominions, Mr. David Allan, as Deputy Commissary General, Mr. P. G. Hogan, and Messrs. Wm. Brodie and Edmd. Hobson, as Staff Commissariat Clerks, arrived here on the 11th of June, 1813, the former Officer being placed at the Head of the Department, and furnished with Instructions from the Lords Commissioners of His Majesty's Treasury and the Commissary in Chief for new modelling the Commissariat Department, which was done accordingly soon after the arrival here of Deputy Commissary General Allan; Mr. John Palmer, the former Commissary of New South Wales on the old System,* having been appointed Assistant Commissary General, and Mr. William Broughton, who had acted as Principal Commissary of N. S. Wales for the last three Years and a Half, having been appointed a Deputy Assistant Commissary General on the New Establishment.

Disapproval of the reorganisation

3. At the time this alteration took place, I certainly considered the new establishment as unnecessarily large and expensive; and now, after near four years experience, I am confirmed in the same opinion, and that it would be an unnecessary waste of the Public Money to retain any longer so very expensive an Establishment,

* Note 60.

particularly as the Duties do not appear to me to be at all better or more regularly conducted than they formerly were by Mr. Broughton at one fourth of the expense, and I may safely add with much more fidelity and honesty than they are at the present time. Indeed, I cannot perceive any improvement that has been made in this Department by the adoption of the new system with the exception of a few official Forms, which, however necessary they may be deemed to be, certainly occasion a vast accumulation of Business and writing. As this increased and expensive Establishment took place by the orders of His Majesty's Government at home, I should never have presumed to make any comment on it, had the Officer placed at the Head of it conducted himself agreeably to the Instructions he was furnished with and with that Zeal and integrity which he was bound to observe. But I am concerned to be compelled to report to your Lordship that this is far from being the case, and that Mr. Allan in a variety of instances has acted in direct contradiction to, and disobedience of, the Printed Instructions he was furnished with for his guidance. At an early period after his arrival here, he thought proper to enter into large Farming speculations, purchased great Herds of Cattle and Flocks of Sheep in partnership with an Officer in the Civil Service, and, if I am rightly informed, entered also into considerable private and Clandestine commercial Speculations in partnership with a Mr. Blaxcell, a Merchant of Sydney; of this last speculation however I have no direct proof, but it consists with my own knowledge that he brought with him from Rio de Janeiro on his way out to this Colony a large Cargo of Spirits for Sale here. Mr. Allan's example in these instances had a most prejudicial effect on the Officers of the Commissariat Department, who accompanied him to this Country. Mr. Brodie, one of the Clerks he brought out, began Trade immediately, and was some time after tried for and convicted of Robbing the King's Store at a Criminal Court, and of course dismissed and disgraced in consequence of his Crime. Mr. Hogan, the Deputy Assistant Commissary General, soon after his arrival here was sent down to take charge of the Commissariat Department at the Derwent, where he soon began Trading and entered largely into Farming speculations and Purchasing of Cattle; the consequence of which was that he embezzled the Public Monies entrusted to him, and is now a Defaulter to the Crown to the amount of nearly Two Thousand Pounds Sterling, and which I fear the Government will have to pay, his property not being equal to the liquidation of the Debts he owes to Individuals for payment of various

1817.
1 April.

No
improvements
result from
changes.

Mal-
administration
of David Allan.

Participation
of Allan in
speculations.

Trading by
commissariat
officials.

1817.
1 April.

Hogan
superseded by
Broughton at
the Derwent.

Hogan to be
tried by court
martial.

Allan's
neglect in
administration.

Macquarie's
interference
with the
commissariat.

Issue of notes
by Allan on his
private account.

supplies furnished by them for the use of Government, for which he granted them Store Receipts, drawing on the Deputy Commissary General for the amount, and applying the money to his own Private Speculations. As soon as these circumstances came to my knowledge, and learning at the same time that Mr. Hogan had become a confirmed Drunkard, I determined on sending down Mr. Wm. Broughton, Acting Assist't Commissary General, to relieve and supersede him, Mr. Broughton being the only Officer of Rank in the Department that I could place confidence in on so important an occasion. He accordingly went to the Derwent in September last to take charge of the Commissariat Department there, with orders to settle and adjust Mr. Hogan's Public Accounts as well as circumstances would admit of. I directed Mr. Hogan to be sent up to Head Quarters, as soon as he could settle and manage his disorganized accounts, in order to have his conduct investigated here before a General Court Martial, which will be assembled for his Trial as soon as he arrives at Sydney. The remaining Officer, Mr. Hobson, who came out with Mr. Allan, is a very low Drunken Fellow, and tho' I have not a doubt of his delinquency also, yet he has as yet, from his own cunning combined with Mr. Allan's inactivity and carelessness as Head of the Department, escaped being convicted of any open act of fraud or embezzlement. The apparent apathy and indifference of Mr. Allan, in Maintaining any Discipline in his Department, and in watching their conduct, has compelled me in a variety of instances to interfere in enforcing such orders and regulations, as I deemed essentially necessary to frame and issue for the due execution of the Duties of that Office, and to save the Crown from eventual heavy losses by Mr. Allan's remissness and improper conduct. This interference on my part has of course given great offence, and none more than the Government Orders.* I found it absolutely necessary to issue in order to undeceive the Public with respect to the Notes Mr. Allan issued on his own Private account, but which the People have in general considered the Government pledged to pay. Mr. Allan having issued those Notes to a very great amount, and far beyond any Capital he ever possessed, there was an immediate run made upon him for payment on my Explanatory order being Published, which obliged him to make a Sale of his Property and to make a compromise with such of his Creditors as he could not then satisfy. I admonished Mr. Allan long before this event took place, cautioned him against trading and Farming speculations, seeing that he

* Note 61.

was so deeply involved in both, but he disregarded my advice and continued to go on as before, which has ended in his ruin and Bankruptcy, tho' he still persists in openly declaring that he has more than sufficient Funds to pay and liquidate all his Debts. and, in order to try to convince me that this was actually the case, he gave me a Statement of his Affairs in June, 1816, a copy of which I now do myself the honor to transmit herewith for your Lordship's perusal and information; but it is necessary that I should apprise your Lordship that in this statement Mr. Allan has estimated his property at double its real value at least. Under all these circumstances, I feel persuaded your Lordship will concur with me in opinion that Mr. Allan is a very unfit and a very improper person to be continued any longer at the Head of the Commissariat Department of this Colony. I therefore take the liberty to recommend that he may be removed as soon as possible by either sending him to some other station, or placed on the Half pay in consideration of his having a large Family to maintain.

1817.
1 April.
Statement by Allan of his financial position.

Proposed removal of Allan.

4. Herewith I do myself the honor to transmit, for your Lordship's information, a Return of the Names, Salaries, and extra allowances of the Superior and Subordinate Officers of the Commissariat Department of this Colony, as they stand at present; and by which your Lordship will observe what a very expensive Department it is under its present Establishment. That it can easily admit of a considerable reduction, there cannot exist a doubt. There is no necessity for any higher Commissariat Officer to be stationed in this Colony than an Assistant Commissary General, who ought to be at the Head of the Department. An Officer of this Rank with two Deputy Assistant Commissary Generals and a fair proportion of Superior and Subordinate Clerks and Storekeepers are all that can be required for several years to come to execute all the Duties and Details of the Commissariat Department in this Colony; and herewith I take the liberty to transmit to your Lordship a Schedule of the number and description of the Superior and Subordinate Officers, I conceive will be required for the Commissariat of New South Wales, being persuaded that the numbers therein specified will be found quite sufficient, especially if an honourable, honest and respectable Officer is placed at the head in Charge of the Department. And I do not know in His Majesty's Service a fitter or more eligible Person for this situation than Acting Assistant Commissary General William Broughton, who has always conducted

Return of officials in the commissariat department.

Staff proposed for the department.

Recommendation of Broughton.

1817.
1 April.

Proposed
appointment
of Broughton
as head of
department.

Suggested
retirement of
John Palmer.

himself with strict honor, integrity and zeal in the execution of his Public Duties, ever since the first establishment of the Colony in January, 1788, to the present time, a period now of upwards of Twenty Nine Years. I therefore take the liberty to solicit that your Lordship will be kindly pleased to recommend Acting Assist. Commissary Genl. Broughton to the Lords Commissioners of His Majesty's Treasury to be in the first instance confirmed in that Rank, and afterwards placed at the Head of the Commissariat Department in this Colony, in which situation I think I may safely pledge myself he will give every satisfaction. I also beg leave to recommend that Mr. Ass't Com'y General Palmer should be placed on the Half pay, as he is of no sort of use whatever here nor never can be. He constantly resides at Parramatta, but does no duty there, and has had very little success in recovering Payment of the Debts due to the Crown from Individuals in this Country, for the recovery of which he was principally sent out last to this Colony as Ass't Com'y General.

Proposed
confirmation
of Johnston as
commissariat
clerk.

5. Mr. George Johnston, who was some time since nominated by me to be a Staff Commissariat Clerk here in the room of Mr. Brodie discharged from that office, having been informed that there is a great probability of his not being confirmed at Home owing to some underhand, unfair means used by Depy. Commissary General Allan to his prejudice in order to get his own Son, Mr. Andrew Allan, appointed and confirmed in the room of Mr. Brodie, has requested me to state his case to your Lordship, which I cannot better do than by taking the liberty of transmitting herewith, for your Lordship's perusal and kind consideration, the Memorial addressed to me on this occasion by Mr. Johnston, which I beg leave to recommend most strongly to your Lordship's favorable notice, soliciting that your Lordship will be pleased to recommend Mr. Johnston to The Lords Commissioners of His Majesty's Treasury for confirmation as Commissariat Staff Clerk in New South Wales, for which he is eminently well qualified, being an Honest, honorable, active, vigilant and zealous young Man, entirely devoted to his Duty, which he executes highly to my satisfaction and entire approbation. It would therefore be a very great act of injustice, if this useful Officer were removed to make room for a very inexperienced conceited Boy, who is totally unfit for such a situation.

I have, &c.,

L. MACQUARIE.

AN ACCOUNT of the Private Debts due by Mr. Allan and the Property He has to cover the same, 12th June, 1816.

	£	s.	d.
To Promissory Notes and Private Bills presented but unpaid	4,817	0	0
„ Promissory Notes and Private Bills Outstanding	6,000	0	0
„ Debts due A. Riley, Esqre., and others	3,000	0	0
„ Balance in Mr. Allan's favor	4,558	0	0

N.B.—In the above Balance, neither the Value of Mr. A.'s Farm nor of the Crops now in the Ground are included, which will at least Amount to £1,500 more.

MACQUARIE TO BATHURST.

	£	s.	d.
By 600 Head of Cattle say £10 each	6,000	0	0
„ 2,000 Sheep say 30s. each	3,000	0	0
„ 70 Pigs say 50s. each	175	0	0
„ Debts due chiefly in Bills	4,000	0	0
„ 2 Carriages and 1 Gig with double Carriage Harness and Single Ditto .	600	0	0
„ 2 Carriage and 2 Saddle Horses, £42 10s.	170	0	0
„ 4 other Horses and Mares, £32 10s.	130	0	0
„ Wines, Spirits, etc., etc.	250	0	0
„ Household Furniture, including Bed and Table Linen, etc.	1,500	0	0
„ Plate, China, Glass, etc.	600	0	0
„ Advance on Salaries due next 24th	500	0	0
„ Cash on Hand	500	0	0
„ Cash in Bankers' Hands, London	400	0	0
„ Pay and Allowances due next Month ..	250	0	0
„ Property on Board the Frederick	500	0	0

Amount of Property including the Farm	£18,475	0	0
Do. of Debts	£19,975		
	13,817		

£18,475 0 0

Balance in Mr. A.'s favor

£6,158

A True Copy :—L. MACQUARIE.

1817.
1 April.
Statement of
financial
position of
David Allan.

1817.
1 April.
Return of
officials in the
commissariat
department.

[Enclosure No. 2.]
RETURN of the Commissariat Department of New South Wales under the orders of Deputy Commissary General Allan on the 25th March, 1817.

Names.	Rank.	Daily Pay.	Lodging Money per day.	House Rent.	House Allowance per day.	How Employed.
David Allan	Deputy Commissary General	38/-	..	£200 p. an.	10/-	In Charge at Parramatta.
John Palmer	Assistant Commissary General.	19/3	3/-	..	7/6	Do at Hobart Town.
Wm. Broughton	Acting Ass't Com. General	..	2/-	..	..	On leave of absence.
P. G. Hogan	Deputy Ass't Com. General	14/6	..	..	2/6	In Charge at Port Dalrymple.
Thos. Archer	Acting Do. Do.	..	..	..	..	Under Ass't Comm'y General Palmer at Parramatta.
Edmond Hobson	Clerk Commissariat Staff	7/6	1/-	..	..	Various Duties at Head Quarters.
Andrew Allan	Do.	..	..	..	..	In Charge at Windsor.
Richard Fitzgerald	Do.	..	..	..	..	Do of His Majesty's Magazines at Sydney.
Geo. Johnston	Do.	..	..	..	..	Various Duties.
D. H. Allan	Neither pay or allowance	..	..	..	..	In charge of the Victualling Store, Sydney.
James Scott	Store Keeper	8/-	..	..	..	Do. Parramatta.
Sam'l Larkin	Do.	..	..	..	..	Do. Liverpool.
Jno. Gowen	Do.	..	..	..	..	Do. Newcastle.
Jno. Tucker	Do.	..	..	..	..	Do. Hobart Town.
W. Rayner	Do.	..	..	..	..	Superint'g the making up of all Accts., examining do. and keeping Cash accts etc
T. W. Middleton	Principle Assistant Clerk	7/6	1/-	..	..	Making up Victual'g Accts. for Head Quarters, and Mustering the Out Stations.
John Flood	Extra Clerk	4/-	6d.	..	..	Do. Dry Store Accts., writing Letters for Transmission to England, and O. Stations.
Edwd. Jno. Yates	Do.	..	..	..	..	Keeping Cash Books, Drawing Bills of Ex., List of Bills, Abstract of Store Receipts.
John Richards	Do.	..	..	..	..

[Enclosure No. 2]—continued.
 RETURN of the Commissariat Department of New South Wales, &c.—continued.

Names.	Rank.	Daily Pay.	Lodging Money per Day.	House Rent.	House Allowance per day.	How Employed.
James Hankinson	Extra Clerk	4/-	6d	..	..	Checking off the issue of Rations, Keeping an account of Provisions, etc
Geo. Smith	Do	3/-	"	..	..	Wholly in Making up Muster Books for His Excellency The Govern- ernor.
G. W. Browne	Do.	"	"	..	..	Making Copies of Acts, Current, Estimates, Lists of Bills, Quar- terly Returns, etc. for His Excellency the Governor.
Charles Sommers	Do.	"	"	..	..	Copying Govern't and Gen'l Orders for Transmission to the Com- in-Chief, etc.
Charles Eaton	Do.	2/6	"	..	..	Do. dry Store Accounts, Property Tax Statements, Letters, etc.
Newconn Edgworth	Do.	"	"	..	..	Do. documents and enclosures for Letters, Schedules of Esti- mates, etc.
Chris. L. Bridges	Do.	2/-	"	..	..	In assisting Mr. Palmer in collecting Debts due to the Crown.
John Obee	Do.	1/6	"	..	..	Do in assisting Mr. Fitzgerald at Windsor.
Barnab's Prix	Do.	"	"	..	..	Do " Mr. Tucker at Newcastle.
J. Vaux	Do.	"	"	..	..	In binding Books for the several Stores, Ruling Books etc.
Chas. Clark	Do.	"	"	..	..	In assisting Mr. Johnston.
Thos. Parsons	Office Keeper and Messenger	2 6	"	..	..	At Hobart Town in arranging the accts. of D.A.C. Genl. Hogan.
Theo's Jennings	Assistant in the Stores	1/6	..	..	..	Do. Do.
W. Hewin	Cooper	"	..	..	..	Do. under Ass't Comm'y Gen'l Broughton.
W. Colquhoun	Extra Clerk	2/-	..	..	..	Do. Do.
John Clark	Do.	1/6	..	..	..	Do. Do.
Myles Turner	Do.	2/-	..	..	..	Do. under Ass't Comm'y Gen'l Broughton.
James Spencer	Do.	1/6	..	..	..	Do. Do.
J. Lanahan	Do.	1/6	..	..	..	Port Dalrymple, Dep'y Ass't Comm'y Gen'l Archer.

Sydney, New South Wales, 25th March, 1817.

D. ALLAN, D.C.-Gen'l.

1817.
 1 April.

Return of
 officials in the
 commissariat
 department.

1817.
1 April.

Proposed
establishment
for the
commissariat
department.

[Enclosure No. 3.]

SCHEDULE of the proposed Establishment of the Commissariat Department for the Territory of New South Wales, Vizt.

At Sydney.—1 Assistant Commissary General, 2 Staff Commissariat Clerks, 6 Subordinate Clerks, 2 Storekeepers.

At Parramatta.—1 Deputy Assist. Commissary General, 1 Staff Commissariat Clerk, 2 Subordinate Clerks, 1 Storekeeper.

At Windsor.—1 Staff Commissariat Clerk in charge, 1 Subordinate Clerk, 1 Storekeeper.

At Liverpool.—1 Storekeeper in charge, 1 Subordinate Clerk.

At Bathurst, in New discovered Country.—1 Storekeeper in charge, 1 Subordinate Clerk.

At the Derwent.—1 Deputy Assistant Commissary General, 1 Staff Commissariat Clerk, 2 Subordinate Clerks, 1 Storekeeper.

At Port Dalrymple.—1 Staff Commissariat Clerk in charge, 2 Subordinate Clerks, 1 Storekeeper.

At Newcastle.—1 Storekeeper in charge, 1 Subordinate Clerk.

Recapitulation.—1 Assistant Commissary General, 2 Deputy Assistant Commissary Generals, 6 Staff Commissariat Clerks, 16 Subordinate Clerks, 9 Storekeepers.

L. MACQUARIE.

Government House, Sydney, N. S. Wales,
31st March, 1817.

[Enclosure No. 4.]

THE MEMORIAL OF GEORGE JOHNSTON, JUNR.

The memorial
of George
Johnston, Junr.

To His Excellency Major General Macquarie, Governor in Chief and Commander of the Forces in New South Wales, etc., etc.

Most Respectfully Sheweth,

That Your Memorialist was on the 30th April, 1814, appointed by Your Excellency, at the recommendation of Deputy Commissary General Allan, to a Staff Clerkship in the Commissariat Department of this Colony, until Such time as the Pleasure of The Lords Commissioners of His Majesty's Treasury and The Commissary in Chief should be known thereon.

That on the arrival of the Atlas Transport from England on the 22nd July last, The Deputy Commissary General here received a letter from J. C. Herries, Esqr., The Commissary in Chief, acquainting Him that, in Answer to his letter No. 88 of date

30th April, 1814, wherein he notified my appointment, "that He should not feel justified in recommending the Same to the Lords Commissioners of His Majesty's Treasury for confirmation, as They were desirous of availing Themselves of any Vacancy, which might occur, in favor of the Very many Candidates, who have Strong claims upon Their Lordships for long and Valuable Services Performed in Various Quarters." This Your Excellency's Memorialist considers perfectly just, but at the Same time begs leave most respectfully to State that Mr. Andrew Allan was confirmed about the Very Same time in a Staff Clerkship in the Department, who had scarcely ever done a Day's duty, by which he became Senior to Your Excellency's Memorialist on the Commissariat Staff, who has been actively employed for near Three Years in charge of His Majesty's Magazines at Head Quarters, during which period his Conduct, in discharge of the trust and confidence reposed in Him, has met with Your Excellency's entire approbation and that of his Superior Officers.

1817.
1 April.
The memorial
of George
Johnston, Junr.

From all these circumstances, Memorialist trusts Your Excellency will be pleased to take the hardship of his Case into consideration, and recommend him to The Lords Commissioners of His Majesty's Treasury, and The Commissary in Chief for a confirmation of his appointment as a Staff Commissariat Clerk, which Memorialist as in duty bound will ever most gratefully acknowledge.

GEO. JOHNSTON, JUNR.

Sydney, New South Wales, 12th March, 1817.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 5 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 3rd July. 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

1st April, 1817.

The System,* hitherto in force ever since the Original Establishment of the Colony, of Victualling the Sick received into the General Hospital for Medical Cure has always been considered very defective and prejudicial to the Patients. It has frequently attracted my Own Notice on occasions of my visiting the Hospital, and has also been often reported to me by the Principal Surgeon as greatly requiring a reform and the adoption of a New System; the Consideration of any increase of expence to

The victualling
of patients in
the hospital.

1817.
1 April.

Government in this particular Department has always been my only objection to the introduction of a New System and adopting the same mode here, as is observed in all His Majesty's other Colonies of dieting the Sick.

Proposed changes in the dietary scale in the general hospital.

Under a full Conviction of the Propriety and necessity of adopting a different System from the One now in practice for dieting the Sick in the General Hospital here, and the present reasonable and low State of Provisions being now greatly in favor of such a Change, I some time since directed the Principal Surgeon to draw out a Memorial on the subject, accompanied by such Statements, as he might deem necessary, in explanation of the proposed Plan for the future dieting the Patients admitted into the General Hospital and for the general management of the same.

Mr. Wentworth, the Principal Surgeon, has accordingly laid before Me a Memorial on this important subject accompanied by certain Documents in support and in explanation of the New proposed System, making it clearly appear that the difference of expence, if any, will be very trifling.

Herewith I do myself the honor to transmit Your Lordship the Memorial and Documents alluded to, together with a Letter from the Principal Surgeon in explanation of the Estimate and statement for victualling the Patients in the General Hospital agreeably to the New proposed System, which I take the liberty of strongly recommending to Your Lordship's most favorable Consideration with the expression of my Sanguine hope that Your Lordship will authorize Me to direct the New proposed System to be immediately adopted and carried into effect on the Plan proposed by the Principal Surgeon.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 1.]

The memorial of D'Arcy Wentworth re diet and clothing of patients in hospital.

THE MEMORIAL of D'Arcy Wentworth, Principal Surgeon of His Majesty's Settlements in New South Wales, etc., etc.

To His Excellency Lachlan Macquarie, Esquire, etc., etc.

Most respectfully Stateth,

That owing to a concatenation of perhaps unavoidable circumstances, especially in the early stage of the Colony, such as want of grain, fresh animal food, and other Articles of diet, the

Sick, who have been from time to time received into His Majesty's General Hospital, have from the earliest infancy of the Settlement been supplied with but little exception with the same ration, and kind and quantity of Slops, in common with the other Persons Victualled and Clothed from His Majesty's Magazine.

1817.
1 April.

The memorial
of D'Arcy
Wentworth
re diet and
clothing of
patients in
hospital.

That, although the absurdity, injudiciousness and detriment of this practice must have been sufficiently glaring, since the same dietetic regimen is highly improper for Patients of different ages and constitutions labouring under diseases as opposite in their Nature as in the Medical and dietitinal treatment conducive to their cure, yet the practice has hitherto subsisted. It must be at the same time acknowledged that the Surgeon has been at all times invested with a discretionary power of making such additions of Articles of comfort to the rations, as he might judge proper, but he possessed no power whatever of with-holding or exchanging any part of the ration served out from the Public Stores; hence, when the Articles, of which the ration consisted, were improper for the patients' use, they were owing to the dilapidation of the old Hospital inclosure generally converted by exchange into Spirits or other pernicious substitute.

That the greater number of Patients, who are received into this Hospital, are Prisoners with habits ill calculated for bestowing attention to that cleanliness of Body and Apparel so necessary to health; and besides it frequently happens that they have but One Shirt, and indeed but a single Article of each sort with which they are clothed and these perhaps but too generally in a tattered filthy condition, so that due cleanliness, if they possessed the inclination, under these circumstances is impossible.

That, as the Patients are now received into the New Hospital, where improper communication of every kind can be most effectually cut off; that, as there is generally abundance of grain together with the other Articles necessary for constituting a regular system of diet for the Sick, and as clothing can also be procured, Memorialist begs leave most respectfully to submit to your Excellency's consideration the propriety, or rather the necessity, of making an entire change in the mode of Victualling and Clothing the Patients in His Majesty's Hospital; and Memorialist further most respectfully begs that your Excellency will be pleased to place the Hospital under his charge on the same footing with the Hospitals in the other Departments of His Majesty's Service, or as nearly so as existing circumstances will allow.

1817.
1 April.

—
The memorial
of D'Arcy
Wentworth
re diet and
clothing of
patients in
hospital.

That, in order to render the system as complete and regular as possible, Memorialist begs leave to propose that, instead of the usual manner of receiving the grain from the Store unground Once a Week and the fresh Animal food twice or thrice a Week, that the Articles be supplied by Contract; that Contracts be made with Butchers, Bakers, and Gardeners for the daily supply of fresh Animal food, Bread, Vegetables, etc., etc., and that the Tea, Sugar and other Articles be supplied from His Majesty's Stores or be purchased at the best Markets.

That although the alteration thus proposed must necessarily be attended with some additional expence, yet Memorialist is of opinion that the increase of expence, owing to the saving there will be in the Articles of fresh Meat and Bread, will not be near so great as at first view it might appear to be. But admitting that it were, Memorialist is confident that your Excellency will not hesitate in adopting the proposed plan, when it be considered that the expence can bear no proportion to the quantum of Comfort, which it will confer on the Sick, and to the means which it will afford of contributing to the alleviation of their sufferings and to the cure of their Diseases.

That Memorialist would further most respectfully suggest that in order to secure the degree of cleanliness, so imperiously necessary to the comfort and so conducive to the recovery of the Sick, that each Patient, Male or Female, on his or her reception into the Hospital, be supplied with an entire change of clothing, the Old Ones being deposited in the Hospital Stores and returned to the Patient on his or her quitting the Hospital.

That, as there is much difficulty and inconvenience experienced in conducting the minor duties of the Hospital, connected with the due care of the Sick, Arising from the want of proper Persons to fill the situation of Clerk, Overseer, and Matron, These situations being at present filled by Persons without any Salary or Emolument, Memorialist also begs leave to submit these circumstances to your Excellency's consideration and begs to suggest the expediency of attaching certain Salaries to these offices, in order to induce Persons of Character and abilities to become Candidates for these Situations.

Memorialist begs most respectfully to submit the various items of this Memorial to your Excellency's humane consideration, conscious that from the anxious parental Solitude your Excellency has on all occasions evinced for the Public and Private welfare and comfort of every Person under your Government, that

nothing will be wanting on the part of your Excellency to place the Hospital under Memorialist's charge on such footing, as shall ensure the comfort and alleviate the sufferings of the Victims of disease.

1817.
1 April.

And Memorialist will ever hold the same in due remembrance,

D. WENTWORTH, P'l Surgeon.

[Enclosure No. 2.]

MR. D'ARCY WENTWORTH TO GOVERNOR MACQUARIE.

Sir, Sydney, New South Wales, 28th March, 1817.

In order to corroborate the Assertion made in my Memorial that "the increase of expence owing to the saving there will be in the Articles of fresh Meat and Bread will not be near so great as at first view it might appear to be," I beg to submit the Enclosed Statement of the Expences of the present system of Victualling the Patients in His Majesty's Hospital under my charge, and also an Estimate of the Expence of that I had the Honor of proposing for your Excellency's consideration.

Comparative estimates of victualling patients in hospital.

Although there are not 100 patients at present in the Hospital, I beg to observe that I have assumed that number for the sake of round numbers, in order to facilitate the calculation.

From this Statement, which I believe is correct in every respect, your Excellency will at once perceive that 36,500 lbs. fresh Meat, the present ration, served from the Stores to the Patients at the rate of one pound per Man per Day at 6d. per lb., Amount to £912 10s. 0d., whilst on the proposed plan the same number of Patients, that is 25 on full diet, 50 on half diet, and 25 on Spoon Diet, will require but 18,250 lbs. of fresh Meat for the same period, which will effect a saving in this Item of £456 5s. 0d.

Cost of rations of fresh meat ;

Your Excellency will as readily perceive that the present ration of grain, for the same number and period, Amounts to 1,067 $\frac{6}{7}$

of grain ;

Bushels of Wheat at 10s. per Bushel, making £533 18s. 6d., and on the contrary on the proposed plan the ration of Bread, number and period the same, only Amounts to £399 4s. 1½d., which effects a saving in the Article of Bread of £134 14s. 1½d.; so that the savings in the Articles of fresh Meat and Bread leave a surplus of £594 19s. 1½d. to be appropriated to the purchase of the other articles enumerated in the enclosed Statement, Viz. 570¼ lbs. of Tea at 5s., £142 10s. 0d.; the additional quantity of Sugar, 2,600 lbs. @ 6d., £65 0s. 0d.; 570 lbs. Salt at 1½d., £3 11s. 3d.; Vegetables, £182 10s. 0d.; and 9,125 Pints of Milk at 3d., £114 1s. 3d., which sums being added together Amount to £507 12s. 6d., and deducted from the above surplus, £590 19s. 1½d., leave a clear

and of tea, sugar, and sundries.

1817.
1 April.

balance in favor of the plan proposed of £83 6s. 7½d. This balance your Excellency will permit me to observe would have been considerably larger, had I added the Amount of the Tea and Sugar with which I have occasionally supplied the Patients, and to which I alluded in my Memorial under the Articles of Comfort.

Cost of
wine, spices, etc

It will not escape your Excellency's observation that I have omitted the mention of Wine, Spices, and other extra articles of necessity and Comfort. I have done so because the occasional supply of these Articles will be equally required on whatever plan the Victualling of the Patients may be conducted.

Hospital
clothing.

Your Excellency will also perceive that I have passed over in the Estimate the circumstance of the Hospital Dresses in silence. This I was induced to do, because I consider the expence so trifling as scarcely to merit attention. For the prisoners, who comprize the greater number of the Patients received into the Hospital, must necessarily be Clothed, whether in the Hospital or not; and therefore, in point of economy, I am disposed to think the saving in the Wear and tear of the Cloths, which they would have on at their reception and which in the event of a change of clothing will be deposited in the Hospital Stores till their discharge, as equal to the injury done to the Hospital Dresses with which they would be supplied.

Salaries of
hospital staff.

The necessity of attaching Salaries to those minor Situations, of which I have made mention in my Memorial, is so self evident, and the expence would be so inconsiderable that I shall forbear troubling your Excellency with any further observation on this head.

From the explanation into which I have thus entered, I trust it will manifestly Appear to your Excellency that any additional expence attendant on the proposed plan will be very moderate indeed. And therefore from the knowledge of that integrity, by which I am convinced every Act of your Government is influenced, of the philanthropy and benevolence so unceasingly manifested by your Excellency towards all ranks of Society in the Colony, for me to say more with the view of recommending the immediate adoption of these salutary alterations in the mode of Victualling and Clothing the Patients, and of placing the Hospital, which I have the honor of Superintending, on that footing with those in the other Departments of His Majesty's Service, would not only be superfluous but highly presumptuous.

I have, &c.,

D. WENTWORTH, P'l Surgeon.

[Enclosure No. 3.]

ESTIMATE of the Expence of Victualling the Patients in His Majesty's General Hospital, Sydney, New South Wales, shewing the difference between the present System and that now proposed.

<i>Present System.</i>		<i>Proposed Plan.</i>	
	£ s. d.		£ s. d.
To 36,500 lbs. of fresh Meat, being One lb. per Man per day for 100 Men for One Year at 6d. per lb.	912 10 0	To 9,125 lbs. fresh Meat, being 1 lb. per Man per day for 25 Men on full rations for One Year @ 6d. per lb.	228 2 6
„ 1,067 $\frac{2}{3}$ Bushels of Wheat, being at the rate of 11 $\frac{1}{2}$ lbs. per Man per Week for 100 Men for One Year, calculating the Bushel of Wheat at 56 lbs. to the Bushel @ 10s. per Bushel	533 18 6	„ 9,125 lbs. Do., being $\frac{1}{2}$ lb. per Man per day for 50 Men on half ration for One Year @ 6d. per lb.	228 2 6
„ 1,350 lbs. Sugar, being 6 oz. per Man per Week for 100 Men for One Year at 6d. per lb.	48 15 0	„ 27,375 lbs. Bread, being 1 lb. per Man per Day for 75 Men on full and half ration for One Year @ 3d. per lb.	342 3 9
		„ 4,562 $\frac{1}{2}$ lbs. Bread, being $\frac{1}{2}$ lb. per Man per day for 25 Men on Spoon diet for One Year @ 3d. per lb.	57 0 7 $\frac{1}{2}$
		„ 570 $\frac{1}{4}$ lbs. Tea, being $\frac{1}{4}$ Oz. per Man per day for 100 Men for One Year @ 5s. per lb.	142 10 0
		„ 4,550 lbs. Sugar, being 2 Oz. per Man per day for 100 Men for One Year @ 6d. per lb.	113 15 0
		„ 570 lbs. Salt, being $\frac{1}{4}$ Oz. per Man per day for 100 Men at 1 $\frac{1}{2}$ d. per lb. ...	3 11 3
		„ Vegetables	182 10 0
		„ 9,125 Pts. Milk being $\frac{1}{4}$ Pt. per Man per day for 100 Men @ 3d. per pt. ...	114 1 3
		Balance in favor of proposed plan ...	1,411 16 10 $\frac{1}{2}$
			83 6 7 $\frac{1}{2}$
		Balance in favor of proposed plan ...	£1,495 3 6

Balance in favor of proposed plan £83 6s. 7 $\frac{1}{2}$ d.

1817.
1 April.
Comparative estimates of cost of victualling patients in hospital.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
1 April.(Despatch marked "No. 6 of 1817," per H.M. brig Kangaroo;
acknowledged by Earl Bathurst, 21st July, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

1st April, 1817.

Memorial *re*
manufacture of
flax or hemp.

Herewith I take the Liberty of transmitting for Your Lordship's Perusal and favorable Consideration, a Memorial addressed to me by a very ingenious Man, Named Robert Williams, Rope Maker in Sydney, on the subject of Manufacturing the New Zealand Flax or Hemp into Cordage and Sail Cloth for exportation to England and the other British Dominions from this Colony.

Proposed
British
settlement in
New Zealand.

From my knowledge of the Character of Robert Williams and observation of the several Specimens of this Manufacture he has frequently produced at Sydney, I entertain not the least doubt of the statement made by him in his Memorial being perfectly correct, and that he is competent, if he had the required assistance, to fulfil all the promises held out by him in his Memorial. But to enable him to do so, and to carry this Branch of Manufacture on with a certain prospect of success, it would be necessary to afford him sufficient Protection from the eventual Hostility of the Natives of New Zealand by the Establishment of a British Settlement there with a small Detachment of Troops. How far Your Lordship would deem this good Policy, it is not for me to say; but I do not at present see that it would be attended with any bad Consequences except in regard to the expence of Maintaining such a Settlement; tho' I am inclined to think, if this Manufacture proved successful, the advantages to be derived from it to the Mother Country would more than Counterbalance any expence the Establishment of a small British Settlement in New Zealand would cost the Crown. I therefore take the liberty of submitting this Measure to Your Lordship's most favorable Consideration.

Specimens of
flax or hemp
transmitted.

I do Myself the honor to send Your Lordship, by this same Conveyance, a Box addressed to Your Lordship containing several Specimens of the New Zealand Flax or Hemp, prepared and manufactured in Sydney by Robert Williams and alluded to in his Memorial, from viewing and examining which Your Lordship will be able to form a tolerable good judgment of his Art, and of the Utility he attaches to this Branch of Manufacture.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

THE MEMORIAL OF ROBERT WILLIAMS, ROPEMAKER.

To His Excellency Governor Macquarie, &c.; &c., &c.

Most respectfully sets forth,

That Memorialist having presented to Your Excellency Specimens of his Manufactory from the Hemp, the growth of New Zealand, such as never before has been produced by any other person, tho' numerous have been the Attempts since the Establishment of this Colony, and immense Labour and large Sums have been expended by Government and enterprising Merchants to no Effect; Its singular Method of Manufacture having disappointed the Efforts of all former Artists and Mechanics And this valuable Plant rested in Oblivion, tho' its Productions were high in demand and an Object of Importance to the British Government. Memorialist humbly trusts your Excellency is well informed of his Experience and Ability in manufacturing the Hemp of New Zealand, And his having visited that Island for the express purpose of ascertaining the growth Extent and Method of collecting it, and the Information, acquired on that Excursion and several Years experimental Practice in manufacturing, has enabled Memorialist to lay the following Statement before Your Excellency, And humbly trusts you will consider it an Object worthy the Notice of the British Government.

The Production of this Plant has been an Object of Attention since the first knowledge of New Zealand, And from its Silky Appearance has borne the Name of Flax; but experienced Judges will find it Hemp of an excellent Quality, adapted for Cordage and Canvas, which the sample sent herewith will testify. Mechanics in England have given their Opinion that this Hemp could not be manufactured and was of no Value. Memorialist feels no Surprise at such a Report, having experienced difficulties innumerable in introducing his System of manufacturing this Hemp, but he trusts the Production will prove its Value and vie with English Manufacture. And Memorialist states further his Capability to perform every process of manufacturing with more speed than it is performed on such Manufacture in England.

Memorialist further states that the Process of watering, brakeing, and cleaning, is so different to the Process on Hemp and Flax in Europe, persons well informed in that business will be surprised to hear that this Hemp may be cut from the Plant in the Morning and manufactured into Cordage the same day, And that the Average Labour of ten Men and five Boys will produce One ton of Hemp per day in equal Preparation to Hemp imported from Russia.

1817.
1 April.

The memorial of
Robert Williams
re cultivation
and
manufacture
of flax or
hemp from
New Zealand.

1817.
1 April.

The memorial of
Robert Williams
re cultivation
and
manufacture
of flax or
hemp from
New Zealand.

Memorialist begs leave to observe that the Hemp grows spontaneously in great abundance, that he travelled thro' tracts abounding with Hemp several Miles in Circumference, the Hemp covering the Surface from two to Six feet in height; there are several qualities of Hemp according to the Situation of the Land. Among the Rocks in View from the Sea, it grows from Six to ten feet high; this is the most productive and best adapted for making Cables.

From One Stool or Root, I cut 84 Blades which produced Ten pounds of Nett Hemp (nine feet long when cleaned); this production did not cover a circumference of Land more than three feet Diameter; this will give an Idea to what extent this Hemp may be collected from natural Production, exclusive of Propagation, by transplanting which may be carried to any Extent by the following moderate Simple means and Expence.

The Plant is very hardy, grows in large Stools, I have divided thirty distinct Roots from one Stool, and one of those Sections or Roots have laid exposed for several days in hot Sun and Wind, and have been then planted, And 18 Months afterwards that Plant produced nine, which I transplanted, and in Eight Months those nine Plants produced Eight pounds of Nett Hemp And the following Year trebled that Quantity. I have endeavoured to distinguish the proper Season of cutting the Hemp, but find little difference in that respect, and am of opinion it may be gathered every Month in the Year and the Hemp of equal Quality, if cut in Succession.

From this Statement it will appear, upon a moderate Calculation, in a few Years every Yard of Land in New Zealand will produce Six pounds of Hemp annually, And this may be performed by Natives, if instructed and encouraged, which may be accomplished by very moderate Means.

The Plant requires no Cultivation except to extend and propagate it, a piece of Land planted, the Plants three feet from each other, would be united in one Mass in three Years, and thrive equally and well and need no further attention.

Should His Majesty's Government think it wise to promote and encourage the growth and receive the Hemp in British Markets, these Islands would in a few Years render a general Supply for manufacturing and naval purposes, exclusive of New Zealand. The Plants may be extended to most of the Islands in these Seas; the Plants may be stowed in Bulk in small Vessels, and a Voyage of several Weeks would not injure them; the Plant produces Seed in great Abundance, but very different to the Plant of a very tender Nature, and requires great Care and Attention to bring it to perfection, and no dependance to be placed on it on a

large Scale. On the other hand the Plant is certain and may be had to any Extent.

Memorialist has cautiously calculated the Expence and labour required to perfect this Undertaking, as well as the distant Situation from Europe, and feels confident the natural Production and great Abundance of the Plant and the simple means required to prepare it for the British Market must prove advantageous to the trade and manufacture of Britain and likewise prove an Article of Commerce from the Colony.

Memorialist has calculated the undertaking almost independent of the Natives; but, by proper Application, few Europeans will be required in preparing the Hemp for manufacture if independent of the Natives, Small Establishments must be formed for Protection, if dependant on the Natives, Nature supplies the Plant and every other Means to provide the Hemp for a British Market.

The Natives are a hardy people, destitute of any of the Comforts of life except a Scanty Allowance of Food and Clothing; they are naturally ingenious and want little Inducement to Industry except the Example with their Interest in View.

Memorialist's System of cleaning the Hemp are by means of machinery principally constructed of Wood, and worked by Water; All which Means are generally found by Nature on the Spot; the Machinery is simple and five Carpenters and one Blacksmith would erect Machinery in 3 Months that would employ a thousand of the Natives, and with one Months Instruction to them they would be able to furnish immense Quantities of Hemp to such Vessels as may be appointed to call for it. In this Case, the Natives would gladly receive this Information from the persons appointed and likewise dispose of their Hemp on very moderate Terms in Exchange for Articles of British Production; And Custom would soon improve their barbarous habits of Life.

Memorialist humbly submits to Your Excellency's Consideration his Exertions to introduce the New Zealand Hemp were at a time when that Article was greatly in demand in the Mother Country, the Original Supplies being nearly cut off by the Effects of War, and Encouragement held out to most of the British Dominions.

Exclusive of such Encouragements, he had a hope of introducing the Hemp to the use of this Colony which has been in great distress for Cordage; But divided parties have attempted the Object without applying the proper means, and not in possession of the proper Method. Under which Circumstances the Object rests until more favorable Arrangements to be conducted under one Principle and interest, Otherwise nothing of Importance can be effected.

1817.
1 April.

The memorial of
Robert Williams
re cultivation
and
manufacture
of flax or
hemp from
New Zealand.

1817.
1 April.

Memorialist most respectfully prays Your Excellency's Patronage and Support in transmitting the Specimens of this Manufacture to His Majesty's Ministers, with such Testimonies and Recommendation as Your Excellency may think his Exertions have merited.

And Memorialist will ever pray,

ROBERT WILLIAMS.

Sydney, New South Wales, 1st April, 1817.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 7 of 1817," per H.M. brig Kangaroo; acknowledged by under secretary Goulburn, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

1st April, 1817.

I have the honor to acknowledge the receipt of Your Lordship's Letter under date the 20th of May, 1816, enclosing Copy of a Letter dated 1st February, 1816, addressed to Your Lordship by Mr. Samuel Blaxland, together with Copy of the Answer to that Gentleman's Letter written by the Under Secretary of State, under date 20th May last, and calling upon me to state to Your Lordship my reasons for striking the Name of Mr. John Blaxland, Settler in this Colony (and Brother to Mr. Samuel Blaxland), from off the List of those Persons who were allowed to furnish Meat for the use of the Government Stores, as well as to explain to Your Lordship other complaints made in the Memorial, presented to Your Lordship by Mr. Samuel Blaxland in behalf of his Brother, Mr. John Blaxland.

I cannot help expressing my astonishment that any Person, who wishes to be considered as entitled to the appellation of a Gentleman, should assert so barefaced a falsehood in a Public address to Your Lordship, as Mr. John Blaxland has done in stating that his Name had been struck off the List of those Persons who were allowed to furnish Meat for the Government Stores, as such an assertion is utterly void of truth, and of course a wilful and premeditated falsehood, no such Occurrence having ever taken place in respect to him or any other Settler since my assuming the Government of this Colony; and to convince Your Lordship further of the little Credit to be placed in this Gentleman's Statements, I herewith have the honor to transmit, for Your Lordship's perusal and information, an Attested Copy of a statement furnished me lately by the Deputy Commissary General of the Quantity of Fresh Meat supplied by Messrs. John and Gregory Blaxlands for his Majesty's Stores, since the return of Mr. John Blaxland to this Country in 1813, which is a much larger quantity than they are entitled to supply

Acknowledgment of despatch *re* John Blaxland.

Repudiation of John Blaxland's assertions.

in proportion to the Stock they possessed; it being a rule laid down by Me that all Graziers should be permitted to supply the King's Stores with Animal Food in proportion to the Stock of Cattle they rear and actually possess.

1817.
1 April.

In respect to Mr. John Blaxland's Complaint relative to the Land he states in his Memorial to have cleared at so great an expence, and of which he was afterwards deprived by this Government, his statement is most unfair and unjust; for, instead of clearing Sixty Acres, he has only cut down the Timber on about Thirty Acres, a small Proportion of which he has Cleared and enclosed as a Paddock for his Cattle at a very trifling expence. But so far is it from the Truth, that he was deprived of the Paddock in question, that he actually uses it to this very day, the Lands on which it was erected being Government Ground and as yet unappropriated. In Obedience to Your Lordship's Commands, I some time since Offered Mr. John Blaxland to indemnify him, on the part of Government, for the expence he had incurred in clearing and enclosing the Paddock in question, on the same being fairly Valued by a Competent Committee whenever he chose to Name his Arbitrator and fix a day for the Committee to assemble at the place he cleared, but I have not yet received any Answer from him to this Proposal, being, I believe, now somewhat ashamed of his gross Misrepresentation Home on this Subject.

Inaccuracy of
John Blaxland's
statement *re*
his land.

Compensation
offered to
John Blaxland.

I have, &c.,
L. MACQUARIE.

[Enclosure.]

ACCOUNT of Fresh Meat Supplied His Majesty's Stores in New South Wales in Charge of Deputy Commissary General Allan by Messrs. J. and G. Blaxland from the 24th of June, 1813, to the 1st January, 1817.

Return of
fresh meat
supplied to
government
by J. and G.
Blaxland.

Date.	At what Station.	By whom Supplied.	Quantity.
1813.			lbs.
August 7th	Sydney	Mr. J. Blaxland	1943
" 10th	Do.	Do.	3334
" 12th	Do.	Do.	427
September 2nd	Do.	Do.	1161
" 4th	Do.	Do.	1584
" 6th	Do.	Do.	796
1814.			
February 5th	Parramatta	Do.	1655
" 12th	Do.	Do.	1604
" 19th	Do.	Do.	1813
" 26th	Do.	Do.	980

ACCOUNT of Fresh Meat Supplied His Majesty's Stores in New South Wales, &c.—*continued.*

1817.
1 April.
Return of
fresh meat
supplied to
government
by J. and G.
Blaxland.

Date.	At what Station.	By whom Supplied.	Quantity.
1814.			lbs.
March 12th	Parramatta	G. Blaxland	987
" 19th	Do.	Do.	896
" "	Sydney	Do.	5243
April 2nd	Parramatta	Do.	1222
" 4th	Do.	J. Blaxland	4557
" 16th	Do.	Do.	586
May 14th	Sydney	Do.	560
August 27th	Parramatta	Do.	1083
October 5th	Sydney	G. Blaxland	4313
" 29th	Parramatta	J. Blaxland	3693
1815.			
April 8th	Do.	Do.	995
" 14th	Sydney	G. Blaxland	6043
" 15th	Parramatta	J. Blaxland	2946
December 9th	Do.	Do.	1882
" 16th	Do.	Do.	3115
1816.			
Jany. 9th	Sydney	Mr. G. Blaxland	1268
February 24th	Parramatta	Mr. J. Blaxland	3778
March 2nd	Sydney	Mr. G. Blaxland	1505
July 20th	Do.	Do.	3063
" 24th	Parramatta	Mr. J. Blaxland	872
Septem'r 24th	Sydney	Do.	6410
October 26th	Parramatta	Do.	3038
Novem'r 2nd	Do.	Do.	3023
Total Quantity ...			73,375 lbs.

And which Quantity, Vizt. 73,375 lbs. at 7d. (the Store Price) amounts to £2140 2s. 1d. Stg.

D. ALLAN, D.C.-Gen'l.

Sydney, New So. Wales, 25th Feby., 1817.

True Copy:—L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 8 of 1817." per H.M. brig Kangaroo;
acknowledged by Earl Bathurst. 4th July, 1818.)

Government House, Sydney, New South Wales,

My Lord,

1st April, 1817.

Despatch
acknowledged.

I have the Honor to acknowledge the Receipt of Your Lordship's Letter under date the 1st of April, 1816, Enclosing Copy of Correspondence with the Commissioners of the Transport Board respecting my Treatment here of Mr. Joseph Arnold, late Surgeon and Superintendent of the Northampton Convict Ship, who it Appears Complained that I refused not only to Victual him during his Stay in this Colony but also to provide him with a Passage back to England.

It is very true that I refused him the latter, as I Certainly did not Consider Myself Justified in putting Government to the Expence of paying for Mr. Arnold's Passage Home without being Instructed to that Effect by Your Lordship; but it is not true that I refused to victual him during his Stay here, that Gentleman never having made any direct application to Me to that Effect, otherwise it should have been granted him.

1817.
1 April.
Passage money
refused to
Joseph Arnold.

I am truly grieved to find that I have fallen under Your Lordship's Censure in not Complying with the Recommendation of the Commissioners of the Transport Board in behalf of Doctor Arnold; but I shall take Care in All future Similar Instances to attend to the Directions of that Board, now that my doing so is Sanctioned by Your Lordship.

Mr. Arnold having been particularly pertinacious and Lofty in his Demands for Lodging and Passage Money, and having here no precedent for my Guidance, as to the Scale or Rate of such Allowances, I certainly thought Myself perfectly Justified in not Complying with his Demands; but, on his leaving the Colony for England, I gave him such a Certificate as would, I supposed, have enabled him to receive at Home all such Allowances as he might be Considered there to be entitled to. I pursued the same System with Regard to all the other Surgeons and Superintendants of Convict Ships, who arrived here in Succession after Mr. Arnold, until I was Honored with Your Lordship's Dispatch on this Subject, herein already adverted to, and None of those Gentlemen ever Complained of the Rule I had thus laid down for my own Guidance as being any way Injurious to them.

Reasons for
refusal of
Arnold's
demands.

Ever since the Receipt of Your Lordship's Instructions on this Head, I have not only Victualled all the Surgeons and Superintendants of Convict Ships which have Arrived here, but have also paid to each of them the Sum of *Ninety five Pounds Sterling* to defray the Expence of their Passage to England, taking for my Guide herein the Regulations of the East India Company for Passage Money for Officers of Corresponding Ranks, Embarked on their own Ships to and from India to England, of which I hope Your Lordship will Approve.

Passage money
paid to
surgeons of
convict ships.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.
(Despatch marked "No. 9 of 1817," per H.M. brig Kangaroo;
acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

Sir,

1st April, 1817.

I have the honor to acknowledge the receipt of your Letter under date the 5th of August last, with its accompaniments, consisting of the Original of a Memorial addressed by Mr. Samuel

1817.
1 April.
Claims for
compensation
made by
Samuel Bate.

Bate, late Deputy Judge Advocate at the Derwent, to Earl Bathurst, and also Copy of a Letter from the same Gentleman addressed to His Lordship, Claiming remuneration from Government for the losses and privations he states himself to have sustained while holding that Appointment, and requiring me to report to you, for the information of Earl Bathurst, on the Points stated by Mr. Bate in his Memorial.

Confinement of
Bate in close
arrest by
Murray.

I have accordingly to report to you for Earl Bathurst's information that what Mr. Bate has stated in his Memorial is generally Correct, at least as far as is consistent with my knowledge, but he draws conclusions and inferences which are not true; for I am not aware that he sustained any privations or injurious treatment, at least not since my taking Charge of this Government, with the exception of his being kept in close arrest for some little time by Captain Murray, the then Commandant of Hobart-town in the latter end of the Year 1811, for some insolent and disrespectful Conduct; but, on my visiting that Settlement in the Month of November in the same Year and finding Mr. Bate still in close Arrest, I released him from it immediately and admonished Captain Murray for resorting to so harsh and severe a Measure. Captain Murray however endeavoured to justify the step he had taken from the very Mutinous and insolent Conduct of Mr. Bate, which on investigating I found had been improper and ungentlemanlike.

Treatment of
Bate after his
suspension
from office.

As to the Suspension of Mr. Bate from the exercise of his Functions as Deputy Judge Advocate at the Derwent, that arose from his own violence of Passion and ignorance of his Duty, it being impossible to employ him with any Advantage to the Public Service; but I never heard that he suffered any Privations on Account of his Suspension, as Himself and Family were still continued on the Store, had Government Servants allowed them, and with the exception of a very short interruption (owing to the Commandant's refusing to sign the usual Certificates for him) continued all along to receive his Salary as Deputy Judge Advocate; Added to all which, I gave him on his Soliciting the same a Grant of One Hundred Acres of Land at the Derwent on which he never made the smallest improvement, but sold it previous to his going Home, contrary to the express Condition of his Grant.

Bate's
allotment at
Hobart.

The Complaint he makes respecting his Town Allotment at Hobart-town is equally frivolous and unjust, as will more fully appear from the statement of Mr. Deputy Surveyor Evans, which I herewith transmit to you for Earl Bathurst's further information on this Subject.

After seriously considering all that has been set forth by Mr. Bate in his Memorial, I am clearly of Opinion that his claim for

remuneration from Government is both unjust and unfounded, and consequently that he ought not to receive any.

1817.
1 April.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

MEMORANDUM BY DEPUTY-SURVEYOR EVANS.

Sydney, 1st March, 1817.

I HAVE the Honor to represent to Your Excellency that the House and Premises, which Mr. Bate, in his Memorial to the Right Honorable Earl Bathurst, bearing date the 16th July, 1816, states to have purchased with a view of a Permanent Settlement at Hobart-town, is now in the actual Occupation of Mr. Humphrey, the Agent of that Gentleman, who holds it in charge from Mr. Bate to be restored to him on his return to Van Diemen's Land. I am not aware that a Lease of the Ground was ever promised to the Original Occupier, and Mr. Bate, I have no doubt, was aware of that Circumstance when he made the Purchase; and it remains to be determined whether he has any claim on Government for a Lease after having Sold and transferred to Thos. Wm. Stocker, previous to his departure for England, the Grant of Land given to him by Your Excellency in the Year, 1812.

Surveyor
Evans' report
on Bate's
allotment at
Hobart.

Mr. Bate may have made some improvements on the House in question, but the whole of the land, which he has fenced does not exceed Two Acres, the scite of the House and Garden included.

G. W. EVANS, Dy.-Surveyor, V.D.L.

True Copy:—L. MACQUARIE.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch marked "No. 10 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N.S.W.,

Sir,

1st April, 1817.

I have the honor to acknowledge the receipt of your Letter under date the 24th of May 1816, enclosing Copy of a Letter to your address from Mr. Charles Shea, claiming some Lands* he states to have been granted at Sydney to his Father Captain John Shea of the Royal Marines, and calling upon me to furnish you with such information respecting this claim as I might be able to procure here.

Claims made by
Charles Shea to
land at Sydney.

Having made every inquiry into the circumstances stated in Mr. Charles Shea's Letter to you of date 23d May, 1816, I do not find that there are any Grounds for his claim, which appears to be altogether unfounded and chimerical, no Grant or Lease having ever been given to his late Father of the Lands alluded

1817.
1 April.
Claims made by
Charles Shea to
land at Sydney.

to in his Letter; consequently the Son has not even the shadow of a Claim to them. I have been at particular pains to investigate this claim by collecting every information on it I could obtain from the Oldest Inhabitants now alive in this Country, and their information all Confirm what I have already stated as to the Non-existence of Mr. Charles Shea's claim; but, for the further information of Earl Bathurst on this subject, I herewith transmit you a Copy of a report made to me upon it by Mr. Meehan, the Deputy Surveyor General of Lands.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

REPORT ON CLAIMS* OF MR. CHARLES SHEA.

Sydney, 22nd Feby., 1817.

MEMORANDUMS in Answer to Sundry Memorials for the Information of Governor Macquarie.

Surveyor
Meehan's
report on
Charles Shea's
claim to
land grants.

IN reply to Mr. Charles Shea's Letter to Mr. Goulburn, stating that his Father, Captain John Shea of the Royal Marines, had in the Year 1787 or 1788 received a Grant of 500 Acres of Land, which it is stated he in a short time cleared, Sowed Wheat, etc., and further that his Father had received a Second Grant of the same Amount, and that part of the Land the present Church Yard of Sydney now stands on was his Father's.

I think I may with Confidence say the whole of such assertions are false, as no Officer of *any rank* in the Colony had, at the time alluded to, received a greater Portion than *One hundred Acres* of Land and that but *once*. Neither would Governor Phillip assign any Leases within the limits of the Town of Sydney; but such of the Officers, as required it, had Portions of Land given them on Lease for Fourteen Years without the Town, so that such Lease on its expiration might revert to the Crown and be again at the disposal of Government.

I have been upwards of Seventeen Years in the Colony, and have been since well acquainted with every Location of Land that either had been, or has been since, made, and must have had information from some of the Officers since resident in the Colony, if Captain Shea had such Lands given him as has been stated, as they have been here at the time of his Death. The present Church Yard is within the Town, and on that Ground is not likely to have been located; if so it never came to my knowledge, but am very certain there is no register or record remaining in the Colony, either in the Surveyor's Books, or Secretary's, without which no title can have any Validity.†

JAMES MEEHAN, Depy. Surv'r-General.

True Copy:—L. MACQUARIE.

* Note 35.

† Note 63.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

1817.
1 April.(Despatch marked "No. 11 of 1817," per H.M. brig Kangaroo;
acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

Sir,

1st April, 1817.

I do myself the honor to acknowledge the receipt of your Letter under date the 25th of May, 1816, with Copy of a Letter addressed by Mr. Robert Wilson of London to Earl Bathurst, enclosing a Memorial from William Paterson of Hobart Town in Van Diemen's Land addressed to His Lordship, and also Copy of the Answer written by you to Mr. Robert Wilson, and calling on me to report to you for His Lordship's information respecting some Ground which William Paterson states he has been dispossessed of at Hobart Town.

Memorial of
William
Paterson *re*
land at Hobart.

I have accordingly the honor to report to you, that having made minute enquiry into the Complaint of William Paterson in respect to the Piece of Ground he states he has been deprived of at Hobart-Town, that his complaint is frivolous and unfounded, having received a full Compensation and equivalent for the small Portion of his Garden Ground taken to make a New Street through, and which became an indispensibly necessary measure for laying out the Town in a regular and Commodious Order. The Ground and House occupied by William Paterson belonged to the Crown, and tho' he had occupied the same for some Years he never had obtained any regular or legal right to these premises either by Grant or Lease, so that he might without any real injustice have been deprived of the whole.

Invalidity of
Paterson's
claims.

For Earl Bathurst's further information, I herewith enclose you Copy of a report made to me on this subject by Mr. Meehan, the Deputy Surveyor General, who laid down the New Plan of Hobart-Town by My Orders; from which report you will observe that William Paterson's Complaint is both frivolous and groundless. This Man, I understand, was originally dismissed from his Office by the late Colonel Collins for neglect of Duty and other Misconduct; he has always been considered a very factious, discontented Man, and has given from first to last a great deal of trouble to every Lieutenant Governor and Commandant, since the Original establishment of the Settlement of Hobart-Town. Complaints coming from such Characters ought therefore to be totally disregarded, and treated with the Contempt they deserve.

Character of
William
Paterson.

I have, &c.,

L. MACQUARIE.

1817.
1 April.

Surveyor
Meehan's
report on
Paterson's
claims.

[Enclosure.]

DEPUTY-SURVEYOR MEEHAN TO GOVERNOR MACQUARIE.

Sir,

Sydney, 22nd Feby., 1817.

On Perusing that part of Wm. Paterson's Memorial to Earl Bathurst of the 12th September, 1815, and the subjoined Copy of a Memorial to Lieutenant-Governor Davey of the 29th Septem'r, 1814, respecting a Portion of his Town Land being taken from him. In reply I beg to inform Your Excellency that when I was marking the Streets in Hobart-town in 1813, which had been Planned by me under Your Excellency's directions in 1811, there had been a portion of the Land then attached to an Old Government House used and resided in by Paterson severed from it by Collins Street passing thro' it, so that what was before considered the rear of the House then became the Front. I allowed Paterson to inclose the Old Street way, so that he had still an ample allotment remaining; the Ground alluded to was then waste and having fully satisfied myself that he had no claim of right to either the House or Land, but by Occupancy (having been built at the expence of the Crown), I assigned the Portion so cut off to Mr. Evans in compliance with Your Excellency's Order to let him have a Town Allotment. Lieutenant Governor Davey was fully acquainted with the circumstances as I had invariably consulted him on all Locations of Land, etc. in the Town; all the Streets had been marked by me and Opened within the period of His Government, so that He could have given a sufficient Answer to Paterson on the spot. The House was scarcely Tenable; I told Paterson that unless he would undertake building another House I would likewise dispose of that remaining to him, but did not do so.

I have, &c.,

JAMES MEEHAN, Depy. Surv'r-Genl.

True Copy :—L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 12 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

3 April.

My Lord,

3d April, 1817.

After the prompt and Effectual Measures by which Your Lordship has been pleased to relieve me and the Colony from a Continuance of the Wanton and Unprovoked Insults and Arbitrary Conduct of Mr. Jeffery Hart Bent, by recalling him from the Situation of Judge of our Supreme Court, it is not without Serious Reluctance I again address Your Lordship on the Subject. I shall endeavour, however, to make this Communication as Concise as the Circumstances will possibly admit.

Reluctance
in making
further reports
re J. H. Bent.

In trespassing on Your Lordship's Valuable and Important time on so Unpleasant a Subject, I will beg leave to premise that My Motive is rather to Guard against the false and Malevolent Representations, which I have every reason to believe Mr. Bent intends to make in regard to Me and My Government on his Return to England, than to Continue a Series of Charges against him, which his Recal renders Unnecessary.

1817.
3 April.

Macquarie's
reasons for
making report.

In order therefore to Meet his Assertions so far as they may apply to the Subjects of our occasional Correspondence, I do myself the Honor to transmit Your Lordship a Copy of a Series of Letters and Documents Connected therewith, which have taken place either with, or in regard to Mr. Bent from the 16th of October last up to the present time, preceded by a Copy of one from the late Judge Advocate Bent respecting the Monies paid him for the Judge Advocate's House.

Transmission of
correspondence.

These Letters are Chiefly Confined to the Five following Subjects:—

1st. Mr. Bent's retaining possession of the Letters Patent, whereby the present Courts of Judicature are Constituted and established, and also of three Sets of the Statutes.

2nd. Mrs. Bent and his Occupation of the Judge Advocate's House after the Arrival of Mr. Judge Advocate Wylde.

3d. Mr. Bent's Threat and Attempt to Attach the Person of one of the Members Associated with him in the Supreme Court for Not Attending on him to open the Court, after Mr. Bent was acquainted with his Recal and Disqualification, and after the Members of the Court had been discharged from that Duty by my Authority, and his Threat and Attempt to imprison the Provost Marshal and other Officers under the same Circumstances.

4th. On the Subject of removing the Remains of the late Mr. Judge Advocate Bent from a Vault in the Burial Ground to the Inside of the Church.

5th. Complaining of Detainers being lodged against him and Mrs. Bent.

The Correspondence which took place on the first of those Subjects, Namely the Letters Patent and three Sets of the Statutes, will give Your Lordship a full View of the Shifts and Artifices Mr. Bent had recourse to in order to afford a Pretext for keeping them in his possession. And that, in regard to the Statutes, after exhausting every Argument in his power, Conveyed in Language the most Insulting and Unbecoming, to make it appear that the Statutes were personal Property and had been presented to him and his late Brother as "*Usual Gifts to persons appointed to Judicial Offices,*" He thought proper to deliver over

Correspondence
re custody of
letters patent
and of statutes.

1817.
3 April.

to My Secretary one old Incomplete Set and afterwards to send the other Sets to the Judge Advocate, the Letters Patent he also delivered to my Secretary.

Correspondence
re occupation of
judge-advocate's
official
residence ;

In referring to the Letters, which passed on the 2d Subject, namely the occupation of the Judge Advocate's House by Mr. Bent and the Widow of the late Judge Advocate, Your Lordship will observe in What Manner, and with What Degree of Delicacy, I acted to shelter Mrs. Bent from any Inconvenience she might be exposed to for want of a Residence, even after More than a Month had elapsed since the Arrival of Mr. Judge Advocate Wyld; and when Mr. Bent, in one of his Letters, Mentions the Sums expended by his late Brother "Out of his private Means" on the Judge Advocate's House, I Cannot better refute the Assertion than by referring to the Copy of a Letter from the late Judge Advocate Bent (the first in the Accompanying Series), Wherein, after acknowledging the Receipt of Money and Spirits to a Considerable Amount and making his Sincere Acknowledgments for my Treatment of him, he declares himself fully Compensated for All Expences of his House "*past, present and to Come.*"

and re
J. H. Bent's
threat to
attach Alex.
Riley and
officers of
supreme court.

The 3rd Subject, which points to Mr. Bent's Threat against the Members of the Supreme Court and other Officers, will require very little Observation from me after Your Lordship has perused the Correspondence on this Head; it will there appear in what Manner Mr. Bent assumed to himself the Right of opening the Supreme Court after his Recal was announced to him, of Calling upon the Associated Member to attend him, of pretending to Adjourn the Court from one day to another, and finally threatening to Arrest the Member for not Attending him after I had publickly relieved him from that Duty, and also of threatening to send the provost Marshal to Prison for not putting his Illegal Mandate into Force. These were Acts of so Atrocious a Nature, so alarming in their Consequences and Effects, so subversive of all Law and order, and Apparently so Calculated to introduce the most Arbitrary Outrages on the Liberty of the Subject, that I felt it my Indispensible Duty no longer to delay adopting a very Strong Measure in regard to Mr. Bent; and altho' it may seem, at first view, rather harsh, must unquestionably be Justified by the extraordinary Circumstances which produced it. The Measure, I Alluded to, was that of Issuing a Government and General Order,* under date the 11th day of December, 1816, Publickly Notifying Mr. Bent's Removal and Recal from his Official Situation, and declaring his Disqualification and Incapacity to act from henceforth as Judge of the Supreme Court, or a Magistrate of this Colony. If this was a severe Measure, My Lord, it

* Note 64.

was brought by Mr. Bent on himself by a Perseverance in that Line of Conduct, which has rendered him Obnoxious to the Community here, and had Excited an Universal Indignation against him and his Proceedings; And when I resorted to it of Necessity, I did it with extreme Reluctance, as the only Means of preserving the Peace and Tranquility of the Colony and protecting and securing the Liberties of its Subjects.

1817.
3 April.

In regard to removing the Remains of his late Brother into the Church, it had been refused on a former Application from Mrs. Bent as an Indulgence I could not grant, Considering it altogether Improper. Mr. Bent's Letter to me on this Subject was so grossly Insolent and Offensive that Nothing but the Respect I owed to my Sovereign's Commission would have allowed Me to pass it over with Silence and Contempt.

Correspondence
re removal of
judge-advocate
Bent's remains ;

Mr. Bent, in addition to his other gross and Insulting Expressions, and Alluding to My Refusal to permit his Brother's Remains to be deposited in the Church, accuses me with having broken a Promise, which he falsely states I had made to grant that Indulgence, and declares that he shall Inscribe that Fact on his Brother's Tomb-Stone,* that "When those, who knew him, shall read the Inscription, the Sigh they will breathe over departed Worth may bear a silent Malediction upon What he shall be Authorized to Call and ever shall Consider My despicable Conduct."

On the 5th and last Subject, in regard to the Detainers lodged against him and Mrs. Bent, Your Lordship will be fully possessed of all the Circumstances in the Correspondence that refers to it. All, that Mr. Bent had to say, went to avow and Insist that neither He or his Sister in Law were compelled to pay or would pay their just Debts before their Departure from the Colony; that they were *Not* Amenable to the Colonial Laws, and set them as well as the Port Regulations at Defiance.

and re detainers
lodged against
Mrs. Ellis and
J. H. Bent.

These are the few Remarks left me to make on the five Subjects, which form the Accompanying Correspondence. What will be Gathered from the Letters themselves will Serve to Mark the general Tenor of Mr. Bent's Conduct and Aims towards Me and My Government.

In one Letter,† particularly, Mr. Bent declares, in Speaking of himself and me, that "*Our local Rank places but a Shadow of Distinction between Us,*" and, with a View of drawing a Malignant Contrast of his own, he adds that his "Irritability of Temper has never led him into Acts either of Illegality or Oppression."

Insinuations
made by
J. H. Bent.

The Concluding Passages of a Letter† from Mr. Bent, dated 10th December, tax My Government with being "a Military

* Note 65. † Note 66.

1817.
3 April.

Despotism" and that "it would be impossible to give Effect to the Courts of Justice under it, but by a Servile Submission to my Views and Wishes."

I have selected the foregoing Extracts, My Lord, in order to shew the Temper, Disposition and Manners of Mr. Bent, as Characterizing the Man, with whom I have had to Struggle and Contend for upwards of three Years past. From his further personal Insults here, I have little to apprehend, as it is Expected he will Embark by one of the Convict Transports now in the Harbor, and proceed homeward, Via India, if he Cannot get Employment* under the Government of Bengal which it is said he Means to Solicit.

Expected
departure of
J. H. Bent.

Correspondence
with Mrs.
Ellis Bent.

By the present Occasion, I now also send Your Lordship a long Series of Letters† from and to Mrs. Bent, on the particulars of which I shall dwell but Slightly, her Letters being All written in the true Spirit of her Brother in Law, and indeed Chiefly in his Hand-Writing and principally on subjects embraced in his own Correspondence.

My Letters to Mrs. Bent will shew that I allowed her to Continue in the Judge Advocate's House from the Date of Mr. Judge Advocate Wylde's Arrival on the 5th of October up to the 23rd of December, and that I even Offered to Hire Lodgings for her in order to Induce her to leave the House, she was in, for the occupation of the New Judge Advocate, who, with his Family, was anxious to get possession and to make some Necessary Repairs and Alterations previous to his going into it.

Purchase of
house fittings
from
Mrs. Bent.

I have also purchased from her Various Articles not immediately belonging to the Absolute Fixtures of the House, at their original Cost, for which I have her Receipt to the Amount of £235 15s. 0d.. and paid for other Articles nearly £25 more in order to save her the Expencc and Loss she would have sustained, had they been taken down and Sold at Auction. By such Acts as these I have Incurred that Lady's high Displeasure as expressed throughout her Letters, which are only worthy of being alluded to at all, to Mark the more fully the Malice of her Amanuensis Brother in Law.

I hope, My Lord, that this will be the last time I shall ever find a Necessity for Calling Your Lordship's Attention to a Subject, which, while it refers to the Character, Conduct and Disposition of Mr. J. H. Bent, must always appear despicable and disagreeable.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 1.]

1817.
3 April.CORRESPONDENCE RELATING TO THE CUSTODY OF THE LETTERS PATENT
FOR COURTS OF JUSTICE AND OF COPIES OF THE STATUTES.[1] *Judge Advocate Wylde to Governor Macquarie.*

Sir, Sydney, 10th October, 1816.

Previously to leaving England upon my present Appointment, I made an application to the Secretary of State for a complete Set of the Statutes at large for the use of the Governor's Court in this Colony, and received an Intimation in Answer, that the same had already been furnished by the Government through the Medium of my predecessor Mr. Bent, the late Judge Advocate, and that on arrival I was to refer myself to Your Excellency in that respect. I beg leave therefore to submit the subject to Your Consideration.

Set of statutes
for use in
governor's
court.

I have, &c.,

JNO. WYLDE, Judge-Adv.

[2] *Secretary Campbell to Mr. Justice Bent.*

Sir, Secretary's Office, Sydney, 12th October, 1816.

I have the honor to transmit for your Perusal herewith an Attested Copy of a Letter addressed under date the 10th Inst. by Mr. Judge Advocate Wylde to the Governor, by whose Authority I now address you.

The Judge Advocate's letter being on the Subject of the Set of Statutes at large, which was sent out by Government to this Colony during the period that the late Mr. Judge Advocate Bent presided in the Judicial Department here, and it appearing from thence that the Secretary of State considered those Statutes as still the Property of the Crown, as the Governor had also done, which He had expressed in a former Communication to you on that subject. His Excellency is again induced to request, that you will give the necessary directions for their being delivered to Mr. Judge Advocate Wylde for the Benefit of that Court for which they appear to have been originally intended.

Request for
delivery of sets
of statutes ;

It having been Officially announced to the Governor in a Dispatch* from the Secretary of State that a Gentleman has been appointed to succeed you, as Judge of the Supreme Court, His Excellency considers this sufficient ground for his requesting that you will place in my hands, for delivery to him as soon as convenient, The Old Set of the Statutes, which was handed over to the late Mr. Judge Advocate Bent by His Predecessor as the property of the Crown, and that you will also place in my hands for the same purpose the Letters Patent by which the present

and of letters
patent.

* Note 69.

1817.
3 April.

Courts of Justice are Constituted, His Excellency considering Himself Officially the only proper depository for a Document of such high importance to the Colony at Large.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[3] *Mr. Justice Bent to Governor Macquarie.*

Sir,

Sydney, 12th October, 1816.

I have the Honor to acknowledge the receipt of your Letter of this day's date, together with a Copy of a Letter enclosed from Mr. Judge Advocate Wylde to His Excellency the Governor relative to a set of the Statutes at large for the Use of His Court.

I must premise that the Copy of the Statutes at large, alluded to in the first part of your Letter, were not sent out during the time the late Mr. Judge Advocate Bent presided in the Judicial Department, but upon his application, while in England, either came out or were brought out by him in the Year 1809 in the same Ship he arrived in. My late Brother considered them as the usual Gift to Persons appointed to Judicial Offices, and looked upon and marked them as His Private Property, and the more so as no Provision was ever made by Government for their continuation. On my Appointment I also received a Set of the Statutes at Large, which I brought out with my other Books, and for which I actually Paid export Duty at the Custom House. In a conversation with Mr. Judge Advocate Wylde on this Subject upon his stating that he was without a Copy of the Statutes, I assured him that, let the Matter be how it would, on no account would I deprive him or the Colony of what were so essentially necessary; and I trust every One will do my late Brother and myself the justice to believe that we would not for a moment retain, as a Gift, what the Donors considered as the property of Government, and after that they had stated that a Misconstruction had been put upon their intentions.

The former Communications from His Excellency the Governor on this point turned upon an Answer, stated to have been given by the Under Secretary of State to an Application by Mr. Garling for Copy of the Statutes, vizt. that they had been already sent out by Mr. Bent for the use of the Colony. Such an Application on the part of a simple Attorney shewed considerable assurance; for, though they might be sent for the use of the Colony, they could not be considered as Books in a circulating Library to be lent to every body in it; and the whole resting upon the assertion of Mr. Garling, I did not give it the Slightest Credit. I should wish to be favoured with the particulars of the Communication made from Home to His Excellency the Governor on this matter,

Sets of statutes
claimed as
personal
property of late
Ellis and
J. H. Bent.

Former
statements re
ownership
of statutes.

if it could be done with propriety; and in the mean time I shall take care that the Copy of the Statutes, used by my late Brother, be delivered to Mr. Judge Advocate Wylde for the use of the Court, for which it is stated they were originally intended.

1817.
3 April.

With regard to the Old Set of the Statutes, they (together with other Old Books of no utility), formerly belonging to the Court of Civil Jurisdiction, are in my Custody; for them as well as for all the other Records of the Supreme Court, I am responsible, and it will be my Duty to deliver them over to the Gentleman, appointed to succeed me, upon his arrival, should I be then remaining in the Colony, or, in case of my departure previous thereto, to make the necessary arrangements for that Duty being Correctly performed. No one can doubt my being sufficiently trust worthy for the above purpose; the request, which extends only to the Old Copy of the Statutes, I must therefore consider as a little premature, even though I should not look upon it as made for the purpose of mortification.

Old set of statutes and civil court papers to be delivered to J. H. Bent's successor.

His Majesty's Letters Patent, by which the present Courts of Civil Judicature are constituted, having been originally confided to Me, remained in my hands after they were promulgated for the purpose of taking correct copies of the same. A Certified Copy was furnished by Me to His Excellency Governor Macquarie for the Use of Van Diemen's Land, and I have sent to Mr. Judge Advocate Wylde for his perusal the Copy I had reserved for myself. The Charter itself, as it principally concerned the Courts, subsequently remained with Me for the purpose of reference, in case any doubt (which might reasonably be supposed would happen on the first formation of the Courts) should render it necessary to ascertain the words of the Original; I have said thus much in order to account for the Charter's remaining with me. I readily concede, that the Governor and His Successor are the proper Depositories for documents of such high importance to the Colony, and will transmit accordingly the Charter to you, for which you will have the goodness to furnish me with a receipt.

Custody of the letters patent.

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

[4] *Secretary Campbell to Mr. Justice Bent.*

Sir, Secretary's Office, 12th October, 1816.

I have been honored with your letter of this date, in reply to the communication I made you also of the present date, and shall take an early opportunity of laying it before His Excellency The Governor.

1817.
3 April.

In the mean time I do not feel warranted in saying more in reply than that I shall be ready to give you an Acknowledgment or Receipt for the Letters Patent so soon as received, agreeably to the desire expressed by you. I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[5] *Secretary Campbell to Mr. Justice Bent.*

Sir, Secretary's Office, Sydney, 16th October, 1816.

Having already acknowledged being honored with your letter of the 12th Inst., I shall now proceed to inform you that I have submitted it to the Governor, and have it in Command to make the following reply.

In regard to the correction you have been pleased to make as to the period of time at which the New Set of the Statutes were sent to this Country, it does not appear at all Material to the question whether they were, as you state, sent out with your brother or afterwards, as the Governor had stated, the reason of their being sent out at all being the same in either case. The question to be determined is whether His Majesty's Ministers destined those Statutes to the Public Service of the Colony or not; and on this Point His Excellency remains decidedly of opinion that they were meant for the Public Service, and that they still continue the property of the Crown. Neither has His Excellency been favoured with any one Document from you to induce His entertaining a different one; whilst, on the Contrary, he is supported in it by the circumstance of the late Mr. Judge Advocate Bent having at one time expressed a desire to put the Old Set into the Government Library in consequence of His Court having obtained the benefit of the New and more extensive one. The Governor cannot but be convinced by the letter of Mr. Judge Advocate Wylde (a Copy of which I had the honor to transmit you on the 12th Inst.) that the Secretary of State considered those Statutes the property of the Crown, else why should His Lordship have referred Mr. Wylde on that subject to Him? Mr. Wylde's application for a Set of the Statutes for the use of the Court He was then appointed to preside over, and not for his own personal Emolument, also shews that He was not aware of such Gifts being usually made to persons appointed to Judicial Offices, otherwise it is fair to presume He would not have suffered his claim to lay dormant, especially as it appears he was alive to the necessity of making the application in behalf of his Court, previous to His being informed that it was already supplied.

Thus far, His Excellency deems it right to put you in possession of the Grounds on which He has formed His opinion in

Macquarie's
claim to
statutes as
property of
government.

regard to the property of those Statutes; but as you held it as a point of fact that they belong to the Estate of your late Brother, He declines any further discussion on that Subject, or to make a Demand for that other New Set which you mentioned in Your letter of the 12th that you brought out at the time of your Arrival here as Judge of the Supreme Court, because all the arguments and facts in regard to the one Set apply equally to the other, and His Excellency cannot expect a different result in the latter Case from that in the former. Considering therefore that those two New Sets are not to be available to the Public for the present, or until a reference is made on the Subject to the Secretary of State, The Governor cannot however admit that you have any right to retain the Old Set which belonged to the Judge Advocate's Office at the time of your brother succeeding to Mr. Judge Advocate Atkins, and which was then handed over to him as the property of the Crown; for he has not heard of any claim on Your part either as Judge of the Supreme Court, or as Executor of the late Mr. Judge Advocate Bent, being set up to warrant their detention. The Property of this Old Set not being questioned, The Governor entertains the hope that, notwithstanding Your avowed intention of keeping it until the arrival of your Successor, and then handing it to him, that you will see the Propriety of Yielding that point, and putting the Set belonging to the Judge Advocate's Court into the hands of the Judge Advocate, since you decline sending it according to His Excellency's desire to the Government Library.

1817.
3 April.

Macquarie's
request for
delivery of old
set of statutes.

In regard to the intention you expressed of leaving one of the New Sets, which you hold under the denomination of private property, with the Judge Advocate, The Governor has nothing to do, as that must be of course altogether a matter of private arrangement; neither does He feel at all interested or concerned in the degree of Credit you may be disposed to attach to Mr. Garling's or any other Gentleman's assertions, altho' His Excellency without making any invidious Comparison, must say that he considers Mr. Garling's word and honor equally entitled to credit and respect as that of any Person, who may be disposed to impeach them in Communications where that Gentleman is necessarily deprived of the opportunity of asserting his honor and rebutting the imputation so irrelevantly thrown out against him. The necessity of this observation leads the Governor to regret that in Communications purely Official, and on his part untinged with acrimony or the most Remote degree of inclination in any way to hurt your feelings, His motives should be so much misunderstood as to be assigned to a desire for producing Mortification to You. It is not for His Excellency to recriminate,

Defence of
Garling.

1817.
3 April.

Criticism of
J. H. Bent's
method of
correspondence.

but He must in justice to Himself disavow being Actuated by any such illiberal and unworthy principles of Annoyance; He feels indeed warranted in entertaining very Different sentiments from those Persons, whom He has to transact Business occasionally with in his Official capacity; but difference of opinion need not excite a Spirit of hostility, and He cannot but lament that an irritability of temper has but too often manifested itself in the endeavours made by You to assign His public Measures to private pique and resentment, whilst a more temperate line of conduct would have much better become Your Years, Your liberal profession, and relative local rank, when in correspondence with the Governor of New South Wales.

I have, &c.,
JNO. THOS. CAMPBELL, Secretary.

[6] *Mr. Justice Bent to Secretary Campbell.*

Sir,

Sydney, 18th October, 1816.

I have the Honour to acknowledge the receipt of your Communication of the 16th instant, and have now to state that if His Excellency the Governor has been furnished with no documents by me on the point in question, neither have I been favoured with any from him, nor with anything which could alter my Opinion as to the light in which my late Brother considered the Copy of the Statutes in Question; though I admit he may have Misconstrued the intentions of His Majesty's Government, I should have thought that my statement "that, if the Statutes were considered by the Donors as the Property of the Crown," I did not wish for a moment to retain them, and that I should forward them to Mr. Wylde would have been quite sufficient as to that part of the subject; I have now said in my Letter that I should transmit them to Mr. Wylde under the Denomination of Private Property, but expressed an intention to transmit them simply.

J. H. Bent's
intentions
re statutes.

Negotiations
between
J. H. Bent and
John Wylde.

The Statement of Mr. Judge Advocate Wylde is perfectly satisfactory to Me as to the Idea entertained by the Under Secretary of State, and I should have acted accordingly had not Mr. Wylde informed me that he had written to the Governor on the point; and supposing some Communication would have been made from home directly to His Excellency, I conceived it more in form to await His addressing me; I consider every thing that passed between Mr. Judge Advocate Wylde and myself on this subject as more of a private arrangement than I do the Correspondence between you and myself; the Fact of Mr. Wylde's being not aware of the usual Gifts to Persons filling

Judicial Offices proves nothing, but this I am certain he will admit that such a favour It would by no means be improper to bestow.

1817.
3 April.

Taking the best view of Mr. Garling's statement, I could consider the Answer of the Under Secretary of State to him as but a Civil mode of evading a request, which he was not entitled to make, and my opinion of him cannot be altered by undeserved praise by whomsoever lavished.

With regard to the Old Set of the Statutes, it is singular that the ground upon which the requisition was made should be entirely changed, and that now be required for the use of the Judge Advocate, which before was required for the purpose of being delivered to the Gentleman who should be appointed to succeed Me, when he arrived. I consider myself the proper Person for such a purpose and I hinted that I felt hurt (as I had reason to be) if such were the only object of the requisition. But I do not wish to ascribe motives which His Excellency the Governor disavows. I must observe that I have always understood the Statutes in Question were the Property of the late Court of Civil Jurisdiction, and from that Court they reverted to the Supreme Court; But they are at His Excellency's disposal either for my Successor or for any other Person, whenever He shall think fit to send for them.

Custody of
the old set
of statutes.

I regret that I have now before me but too many convincing proofs under Governor Macquarie's hand, that, in respect to Acrimony of Language, I have been more sinned against than sinning; I heartily agree that difference of Opinion need not excite a Spirit of Hostility, and if His Excellency Governor Macquarie had felt the force of his own Observation, He would never have authorized the latter Paragraph of your Communication, a Paragraph which might be returned with double force upon himself, and which it would have been more becoming to have omitted. Our local rank places but a shade of distinction between us; and I have to learn what decorum of language ought to be adopted by me in Correspondence with any Governor of New South Wales, which I am not (even as a Private Individual) entitled to have observed towards me in return; And I will further add, that whatever may be my irritability of temper, it has never led me into Acts either of illegality or Oppression.

J. H. Bent's
resentment
of charges of
acrimony.

I have now to request you to state My sense of the inconvenience arising from a Correspondence carried on through the Medium of a third Person, and which is so different from former Practice.

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

1817.
3 April.

Campbell's
receipts for
letters patent
for courts of
justice.

[7] *Copy of Original Receipt from Secretary Campbell.*

Secretary's Office, Sydney, 19th October, 1816.

RECEIVED from Mr. Justice Bent, by the hands of Mr. Roberts, A Case containing a Parchment said to be the *Letters Patent* establishing the present Courts of Justice in the Territory of New South Wales, which I shall deliver to His Excellency Governor Macquarie.

JNO. THOS. CAMPBELL, Secretary.

[8] *Copy of Secretary Campbell's Second Receipt.*

Secretary's Office, 19th October, 1816.

RECEIVED from Mr. Justice Bent, by the hands of Mr. Roberts, a case containing 8 Sheets of Parchment being the Letters Patent constituting the present Courts of Justice in the Territory of New South Wales which I shall deliver to His Excellency Governor Macquarie.

JNO. THOS. CAMPBELL, Secretary.

[9] *Mr. Justice Bent to Secretary Campbell.*

Sydney, 19th October, 1816.

MR. JUSTICE BENT begs to observe to Mr. Secretary Campbell, that it might as well have been objected when He first produced the Letters Patent on his arrival in the Colony, that it was *said* to be His Majesty's Letters Patent.

The Letters Patent prove themselves, being under the Great Seal, and the proper form of a receipt would be to mention the date of the Letters Patent received, which would have been quite sufficient without mentioning the Contents. The receipt Mr. Secretary Campbell has sent is not correct in its statement of the Contents; For the Letters Patent sent by me only Constitute the present Courts of *Civil* Judicature, not at all touching the Criminal Court which subsists by Virtue of former Letters Patent which, as to that, are still unrevoked.

It would certainly have been as well if Mr. Justice Bent had sent a Note stating that he had sent H.M.'s Letters Patent by His Clerk Mr. Roberts; the omission was caused by its being so near the time when the Secretary's Office closes, and was by no means designed. And Mr. Justice Bent conceived the Character and Station of the Messenger, who is the first Officer of the Supreme Court, would render any Omission of that kind of less moment.

Mr. Justice Bent has the Honour to Subscribe himself Mr. Secretary Campbell's Most Obed't Serv't,

JEFFERY HART BENT, J.

J. H. Bent's
criticism of
the form of
Campbell's
receipts.

[10] *Secretary Campbell to Mr. Justice Bent.*

1817.
3 April.

Sir, Secretary's Office, 7 o'clock, 19th Octr., 1816.

I have to acknowledge the receipt of your communication this Evening, informing me of what, with all deference to you, I cannot accede to, Namely that the expression "*said*" to be His Majesty's Letters Patent might as well have been objected when they were first produced by you on your arrival in this Colony as by me, on a superficial view of the case and parchment to-day. In the one case (supposing that you allude to the time they were read publickly at Government House) they were read from beginning to end, and the Seal examined. In the other no such formalities were observed or deemed at all necessary, and therefore the degrees of Conviction in the two Cases are widely different, and in my opinion fully justify the qualified Terms of the Receipt, altho' I relinquished them on finding that you disliked them.

Campbell's
reply to
J. H. Bent's
criticism.

As to the information that my receipt was incorrect in its statement, in as much as the Letters Patent sent by You "only constitute the present Courts of *Civil* Judicature not at all touching the Criminal Court," &c., I am sorry that you should consider it necessary to dwell on a topic so unimportant, especially when the Receipt had direct reference together with all the Circumstances to the Application made to you on the 12th Instant, in your reply to which of the same date you did not make any objection altho' the term used, whether Correct or incorrect, was the same.

I am by no means insensible to what is due to the rank and Character of a Gentleman, in which light I could not but consider Mr. Roberts, and I hope that he has not had reason to complain of want of Gentlemanly attention to him on the two occasions of his being the bearer of Messages from you this Evening. On the first occasion before I gave him the receipt which you objected to, I asked him in express terms if he brought any form of receipt from you, as I was fully disposed to conclude that none improper for me to sign would be sent by you, and I was perfectly disposed to give it my signature without starting any Cavils, but I learned from him that he did not.

Attention
shown to
J. H. Bent's
clerk.

On his second call I made no difficulty in drawing the Receipt in the form you now hold it, which on putting the question to Mr. Roberts he considered satisfactory; and Sir notwithstanding Your Objections and the little time for consideration which I possessed when I wrote that receipt, I consider it full as good as any that could be dictated to me by all that Spirit of Arrogance which suggested the puerile Cavil in regard to the Term given by me to the Letters Patent.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

1817.
3 April.

[11] *Mr. Justice Bent to Secretary Campbell.*

Sir, Sydney, 19th October, 1816.

J. H. Bent's
explanation
of his former
letter.

When I received the Letters Patent from the Gentleman in the Secretary of State's Office through whom it was transmitted to me, though it came directed to me and Sealed up and never was Opened till my Arrival in the Colony, I gave a receipt for it in general terms, not questioning that it was what it was represented. And I confess I felt alarm at the doubt expressed by the Words said to be, A Receipt exact as to the Instrument delivered being necessary to me as a Voucher; I admit that you made the Alteration with all readiness.

I mentioned Mr. Roberts in order that you might not think it any slight that I had not sent a Note on the Subject, and not with the remotest idea of hinting that he had experienced any but the politest Conduct. My Notice of the expression in the receipt as to the Courts entirely sprang from the doubt as to the Letters Patent, by no means from a wish to start puerile Cavils or from thinking the Receipt unsatisfactory, but to shew that I did overlook slight objections.

You will allow me to say that the Proof of the Letters Patent being the Great Seal, that could be examined in a moment; I never thought of sending a Receipt ready drawn from hurry at the time, and expecting no other than a general Acknowledgment of receiving the Letters Patent alluded to in our Correspondence.

My Note was written hastily; yet I am not aware that there was in it, or at any time in My expressions, any wish to dictate or any Spirit of Arrogance in the Observation respecting the Courts, And I regret that in so simple a transaction any thing should have occurred to create discussion or excite Warmth, And

I have, &c.,

JEFFERY HART BENT, Judge Sup. Ct.

[12] *Secretary Campbell to Mr. Justice Bent.*

Sir, Sunday Morning, 9 o'Clock, 20th October, 1816.

Having retired for the night when your letter of last night was left at my house, I did not receive it until now.

Without wishing to prolong a Discussion in which probably difference of opinion may still subsist, I hasten to say that if I am right in considering the latter part of Your Letter written in a Spirit of concession, as I am willing to suppose it, I am happy to meet you on that ground, and to say that I am sorry for having used the Terms to which you allude.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

Campbell's
qualified
apology.

[13] *Secretary Campbell to Judge-Advocate Wylde.*1817.
3 April.

Sir, Secretary's Office, 21st October, 1816.

I have the honor to inform you that in consequence of Your letter to His Excellency the Governor, under date the 10th Inst. relative to a Set of the Statutes at large, which the Secretary of State had informed you was furnished through the medium of the late Mr. Judge Advocate Bent for the use of the Governor's Court in this Colony, His Excellency on the 12th Inst. renewed his Application to Mr. Justice Bent, who, as the representative of his late Brother, retained the possession of two Sets of the Statutes belonging to the Court wherein the Judge Advocate presides, and the result of this Application is that Mr. Justice Bent has said he will deliver the Old Set to His Excellency the Governor's order, and the other or New Set to You for the use of the Governor's Court. This being effected, You will please to apply to Mr. Justice Bent for the fulfilment of his Promise, and to Communicate the result for His Excellency's information.

Arrangements
re delivery
of copies of
statutes.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[14] *Secretary Campbell to Mr. Justice Bent.*

Sir, Secretary's Office, 21st October, 1816.

I have the honor to inform you that in consequence of your having stated in your letters of the 12th and 18th Instant (the latter received on the 19th Inst.) that you would forward the New Set of the Statutes at large to Mr. Wylde, His Excellency the Governor has communicated that circumstance to Mr. Judge Advocate Wylde, and instructed him to Apply to You for them.

Wylde to
receive statutes
from J. H. Bent.

In regard to the Old Set of the Statutes, which you state in your Letter of the 18th Inst. to be at the disposal of the Governor, whenever He shall think fit to send for them, I am instructed to request that you will please to fix the time of the present day or any ensuing one at which it will be suitable to Your Convenience to deliver it, at which time the Principal Clerk in my Office will wait upon You to receive it.

Set of statutes
to be delivered
to Campbell's
clerk.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[15] *Mr. Justice Bent to Secretary Campbell.*

Sir, Sydney, 22nd October, 1816.

I have the honour to acknowledge the receipt of your Letter of the 21st instant, and am sorry I was prevented from an earlier reply.

1817.
3 April.

I shall be ready to deliver the Old Set of the Statutes to-morrow Morning at Eleven O'Clock, if that hour is convenient to you, on the other side is a short Note of the Particulars of the Set.

I have, &c.,
JEFFERY HART BENT, Judge, &c.

[Sub-enclosure.]

List of statutes
for delivery.

PICKERING'S Statutes, 35 Vols. Oct'vo. bound, containing the Statutes at large from Magna Charter to the 26th Geo. III inclusive.

Two Vols. bound of Remington's Edit. 4th, containing Statutes at large from 26th Geo. 3rd to 34th Geo. 3rd, both inclusive.

12 Parts in Boards, 4th Edit. containing the Statutes at large from 35 to 46th Geo. III inclusive; wanting the 37th year of the King.

J. H. BENT, J.

[16] *Secretary Campbell to Mr. Justice Bent.*

Sir,

Secretary's Office, 23rd October, 1816.

I have the honor to acknowledge the receipt of your Letter informing me that at Eleven O'Clock this Morning you will be ready to deliver the Old set of the Statutes, and favouring me at the same time with its description, agreeably to which I have made out the accompanying Receipt.

Mr. Robinson, the Principal Clerk in my Office, will be the bearer of this and has my instructions to take charge of the Books.

I have, &c.,
JNO. THOS. CAMPBELL, Secretary.

[17] *Receipt from Secretary Campbell for Copies of Statutes.*

J. T. Campbell's
receipt for
copies of
statutes.

PICKERING'S Statutes, 35 Vols. Oct'o bound, containing the Statutes at large from Magna Charter to the 26th Geo. 3rd inclusive.

Two Vols. bound of Remington's Edit. 4th, containing Statutes at large from 26th Geo. 3rd to 34th Geo. 3rd, both inclusive.

12 Parts in Boards, 4th Edition, containing the Statutes at large from 35th to 46th Geo. 3rd inclusive, wanting the 37th Year of the King.

Received from the Honorable Mr. Justice Bent, the Old Set of the Statutes at large (formerly belonging to the Judge Advocate's Court) being irregular in the Editions and imperfect in the Series, agreeably to the above Description, which I shall deliver to His Excellency Governor Macquarie.

Secretary's Office, Sydney, 23rd October, 1816.

JNO. THOS. CAMPBELL, Secretary.

[Enclosure No. 2.]

1817.
3 April.CORRESPONDENCE RELATING TO THE RESIDENCE OF THE
JUDGE-ADVOCATE.[1] *Judge-Advocate Bent to Governor Macquarie.*

My Dear Sir,

Tuesday, 30th June, 1812.

I have this instant received your Two Orders on the Com-
missary, and on Mr. Wentworth, for 200 Gallons of Rum and
£550 Sterling in full Payment of My disbursements, "*past,*
present, and to come," on Account of the Judge Advocate's
Residence,* for which I beg Your Excellency will accept my most
sincere acknowledgments.

Ellis Bent's
acknowledg-
ment of
payments.

I have, &c.,

ELLIS BENT.

True Copy:—JNO. THOS. CAMPBELL, Secy.

Note by Governor Macquarie.—This Letter is attached here as
the best comment on Mr. Justice Bent's assertion in his Letter
of the 31st October, 1816, wherein he speaks of the Sums ex-
pended on the Judge Advocate's House by His Late Brother "out
of his Private Means."

[2] *Mr. Justice Bent to Governor Macquarie.*

Sir,

Sydney, 31st October, 1816.

I have to address Your Excellency on the part of Mrs.
Ellis Bent, who has understood that the House She Occupies has
been offered to Mr. Judge Advocate Wylde, at any time He may
require it, and that Mr. Judge Advocate Wylde considers her in
some measure as occupying it by his allowance. I will content
myself with recalling to Your Excellency's recollection the Con-
versation, which passed between us on this subject, and Your
Excellency's expressions with regard to myself, and with stating
that Mrs. Bent has only from peculiar Circumstances delayed her
departure from this Colony.

Occupancy
of official
residence of
judge-advocate.

Out of the Three Vessels now in the Harbour, The Master of
One could not allow sufficient time, not even 7 days delay beyond
his day (which was the 3rd Novr.) for Mrs. Bent's preparations.
The Master of the Elizabeth, after Mrs. Bent had been on board,
stated as an Obstacle that Berths for the Children could not be
erected, so that I was obliged to forego for her any thought of
that Vessel; And, though He has subsequently offered with
Government assistance, which Mr. Wylde undertook to get, to fit
up the requisite Accommodation (if possible to be done), I am
now under the Necessity of declining to proceed in that Ship.
And the Master of the Third (The Mariner) says there is not
sufficient time to fit up Berths, before he shall be obliged to sail

Negotiations for
Mrs. Bent's
departure.

* Note 70.

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also; and I am not certain where she is ultimately bound, nor whether He will have a Surgeon on board which, if he goes to Batavia, would be indispensable.

Mrs. Bent's
permissive
occupancy of
residence.

I admit without any hesitation that Mr. Wylde, from his arrival, has uniformly said Mrs. Bent might take her own time as to her quitting the House; And I have not replied in any other than in general terms till to-day, when I thought it right to state that Mrs. Bent considered herself as Occupying the House by Your Excellency's Permission and as matter of favour from you alone, when Your Excellency's right so to Act was questioned, and the fact stated that the House had been offered already. Mrs. Bent would wish to know to whom she is to consider herself obliged for the Privilege, to which however, from the Sums expended on it by my late Brother out of his Private Means, She did think herself particularly entitled as long as She could with propriety require it. Your Excellency can not but suppose that Mrs. Bent is anxious to lose no Opportunity, that could offer, of leaving the Colony, and that it is by no means her wish to prolong her stay for the purpose of Creating difficulties or inconvenience to any one or any farther than necessity actually obliges her.

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court, N. S. Wales.

[3] *Governor Macquarie to Mr. Justice Bent.*

Government House, Sydney,

1st November, 1816, Friday Morning.

Sir,

Official
residence
required for
judge-advocate.

I had the honor of receiving your Letter of Yesterday's date early this Morning. I perfectly well recollect the substance of the conversation, I had with you, relative to the Judge Advocate's House, and I certainly never meant to incommode Mrs. Bent or yourself by requiring either of you to quit it as long as there was only an *Acting* Judge Advocate in the Colony; but circumstances are now greatly changed by Mr. Judge Advocate Wylde's arrival with a permanent Appointment as such from England, and who has consequently an undoubted right to demand getting possession of the House expressly built and intended for the residence of the Judge Advocate of the Territory. Under these circumstances, however painful it may be to my feelings to disturb or incommode Mrs. Bent or yourself, I shall not be able to resist the undoubted claim of Mr. Judge Adv. Wylde to give him possession of his House on his making a formal and official application to me for it, which I know he has hitherto forborne doing entirely from motives of delicacy to Mrs. Bent and yourself, as well as in compliance with my wishes communicated to him on

this head on his arrival in the Colony. In case however Mrs. Bent and yourself should be able and feel inclined to avail yourselves still of the favourable opportunity of returning to England in any one of the three Ships now here, ultimately bound for that Country by way of India, I shall be happy as a matter of accomodation to Mrs. Bent and you to give on the part of government any reasonable assistance, that may be required by any of the three Commanders, to fit up the intended accomodation for you in the least possible time, so as to enable you to avail yourselves of so favourable an opportunity.

I have, &c.,

L. MACQUARIE.

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Assistance offered to expedite Mrs. Bent's departure.

[4] *Mr. Justice Bent to Governor Macquarie.*

Sir,

Sydney, 1st Novem'r, 1816.

I have the Honour of acknowledging the receipt of Your Excellency's Letter of this day's date, and I have now to state, in regard to the Vessels in the Harbour, that the Willerby sails on Sunday next. The Master of the Elizabeth appeared to me and to Mrs. Bent to wish that we should decline his offer, even while He made it, and Mrs. Bent and myself would not on any terms sail in that Ship. With the Master of the Mariner, I have not had much Communication, but most certainly I do think that there are Workmen sufficient in Sydney to fit up any accommodation that we should require, without troubling Your Excellency for any assistance; but if she sails on Sunday Week as proposed, it has now become impossible to embark in that Ship; in regard to the House, I am glad the matter is made clear. But Your Excellency will recollect that Mr. Wylde brought the Official Intelligence of his own appointment, and Mrs. Bent's occupation of the House since his arrival has not yet exceeded the limits, which might reasonably be expected would be allowed for any one's removal merely. Your Excellency has never provided me with any accomodation, as a Judge of the Supreme Court since My arrival, and I should think I am as much entitled to accomodation at the expense of the Crown as the Judge Advocate or as My Successor would be, when He arrives. Of course Mrs. Bent will receive an Official Communication of the time, when the Widow and Children of the late Judge Advocate will be required to turn out.

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

Difficulties against an early departure.

Mrs. Bent's occupation of official residence.

[5] *Governor Macquarie to Mr. Justice Bent.*

Sir, Government House, Sydney, 7th November, 1816.

I have the honor to acknowledge the receipt of your Letter of date 1st Instant, and in reply to the only part of it, which

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3 April.

Refusal of
quarters or
lodging money
for J. H. Bent.

requires any observation or answer from me, I now beg leave to enclose for your information an Extract of a Dispatch, received some little time ago by Me from His Majesty's Principal Secretary of State for the colonies, by which you will observe that you are not considered by His Lordship entitled to receive any Lodging Money or Government Quarters here, as Judge of the Supreme Court.

I have, &c.,

L. MACQUARIE.

[Sub-enclosure.]

EXTRACT of a Dispatch from Earl Bathurst, Secretary of State for the Colonies, addressed to Governor Macquarie under date, Downing Street, 4th December, 1815.

"I HAVE equally to express my approbation of your decision with respect to Mr. Bent's claim for Lodging Money. No expectation was ever held out to him of such an allowance, nor do I see any reason why it should be granted.

"BATHURST."

True Extract:—L. MACQUARIE.

[6] *Mr. Justice Bent to Governor Macquarie.*

Sir,

Sunday, 7th Novem'r, 1816.

I have the Honour to acknowledge the receipt of your Letter of this day's date, and am certainly surprized at the Extract which has been forwarded. For I am not aware that I ever at any time made any application to you or claim for Lodging Money, and in consequence I am ignorant when that Decision took place, which is the subject of Approbation. On My arrival I made an Application for a residence; upon objections being stated, I declined even the Lodgings offered to be taken for me at Mr. Lord's, and subsequently referred the Point of an Official Residence to His Majesty's Government, with whose determination I have not yet been made acquainted.

To me at least it appears, That the Extract does not bear out the Conclusion, "That the Judge of the Supreme Court is not entitled to a residence at the expence of the Crown"; for I can never think it possible that His Majesty's Government would allow a Governor to provide residences at the expence of the Crown for His Dependants, for Persons filling Offices of his own Creation, and for every other Person holding even inferior situations in the Colony, and at the same time suffer the Judge of the Supreme Court to be alone destitute of such Accommodation.

I have, &c.,

JEFFERY HART BENT, Judge.

The claims of a
judge of the
supreme court
for official
residence.

[7] *Governor Macquarie to Mrs. Bent.*1817.
3 April.

Government House, Sydney,

Madam, 18th November, 1816, Monday Morning.

The Judge Advocate having Communicated to me the Letters that have passed between yourself and him, as to the period of Your continued possession of the Judge Advocate's House, of which I have already apprized your Brother in law, Mr. Justice Bent, that he has, by his appointment, an indisputable right of immediately requiring the Possession, I am desirous in the first instance to be informed by yourself within what period, of course devoted to the purpose of removal and without any unreasonable delay, you can arrange to vacate and give up the House, and as I am still not without the desire of saving yourself and children from any inconvenience I could relieve you from the endurance of.

Mrs. Bent to fix date for vacation of official residence.

I shall not be unwilling upon request to undertake upon the part of the Government, though perfectly uninstructed upon the point, to take or be accountable for any suitable House or Lodgings for You Yourself and Family, until such time as an opportunity may again Offer for you to proceed to England.

If there be any Claims with respect to extra Fixtures in or about the House, that can be Satisfactorily approved upon proper Survey, as chargeable to Government, I shall very readily take also them into Consideration.

Compensation to be made for fixtures.

I am, &c.,

L. MACQUARIE.

P.S.—I request to be favoured with your answer to this Letter as soon as you can make it convenient, enclosing your letter to Mr. Secretary Campbell, who will forward it to me at Parramatta, to which place I propose going this afternoon.—L.M.

[8] *Mrs. Bent to Governor Macquarie.*

Sir, Sydney, 20th November, 1816.

From the Tenor of your Conversation some time ago with Mr. Justice Bent, as detailed to me, I had supposed that it was your intention that I should occupy the House till my departure. I think that had that intention been otherwise, I should have been made earlier acquainted with what passed between yourself and Mr. Wylde upon this point at his arrival.

Mrs. Bent's surprise at request.

It is well known that Mr. Justice Bent has been in the Occupation of the House equally with myself; so that it is not only the Widow of the late Judge Advocate, but the Judge of the Supreme Court also, who is required to remove so precipitately.

To me it seems very extraordinary that Mr. Wylde should now insist upon what he gave no direct intimation of before, and that after expressions which, if there is any meaning in Words, could

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only be construed as giving me as much time as I could wish. And now it would appear, because I have thought, as I always shall think, that the Master of the Elizabeth was of an indecisive mind and raised frivolous objections to prevent my departure in His Ship, that Mr. Wylde seeks to urge you to hasten my removal.

But I should think that if it was not your wish that I should be disturbed, Mr. Wylde would hardly, after placing himself under Pecuniary obligations, insist upon what was contrary to your inclinations.

Refusal of offer to provide lodgings.

The expence of Lodgings for myself and family, for the time I should probably need them, upon the *largest* calculation, would not exceed fifty Pounds, so that the responsibility attending such a provision is not of a very heavy nature, and I do not feel myself yet driven to the necessity of requesting any bounty of that description. It is not from such a necessity that I have been anxious to remain in the House, but in Order to save the Annoyance disadvantage and risk of a removal of Furniture, which it is my intention so shortly to dispose of. That is my principal Motive, and I think after the expence and vexation sustained in building and Completing the House, I should not be exposed to any further trouble on its account, and more particularly when the same care has been ever taken of it as if it had been my Own.

Reasons for not wishing to vacate house.

If it had not been my full intention to leave the Colony by the very first Opportunity, I would not have said a word upon the subject nor have hoped, as I now do, to have the indulgence shewn in similar cases; but as it is, I trust I shall not have this cause to think that I have been treated by you ungraciously and by Mr. Wylde with a want of generous feeling.

I am, &c.,

ELIZA BENT.

[9] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 23rd November, 1816.

Having transmitted your Letter to the Governor, which came under cover to me on the 20th Inst., I have it now in command to convey to you His Excellency's further Sentiments, and in performing this duty I hope to avoid any expression which might be supposed either to originate with myself or to convey what might be deemed hurtful to Your Private feelings.

Mrs. Bent's neglect to fix a date for vacating house.

His Excellency regrets that your Letter has been couched in terms so unsatisfactory, as to leave him altogether at a loss to know what your intentions really are in regard to your giving up the Judge Advocate's house, which is now occupied by you; it being altogether silent in regard to the precise time at which

you purpose to evacuate it, which His Excellency had in his Letter to you requested you to state explicitly.

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The Governor is therefore now under the painful Necessity of thus Communicating to you, that, in consideration of the present situation and claims of Mr. Judge Advocate Wylde as affecting the discharge of His Official Functions, his Private convenience, The Instructions of His Majesty's Secretary of State, and the total failure of all attempts on his part and that of His Excellency himself to effect an Arrangement on this Subject for your mutual Convenience, He cannot permit you to Occupy the Judge Advocate's house for any longer time than may be absolutely necessary for the removal or disposal of your furniture; And with this view His Excellency directs that you shall relinquish the Occupation of the Judge Advocate's house, on or before Monday the 23rd day of the ensuing Month of December, and in Order that this extension of time for your occupation of that house may be considered a final and definitive Measure, His Excellency will expect that on or before Wednesday next the 27th Inst. you will transmit to Him thro' the Medium of My Office a Written assurance that you will on the 23rd of December (if not earlier) deliver up the house of the Judge Advocate.

Date fixed
by governor
for vacation
of residence.

In Order that you may be apprized of the Consequences which will be attendant on any Non-Compliance on your part with the foregoing terms, I am to inform you that in such case the Governor will consider it His Duty without further Notice or delay to adopt such Measures as may be necessary to put the Judge Advocate, on the part of the Crown, into a more immediate possession of the house than has been proposed; but which He still earnestly hopes your good Sense and discretion will save him the necessity for resorting to, and yourself and family from the unpleasant Situation to which such a Circumstance must subject you.

Non-compliance
with terms to
be followed by
stronger
measures.

The Governor is utterly at a loss to know what you mean or allude to in that part of your Letter wherein you mention Mr. Judge Advocate Wylde's being under Pecuniary Obligations to Him, and desires to undeceive you therein by the assurance that such is not the fact, and if such report has reached you, His Excellency considers it His Duty to that Gentleman thus to declare that it is totally unfounded. I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[10] *Mrs. Bent to Governor Macquarie.*

Sir,

Sydney, 27th November, 1816.

Your Sentiments have been conveyed to me in a Letter from Mr. Campbell, and, in reply to the want of explicitness in my

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Mrs. Bent's
allegations
of want of
candour.

Letter, I may say that the discussion has principally arisen from want of Candour and explicitness on your part; in a Letter to Mr. Justice Bent, you stated that Mr. Judge Advocate Wylde had forborne, at your request, to insist upon the Occupation of the House; but you never thought proper, either to apprize me, or to state for how long a time you had requested such forbearance nor what limits you had fixed for my Occupation of the House.

I should have thought it easy to discover that my wish was to remain till near my departure from the Colony, and I had some hopes that I had said sufficient to prevent my removal being pressed, and to induce your acquiescence.

Had you informed me what arrangement you had made with Mr. Wylde on his arrival, or then apprized me what was the longest period that I could be allowed to retain possession of the House, I should have made my arrangements accordingly; as it is, I have been led to form very different ideas upon the Subject, and kept in total ignorance of your sentiments as to the time of my stay till Mr. Wylde applies to you to farther his views, which I think are ungenerous. No arrangements have been offered to my acceptance by Mr. Wylde; nor any, that those who had a proper consideration for themselves, could for a moment attend to; and the failure of the attempts you have mentioned might have been easily anticipated.

No formal
notice to quit
received by
Mrs. Bent.

It will be recollected that I have never had even a formal Notice to quit, and I may say such Notice to remove at a particular time was all that was necessary to have been given on your part, would have required no correspondence on mine; and on my Non compliance with it, it would have remained for you to take the necessary legal steps which Mr. Wylde, I dare say, would not be backward in urging.

After having thought proper Personally to address me on this subject, I scarcely expected that you would carry on the Correspondence through the Medium of another Person; had the Discussion began with an Official Communication by that Channel, I should not have had any feeling about it; But I do consider that your change of Mode shews a want of that politeness I should have expected from any Gentleman, and which I was particularly entitled to have met with from Governor Macquarie.

I think that I had always a right at least to a reasonable Notice to remove, in which light I view your late Communication. It is the first Notice I have received from a proper Authority; Written assurances or acknowledgments of the kind mentioned by you are utterly unusual. If I do not deliver up the House after proper Notice and at the proper time, I know that I must sustain the legal consequences; But I think that it would hav

been no improper exercise of your patience, if you had waited till my Non-compliance had been manifested, before you had authorised the use of threats to extort unheard of declarations.

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I do feel the utmost indignation at the threats you have thought proper to dictate, which cannot be justified as the formal language of an Official Notice, and which you ought to feel shame for having caused to be addressed to the Widow of the late Judge Advocate. With regard to that part of my Letter which you are at a loss to Comprehend, I alluded to the fact of Mr. Wylde's application to you for an Advance to him of a part of his Salary before it became due; and the steps taken by you in consequence I considered as placing him under a Pecuniary Obligation; such a circumstance I believe not to be mere report, and I do not think that you will declare that it is totally unfounded.

John Wylde's
application
for advance
of salary.

I am, &c.,

ELIZA BENT.

[11] *Order by Governor Macquarie.*

HIS EXCELLENCY The Governor is Pleased to permit Mrs. Bent's Occupation of the Judge Advocate's House until Twelve of the Clock at Noon of the 23rd day of December next; when, if the House be not already Vacated, and the Key delivered up to His Excellency, an Officer of the Crown will take possession of the same without further Notice or delay.

Order for
vacation of
residence by
Mrs. Bent.

Given under My Hand, at Government House, Parramatta,
this 28th day of November, 1816.

L. MACQUARIE.

By Command of His Excellency The Governor,

JNO. THOS. CAMPBELL, Secy.

[12] *Mrs. Bent to Governor Macquarie.*

Sir, Sydney, 14th December, 1816.

The fixtures, which perhaps Your Excellency might be inclined to purchase on the part of Government, are the Venetian Blinds, The Green Doors, Fire Irons and Grates, &c. in the House and Kitchen, The Bells throughout the House, and ornamental Brass Work, together with a few Shelves and Pegs.

Fixtures offered
for purchase by
government.

I do not know whether the Morticed Door Locks should be included, but that is of no great consequence on either side. I beg to tender them at the Prime Cost Price, adding the expence of fixing, the Articles being as good as when first put up; a less Sum I cannot in justice to myself ask, and should Your Excellency not be disposed to take them on those terms, I must dispose of them by Auction.

I am, &c.,

ELIZA BENT.

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[13] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 16th December, 1816.

Your letter addressed to His Excellency the Governor inclosed in an envelope to me on Saturday, I have delivered.

Previous to His Excellency's determining on the Purchase of the Articles enumerated in your letter, he Requests to be furnished with the Account of their Cost; His Excellency considers that the Door locks belong to the House; if you will furnish the Account now requested in the Course of the present Morning (His Excellency being in Town), you will receive a final Communication in the course of the day.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[14] *Mrs. Bent to Secretary Campbell.*

Sir, Sydney, 17th Decr., 1816.

I enclose a List of the Fixtures mentioned in My Letter to the Governor with the Prices they cost, an early Communication of His Excellency's determination will Oblige.

I am, Sir, &c.,

ELIZA BENT.

[Sub-enclosure.]

	£	s.	d.
Mr. Birnie for 3 Grates and fire Irons in the House as per Bill	47	5	0
L. Butler for Outside Venetian Blinds as per Bill	60	0	0
Do. for 6 Green Doors as per Bill	28	10	0
Storer for Kitchen Range, Oven Door, Stew Holes, as per Bill, exclusive of Backs for grate deducted being destroyed	53	0	0
Bells and Hanging ornamental Brass Work	30	0	0
Dressers in Store Room and Pantry with Cupboards and Shelves removeable, valued together at about	10	0	0
Corn Binn	1	6	0
Ladder from Coach House to the Loft	1	2	0
Bell ropes and Handles to Dining Room	1	1	0
Dresser	2	17	0
Jack roasting in the Kitchen Apparatus	14	0	0
	<hr/>		
	£249	1	0

17th Decr., 1816.

[15] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 18th December, 1816.

I transmitted your letter and list of fixtures, received yesterday, to His Excellency the Governor at Parramatta, and have received His answer this Morning; His Excellency will take the fixtures on Account of Government at the Valuation you

Accounts for
fixtures to be
submitted.

List of fixtures
and their cost.

Acceptance of
fixtures at
stated prices.

have put on them provided they should prove on examination entire and uninjured; to ascertain this fact, a survey of them must take place, which will be directed for such time as you may please to fix.

I am, &c.,

JNO. THOS. CAMPBELL, Secretary.

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3 April.

[16] *Mrs. Bent to Secretary Campbell.*

Sir, Sydney, 18th Decr., 1816.

The Survey of the Fixtures can take place at any time most convenient in the course of the Morning; to-morrow being the day of Sale would be perhaps not so eligible for the purpose.

Proposed
survey of
fixtures.

I am, &c.,

ELIZA BENT.

[17] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 18th December, 1816.

In Answer to your Communication of this date that a Survey of the Fixtures might take place today, I beg to observe that I only received that letter at the instant I was setting out on a Public Duty, and therefore could not reply sooner than at the present time to it.

The Survey can only take place when you are ready to deliver over the charge of the House and Offices wherein they are placed, and on Your Notification of that time I shall, under His Excellency the Governor's Authority, give directions for its being made.

Survey to be
held at delivery
of house.

I am, &c.,

JNO. THOS. CAMPBELL, Secretary.

[18] *Mrs. Bent to Secretary Campbell.*

Sir, Sydney, 18th Decr., 1816.

I had understood that it was His Excellency's pleasure to take the Fixtures at the Cost prices provided their state and Condition was approved of on a Survey.

I am desirous that the Survey and approval should take place immediately, because, though I may have no doubt as to approval, the result of the Survey is uncertain, And if it is Postponed till I am about to quit the House, I shall not only have lost the opportunity of Public Sale in case of a difference arising. But I shall be out of Possession of my Property and not have the means of removing them if I should chuse to do so.

Request for
survey before
auction sale.

I should think the difficulty might be obviated by an immediate Survey taking place to ascertain whether they are in such a state that His Excellency can take them, and when I quit the House another Survey, if it is thought proper, can take place to ascertain that they are in no more condition than at the former.

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3 April.

I am not aware that any Form requires the Survey to take place at the last Moment, and I should hope it will not be thought unreasonable to urge the Survey taking place today or tomorrow.

I am, &c.,
ELIZA BENT.

[19] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 19th December, 1816.

Your Letter of Yesterday's date reached me only to-day; You have understood the intention of His Excellency the Governor in regard to His taking the fixtures correctly, as I had the honor of conveying it in my letter of the 17th inst.; but that survey could scarcely be expected to take place whilst the House is crowded as at present with Auction people.

When the risk and the injury, to which Articles of furniture are Subject on such Occasions, shall be over, and you will please to furnish me with a Specific enumeration of the Articles which are considered by you as composing the Fixtures, I shall order a proper person to survey and report upon them with all promptitude. Altho' I am not aware that it was in contemplation to protract the examination taking place "until the last moment," as I am satisfied I have given you no reason to suppose so, yet I am satisfied that until the Auction is over, it is but reasonable that the Survey should not take place, and I hope you will on reflection be also of this opinion.

I am, &c.,
JNO. THOS. CAMPBELL, Secretary.

[20] *Mrs. Bent to Secretary Campbell.*

Sir, Sydney, 20th Decr., 1816.

The Sale will perhaps be over today but certainly early tomorrow, when I hope the Survey can take place.

I can only add, to the particulars I have already given, that the Grates, Fire Irons, and Fenders in the Drawing room and Dining room and two rooms up stairs are included in the first Article; that the Kitchen range includes the Stoves and the Oven Iron Work, the Grate, Fire Irons and Cranes; in the Bill furnished for them, everything was charged by Weight in separate Items, and the Back which is wanting to the Grate is deducted from the Bill. The Bells and expence of hanging, The Brass Door Plates, The Shutter and Window ornaments, and the Brass Pegs through the House are included in one Charge.

I cannot add to the Specification of the other Articles; in the List I forgot to mention The Cedar Blinds in Two rooms, The

Survey to be made after conclusion of auction.

Articles included in the fixtures.

Dressers in the Larder, The Stone Sink and the Grate and Fender in the Pantry, which I have reserved for Government, and for which I have made no charge.

I am, &c.,

E. BENT.

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[21] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 20th December, 1816.

At any hour that you will please to fix, after the Sale shall be at an end tomorrow, I will appoint a person to examine the fixtures; and I have only to add the request that you will favor me in the mean time with the Accounts of the respective Persons from whom the Articles had been purchased originally, as a Guide for the person who shall be directed to examine them.

Accounts to be
submitted.

I am, &c.,

JNO. THOS. CAMPBELL, Secretary.

[22] *Mrs. Bent to Secretary Campbell.*

Sir, Monday, 23d Decr., 1816.

The Sale being over, the Survey can take place at any time this Morning; I cannot give any further particulars, but the Persons who supplied the various Articles, and whose Names are given in the first List can give every information; and if any doubt should occur as to the Price I am willing to shew the original Bill at any time; But they are too much intermixed with other Accounts to send at this moment; A sudden indisposition will prevent my delivering up the Key of the House this day, But to-morrow I will send it to any Person authorized by the Governor to receive it.

I am, &c.,

ELIZA BENT.

[23] *Secretary Campbell to Mrs. Bent.*

Monday, 23rd Decr., 1816,

Madam, Secretary's Office, 20 Minutes past 2 oClock.

Various duties have prevented my acknowledging your Letter of this Morning immediately on receipt of it.

It is not possible to order Surveys in the Manner you have required in the series of your Letters for Days past; but if you will in the course of this day fix any specific hour between 10 in the Morning and 3 in the Afternoon of tomorrow for the surrender of the House, &c., I shall myself be in readiness at that time to receive the Keys and shall in the mean time order proper Persons to be in Attendance to examine the Fixtures.

Survey of
fixtures and
surrender
of house.

I am, &c.,

JNO. THOS. CAMPBELL, Secretary.

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3 April.

[24] *Mrs. Bent to Secretary Campbell.*

Sir,

Sydney, 23d Decr., 1816.

Survey of
fixtures and
surrender
of house.

I certainly have all along supposed that I should be informed before I quitted the House whether the Fixtures upon Survey met with approbation.

You informed me in your first Letter that a Survey would take place at any time I might appoint. I have Named several periods none of which were approved, and no other time has been fixed by you. At Two tomorrow I shall be ready to deliver the Keys, and I hope you will inform me in the mean time whether the Fixtures are approved of, as I cannot leave the Fixtures in the House unless I positively know whether they will be taken by His Excellency.

With the Survey itself I have no Concern, as my Determination is made in case of a disapproval.

I am, &c.,
ELIZA BENT.

[25] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 23rd December, 1816, 5 o'Clock.

I lose not a minute to acknowledge the receipt of Your Letter of this date.

At the hour of Two tomorrow, I shall be ready to receive the Keys and Charge of the house from you, as proposed in your Letter now under Answer; If previous to that time the Persons appointed to examine the fixtures be admitted to View and report on them it is well; if not, you will please to exercise your discretion.

I am, &c.,
JNO. THOS. CAMPBELL, Secretary.

[26] *Secretary Campbell to Mrs. Bent.*

Secretary's Office, Tuesday Morning, 8 o'Clock,

Madam,

24th December, 1816.

Survey of
fixtures to be
made.

Two competent persons (a Joiner and a Smith) have received instructions to be in readiness to survey and report on the state of the fixtures in your late residence on the part of Government at 11 this forenoon. I apprise you of this in Order that you may give such directions as the occasion may require to enable the persons appointed to make their report correctly.

I am, &c.,
JNO. THOS. CAMPBELL, Secretary.

[27] *Secretary Campbell to Mrs. Bent.*

Madam,

Secretary's Office, 24th December, 1816.

Report of
survey.

I transmit herewith an Attested Copy of the Report made by the Government Superintendant of Carpenters and Smiths on the State of the Fixtures in your late Residence, which being in

Conformity with what His Excellency the Governor was led to expect, I am authorized to say that His Excellency considers the purchase of them Complete and consequently that the Payment will be made you conformably to the Terms acceded to with respect to them.

1817.
3 April.

Acceptance of
the fixtures.

I am, &c.,

JNO. THOS. CAMPBELL, Secretary.

[28] *Mrs. Bent to Governor Macquarie.*

Sir,

Sydney, 28th Jany., 1817.

As I am shortly to leave the Colony, I have to request that Your Excellency will give directions for the Payment of the Fixtures taken by Government. At the same time, I beg to remind Your Excellency that you had promised a Pardon to George Davey, when my late Husband was about to leave this Country in the Year 1815 by the Baring. He has lived Servant in my family since he first came out, and I hope that the Circumstances, which prevented our departure at the former period, will not be considered as having deprived him of the Pardon he was then led to expect, it being my intention if granted to take him to England.

Request for
pardon for
servant.

I venture also to recommend Thomas Brown, who has lived with us ever since his arrival in the Colony as a person well deserving a Ticket of Leave. He is an ailing Man, and not fit for hard labour.

Recommend-
ation of servant
for ticket of
leave.

I have, &c.,

ELIZA BENT.

[29] *Governor Macquarie to Mrs. Bent.*

Madam, Government House, Sydney, 30th January, 1817.

I have to acknowledge the receipt of your Letter of date 28th Instant.

The moment I receive the accounts of the Articles purchased by Mr. Judge Advocate Wylde at the sale of Your Furniture (and for which I have called) I shall send you a Draft on the Police Fund for their Amount, together with that of the Fixtures purchased by Government from you for the use of the Judge Advocate.

Payments
to be made.

Agreeably to my promise I shall grant your Servant George Davey a free Pardon on his Personally presenting me with the usual Petition praying for the same, and stating therein his Sentence and the Name of the Ship he came out in, the said Petition being Countersigned by you. I shall also grant your servant Thos. Brown a Ticket of Leave, in compliance with your request, on his presenting me a similar Petition, countersigned by You.

Davey to be
pardoned.

T. Brown to
receive ticket
of leave.

I have, &c.,

L. MACQUARIE.

1817.
3 April.

[30] *Governor Macquarie to Mrs. Bent.*

Madam, Government House, Sydney, 31st January, 1817.

Payment for
purchases made
at auction.

I have the pleasure of enclosing you herewith a Draft on the Police Fund for the Sum of £249 1s. 0d. Sterling being the Amount of the Fixtures, &ca., Purchased by Government at Your late Sale for the use of the Judge Advocate; and request you will be so good as to send me a Receipt for the Amount thus paid.

I have, &c.,
L. MACQUARIE.

[31] *Mrs. Bent to Governor Macquarie.*

Sir, Sydney, 1st Feby., 1817.

Fixtures
purchased.

The Articles, taken by Your Excellency from Me by private Contract, Amount according to my List to £235 15s. 0d., for which Sum I shall be Obliged by an Order instead of the one enclosed in Your Excellency's Letter.

Payment for
purchases at
sale to be made
to auctioneer.

As I look to the Auctioneer for the Proceeds of the Sale, and am ignorant of the Amount of the Purchases made by the different Individuals, I must leave the articles purchased by Mr. Wylde at Public Auction to be settled with the Auctioneer according to the usual course of business.

I hold the Order sent in readiness to return as Your Excellency shall direct, and

Am, Sir, &c.,
ELIZA BENT.

[32] *Secretary Campbell to Mrs. Bent.*

Secretary's Office, Monday Morning,

Madam, 3rd February, 1817.

I have this Morning delivered your letter, which came in an Envelope to my Address on Saturday night for His Excellency the Governor.

His Excellency having transmitted You an Order for the Amount, as well of the Articles purchased by the Honble. the Judge Advocate from your Agent Mr. Bevan, as of those which He took by private Contract according to your own Estimate, He had hoped that you would not have considered it necessary to Address Him further on that Subject than by acknowledging the receipt of the Payment in full.

Mrs. Bent to
submit account.

In Order to the payment being made in such way as to avoid further Cavil or Correspondence, I have to request that you will return the Order for the Payment, which His Excellency sent you, and that you will furnish the Account which you state as Amounting to £235 15s. 0d., Altho' your former Account or List, which now lies before me, makes the Amount £228 15s. 0d. only.

The Amount of the Articles purchased from Mr. Bevan will be easily settled for with that Gentleman.

1817.
3 April.

I am, &c.,
JNO. THOS. CAMPBELL, Secretary.

[33] *Mrs. Bent to Secretary Campbell.*

Sir, Sydney, 5th February, 1817.

On reference to my Letter to His Excellency the Governor, you will find I simply requested the Payment of the Articles agreed to be taken from me on the part of Government. Articles purchased at auction.

I did not suppose, nor do I believe that any other Person was aware, that Mr. Wylde was purchasing any thing on account of Government, for had it been the intention of His Excellency to Purchase in that mode I should scarcely have thought that the Office of Bidder at Public Auction would have been given to the Honble. The Premier Judge.*

Not knowing the Amount of the Purchases so made, it could not in reason be expected that I should receive an Order for any Sum without knowing of what it was intended to be the Payment. I asked no more than that everything might be settled in the Common and regular course of business; The only mode by which Cavil or unnecessary Correspondence can be avoided; and I am at a loss to know upon what you found the Charge of cavilling you have taken the liberty to make.

I annex a list, by which you will perceive that the difference you have noticed arises from several Articles omitted in my first list, but which I reserved for Government as I stated in my Letter to you of 20th December last.

I consider the Articles fully worth the Additional £7, they most certainly cost considerably more. I return the Order for £249 1s. Od., And

I am, &c.,
ELIZA BENT.

[Sub-enclosure.]

List, &c.	£	s.	d.	
Grates & Fire Irons in parlours & Bedrooms	47	5	0	List of fixtures sold by Mrs. Bent.
Venetian Blinds outside	60	0	0	
Green Doors	28	10	0	
Kitchen Range, Oven door and Stoves	53	0	0	
Bells &c. throughout the House	30	0	0	
Dressers with Cupboards & Shelves in Pantry & Store room	10	0	0	
	£228 15 0			
Two Pair of Cedar half Blinds in small Bedroom and room below. Grate and Fender in Butler's Pantry, Dressers in Larder & Stone Sink	7	0	0	
	£235 15 0			

* Note 71.

1817.
3 April.

[34] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 6th February, 1817.

Order for
payment on
police fund.

I take the liberty of sending you herewith His Excellency the Governor's Order on the Treasurer of the Police Fund for the Sum of Two hundred and thirty five pounds fifteen Shillings Sterling, being the Amount of your last furnished Account for sundry Articles of Fixtures in the House of the Honorable the Judge Advocate; hoping that no new matter will be started to prevent this remittance from terminating the Correspondence, which I assure you Madam I have no wish to prolong, I have only to add that in this much desired event, you are requested to furnish me with a receipt for the Amount. "I take the liberty" of Subscribing myself,

Madam, &c.,
JNO. THOS. CAMPBELL, Secretary.

[35] *Mrs. Bent to Secretary Campbell.*

Sir, Sydney, 8th February, 1817.

Acknowledg-
ment of order.

I have to acknowledge the receipt of your Letter, 6th Feby., enclosing an Order for £235 15s. for which I return a receipt.

I rejoice extremely at the termination of a correspondence, which on every subject you yourself have been the cause of prolonging, and in the Conclusion of which you have displayed a pettishness which would hardly be excusable in one of my own Sex.

I am, &c.,
ELIZA BENT.

[36] *Receipt from Mrs. Bent.*

6th Feby., 1817.

Receipt from
Mrs. Bent for
payment.

RECEIVED of His Excellency Governor Macquarie An Order on the Treasurer of the Police Fund for Two Hundred and thirty-five Pounds 15s. Sterling, being on Account of Fixtures &c. purchased from me and of which Order I have received Payment.

ELIZA BENT.

[Enclosure No. 3.]

CORRESPONDENCE RELATING TO THE SUPREME COURT.

[1] *Mr. Justice Bent to Governor Macquarie.*

Sir, Sydney, 10th Decem'r, 1816.

An Advertizement in the *Sydney Gazette** has struck my view, purporting to be an Order by which Wm. Broughton and Alexr. Riley, Esqrs. are discharged from their Duty as Members of the Supreme Court.

Order for
dissolution of
supreme court.

1817.
3 April.

Governor's
powers over
members of
supreme court.

Upon referring to the Letters Patent for the establishment of the Courts, you will find that Your Excellency's Power is limited solely to the Nominating two Magistrates as Members from time to time; No Power of discharging them from that Duty is there given you, the only mode, by which they can be relieved from the Duty thrown upon them, being the Appointment of New Members in their Stead. A discharge of the Members without the Appointment of others would be a virtual dissolution of the Court; And were any Governor entrusted with such Authority, it would be in His pleasure to Postpone or prevent the trial of any Actions, which might be disagreeable to him, and materially to injure Persons obnoxious to him by the expences consequent thereupon.

But even supposing Your Excellency to have the Power of discharge now assumed, it would require to be exercised at least with the same forms as the Power of Nomination; for I cannot consider an Advertizement in a *Gazette*, without some more formal Order being produced, as any Authority whatever. I have now to state that I caused Mr. Riley, the only Member residing in this part of the Territory, to be summoned to attend as a Member of the Supreme Court on Saturday last. Mr. Riley was also summoned to attend at a Supreme Court to be held yesterday; from a want of attendance of Members I have adjourned the Court till Friday next. Your Excellency's ex post facto Advertizement of discharge I conceive to be meant to relieve Mr. Riley from the Consequences, which might ensue from his Misdeamesnor in not taking upon him the Duty of a Member of the Supreme Court, when required so to do. But looking upon such Advertizement of discharge as a mere Nullity, I shall proceed to enforce the attendance of the Members, who are without reasonable excuse, in such mode as may seem to me best. An Advertizement was sent by my direction to the *Sydney Gazette* on Saturday last giving Notice of the assembling of the Supreme Court yesterday. Such Advertizement has been refused insertion by Your Excellency's authority.* Upon what pretence (for reason there can be none) I am at a loss to know. I shall send a similar advertizement next Week, and, if insertion in the *Gazette* should be continued to be refused by Your Excellency, I shall take the only mode left and give Publicity to such Notice, as I shall deem necessary, by causing Hand Bills to be Posted about the Town, and by sending others into the Country and to Van Diemen's Land.

Riley
summoned by
Bent to attend
as member of
supreme court.

J. H. Bent's
threat to
enforce
attendance.

The Odium attending the Cessation of the Meeting of the Supreme Court, I know it has been endeavoured to throw upon me, and I rejoice that an opportunity has been afforded me of incontestably proving that such Cessation first arose, and has

Reasons for
suspension of
supreme court.

* Note 73.

1817.
3 April.
Reasons for
suspension of
supreme court.

been continued, from the undue means used to force improper Persons as Practisers in the Courts of Justice here Contrary to Law and the feelings of the Judges. The inconvenience to be sustained by the Colony now will plainly appear to have been of very little consideration with Your Excellency; for, the favorite Scheme having proved abortive, and not to be effected by the former measures, means are to be resorted to in order to prevent the Meetings of the Supreme Court, in the hope that some future Judge will be easily persuaded to sanction the irregular mode of practice, which has been lately adopted and is likely to continue.

Alleged
illegal power
exercised by
governor.

Should your Excellency persist in the right of discharge and refuse to Nominate other Members, I shall leave to Your Excellency the responsibility attending such an extraordinary attempt at an avoidance of His Majesty's Charter, satisfied with the full confirmation of my Opinion that, while such extravagant Notions of authority and such measures of arbitrary tendency characterise the Administration of this Colony, it would be impossible to give effect to the present establishment of the Courts of Justice except by an utter dereliction of every sound principle of English Law, an adoption of Maxims suited only to a Military Despotism, and a Servile submission to the views and wishes of Your Excellency.

I am, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

[2] *Secretary Campbell to Mr. Justice Bent.*

Sir, Secretary's Office, 11th December, 1816.

General orders
prohibiting
J. H. Bent
exercising
functions as
judge of
supreme court.

By Command of The Governor, I transmit you the Accompanying Attested Copy of His Excellency's Government and General Order of this Date, whereby you will perceive that you are prohibited from exercising the Functions of the Supreme Court for Reasons therein Assigned.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

Mem.—This Letter and the Government and General Order Accompanying it were returned unopened.

[Sub-enclosure.]

Government and General Orders.

Government House, Sydney, Wednesday, 11th Decr., 1816.
Civil Department.

His Royal Highness The Prince Regent having deemed it necessary to recal Jeffery Hart Bent, Esqre., as Judge of the Supreme Court of Civil Judicature in this Territory, and His Majesty's

Government having been pleased to communicate the same to His Excellency the Governor and to the said Jeffery Hart Bent, Esqre., in a Public Despatch,* dated the 12th April, 1816, as “considering the removal of the said Jeffery Hart Bent, Esquire, from the Colony as necessary to mark the sense and Disapprobation, which they entertain of the Measure which, so indiscreetly for the Colony and himself, the said Jeffery Hart Bent, Esquire, thought it necessary to adopt,” and which for so long a period has occasioned “all the serious Evils of a total suspension of Justice to the manifest Injury of the best Interests and Public Credit of this Colony.” And it having been made known to His Excellency that, notwithstanding “the high displeasure so expressed by His Royal Highness in that respect, and the said positive recal by his Majesty’s Government on Account of Conduct, which in their Opinion could Admit of no Justification,” that the said Jeffery Hart Bent, Esquire, has presumed, as from and under the Authority of the Supreme Court, to issue certain Process directing the Provost Marshal of this Territory to summon Alexander Riley, Esquire, to attend at his *Chambers* as a Member of the said Supreme Court; And Further that the said Jeffery Hart Bent, Esquire, since and after a Public Notification that the Members of the said Supreme Court were discharged from all further duty in that respect, has also presumed, as from and under the like Authority of the said Court, to issue other Process directing the Coroner of this Territory to attach and have the body of William Gore, Esquire, the Provost Marshal of this Territory before the Supreme Court.

His Excellency the Governor, in Consideration of the Circumstances of the Authorities with which he is invested, and of the positive directions of His Majesty’s Government in that respect, can no longer feel himself justified in forbearing to Notify and put in force the Commands of His Royal Highness and of His Majesty’s Government with regard to the removal of the said Jeffery Hart Bent, Esquire, as Judge of the Supreme Court in and a Magistrate of this Territory. And His Excellency the Governor does Hereby accordingly Declare, Order, and make known that the said Jeffery Hart Bent, Esquire, is positively and absolutely removed from the said appointment, and has no Authority or Jurisdiction whatever in this Territory or its Dependencies with regard to or by Virtue of the same.

And His Excellency the Governor does hereby forbid and restrain the said Jeffery Hart Bent, Esquire, at his peril to assume or Exercise any Authority or Jurisdiction whatever as the Judge of the Supreme Court or as a Magistrate of this Territory.

1817.
3 April.

General orders prohibiting J. H. Bent exercising functions as judge of supreme court.

* Note 74.

1817.
3 April.

General orders
prohibiting
J. H. Bent
exercising
functions as
judge of
supreme court.

And it is hereby further Ordered and Declared by the Authority aforesaid that all Officers, Civil and Military, and all other Persons residing within this Territory, are absolved, freed, and Indemnified as to and from all regard, responsibility, and obedience to the Orders, Process, or Authority of the said Jeffery Hart Bent, Esquire, as the Judge of the Supreme Court or as a Magistrate in this Territory. And Further they are hereby strictly forbidden and restrained at their Peril from Acting under, proceeding, or enforcing the same in that respect.

L. MACQUARIE, Governor in Chief of N. S. Wales.

By Command of His Excellency,

JNO. THOS. CAMPBELL, Secretary.

[3] *Mr. Justice Bent to Governor Macquarie.*

Sir,

Sydney, 25th December, 1816.

Without any Communication to me, except the incidental mention of My Recall in a Letter upon another Subject, Your Excellency has thought proper, by Placards and public Advertisement, to state that my Office of Judge of the Supreme Court has entirely ceased. From the Letter of His Majesty's Principal Secretary of State to myself, I cannot draw such Conclusion, and I can no more Consider my Commission to be determined, or my Official Functions to have ceased, than Your Excellency would consider your own Power as abrogated by a Notification of your own recall, or by the absolute revocation of your own Commission by another under the Great Seal. And as Your Excellency would beyond all doubt consider your own Commission as subsisting till the Arrival of your Successor, or your own determination of it by withdrawing from the Colony, so I consider my authority as not being determined till the arrival of a New Judge, or my exercise of that liberty, which has been given me of returning whenever it may suit my convenience.

To put any other Construction upon the Letter of my Lord Bathurst to me would be to suppose that His Majesty's Government had fallen into the same error which has been blamed in myself.

Unless therefore positive directions have been given from Home as to my immediate removal and as to the measures you have pursued, I must consider myself as still exercising the Office of Judge of the Supreme Court; And if Your Excellency has received such directions, I must deprecate that species of forbearance, for which so much Credit is taken, but which consists only of keeping me in utter ignorance of directions respecting myself, and springs from no good motive or kind inclination.

I have then to request that Your Excellency will no longer delay to do what you have said is your Duty; but that I may be

J. H. Bent's
claim to full
powers until
his departure
or the arrival of
a successor.

made fully acquainted with the Order given through his Majesty's Secretary of State respecting myself, My Salary, and my Office, and the Public Censure to be passed on my Conduct. Upon all which points, I have no information either from yourself or directly from Home.

1817.
3 April.
Macquarie
requested to
supply
information.

To me it seems most singular that, upon my causing the Members of the Supreme Court to be Summoned, Your Excellency in order to prevent the Meeting of the Court should have recourse in the first instance to an Order of discharge* (no Authority for which is given by the Charter) rather than to the simple statement of the Orders from Home (if any have been received) for my immediate removal, or even the Notification of your opinion of the Construction proper to be put upon my Notice of Recall; upon these points also, I was not favoured with the slightest Communication.

Criticism of
Macquarie's
action.

But to come to another subject, Your Excellency well knows that I gave up the Chambers, allotted to me as Judge of the Supreme Court, to the Use of the then Acting Judge Advocate, and in lieu of them received the Chambers, formerly belonging to the Judge Advocate; and this arrangement took place as a matter of convenience to the Parties concerned. Had I retained my own Chambers, I cannot even yet think it possible that they would have been taken possession of under any circumstances, and more particularly when my Successor is not yet arrived, without some Notice of such intention; And there can be no reason, when the Judge Advocate is occupying the Chambers I gave up, that a different mode of Acting should be adopted in regard to those I hold in lieu. Yet I found, on going to Chambers yesterday, that, by virtue of some Warrant from Your Excellency to take Possession of the House and Offices occupied by Mrs. Ellis Bent, the Provost Marshal had taken possession of the Chambers occupied by me together with my Books and Papers, and that all access was prevented to myself, or Clerk, or Office keeper, by means of Constables; and it was stated that the Orders were to turn my Books and Papers into the Street. But not the least curious part of the transaction is that, after Your Excellency's Secretary had written to Mrs. Bent to say, He would attend to receive the Keys of the House She occupied at 2 O'Clock on the 24th, after admittance had been that very morning asked for the Persons appointed to survey the Fixtures at 11 O'Clock, The Provost Marshal should, by virtue of a Warrant transmitted by Your Secretary, take possession soon after 10 O'Clock. So that Mr. Wylde now occupies the Chambers, belonging to the Judge of the Supreme Court as having been Occupied by the Acting Judge Advocate, and those occupied by

Chambers
allotted to
J. H. Bent.

Ejection of
J. H. Bent from
his chambers.

* Note 72.

1817.
3 April.

No notice
received by Bent
for removal
of his papers.

myself are taken possession of, I conclude for His use, under the shallow pretence, which Your Excellency is well aware is contrary to the fact, that they were in the Occupation of Mrs. E. Bent; and this takes place without Notice or requisition of any kind to me to remove even my Own Property. If it is Your Excellency's desire to seize upon and dispossess me of the Papers and Records belonging to the Supreme Court, why not openly avow it? Why seize upon my Chambers and my Property without Notice to remove, or why indeed were Orders issued to take possession of a House, which Mrs. E. Bent had professed her readiness to give up, had for some days left, and when Your Excellency's Secretary had written that he would attend to receive the formal Surrender. Your Excellency must suppose that my Books and Papers are not removeable at once, and that it cannot be very agreeable to examine or assort them under the inspection of a Provost Marshal and Constables, to which I have been subjected. I should think that Your Excellency upon reflection will perceive that such treatment ought not to have been adopted, even if I were considered merely as a private Gentleman, and without relation to the office with which I arrived in this Colony, which I contend I am still entitled to exercise till the arrival of my successor, and the Court attached to which (if any there are) I am entitled to enjoy during my stay, when I neither profess nor intend to make this Place my settled abode.

Alleged
animosity and
discourtesy of
Macquarie.

Your Excellency not long ago stated that difference of Opinion on points of Public Duty need not produce a spirit of private Hostility; that you disavowed all designed mortification; and that I had illiberally ascribed your Actions to private pique and resentment. I will now ask could any measures be more strongly tinctured with Personal Animosity, or more openly display a designed System of petty Mortification, than the late Orders relative to myself, to my Chambers, the removal of the Constables usually attending, or the Stoppage of a Solitary Ration. As to the other uncourteous circumstances, I will confine myself to remarking that, if upon Your Excellency's being relieved by a Successor, you would consider orders for the deprivation of the use of a Government House and Horses, for the Removal of the accustomed Guards and Orderlies, and for the Cessation of Customary marks of respect during your stay in the Colony, as wanting in common propriety, You will stand self Condemned for adopting a similar Conduct towards me. Finally I should wish to know in what light Your Excellency means to consider me during my stay in the Colony; whether Your Excellency means to extend that Courtesy towards me, which you would no doubt expect to meet from Your Successor, or whether discourtesy

is to be carried so far as to affect not only the Style and Form of Address used to me, but also the Occupation of the Usual Pew in the Church.

1817.
3 April.

Waiting information hereon,

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court.

[Enclosure No. 4.]

MR. JUSTICE BENT TO GOVERNOR MACQUARIE.

Sir,

Sydney, 15th Feby., 1817.

I regret that I am obliged to remind Your Excellency of your promise that the remains of my Brother, the late Judge Advocate, might be removed into the Church (where there is a Vault already formed), in case Mrs. Bent should still object to Garden Island.*

Proposed removal of judge-advocate's remains within the church.

The reasons for her not approving the latter place continue in full force, and are in my mind very strong and convincing; And I now call upon Your Excellency, by every thing which can be supposed to have influence with a Man of Honour or feeling, to allow the removal.

Unless, therefore, Your Excellency means to carry enmity beyond the Grave or to Punish the surviving relatives through their feelings naturally alive to attention to his remains, There can be no objection in reason to such removal taking place; And most certainly if in this respect Your Word is forfeited, I shall have every right to doubt there being any sincerity in the intentions expressed with regard to a Monument on Garden Island.

If Your Excellency notwithstanding shall persist in the refusal given through Mr. Cowper, I will cause the request and denial to be inscribed on the present Tomb, that when those who knew My Brother shall chance to read the inscription, the sigh they will breathe over departed Worth may bear a silent malediction upon what I shall be authorized to call and ever shall consider your despicable Conduct.

I have, &c.,

JEFFERY HART BENT,

Judge of the Supreme Court, N.S.W.

[Enclosure No. 5.]

CORRESPONDENCE RELATING TO DETAINERS LODGED AGAINST MRS. BENT AND MR. JUSTICE BENT.

[1] *Mrs. Bent to Governor Macquarie.*

Sir,

Sydney, 14th March, 1817.

I have to address Your Excellency on the subject of some Detainers laid most *unjustly and cruelly* against myself and on account of a claim against my late Husband, in which detainers Mr. Justice Bent is joined with me.

Detainers against J. H. and Mrs. Ellis Bent.

1817.
3 April.

J. H. Bent not
liable for debts
of E. Bent.

Your Excellency is no doubt aware that I am not personally liable as Executrix *beyond the amount of the effects which may have come into my hands*; and knows also that I am *sole Executrix* to my Husband, and have in that Capacity received what was due to him on account of Salary, &c., from Your Excellency; so that I am the *only Person* responsible for any claim against my late Husband's effects and not Mr. Justice Bent, who has had no concern therewith except as my Agent; and this I trust is sufficient to shew the injustice of any Detainer against him.

Particulars
of detainer
lodged by
Ryan.

The first detainer for £22 is in the Name of a Man, Named Ryan, who had been employed by my late Husband in some Buildings upon his farm; the transaction is as far back as 1812; the Farm itself was sold in 1813; no claim was made upon my Husband since that time, not even when He was about to leave the Colony for England in the Baring in 1815, nor since his Death. The Man or his Wife drew his Money from time to time and in advance generally; and it is worthy of remark, that though the Governor's Court was sitting, where a Decision could be had *in a week's time* upon his claim, He takes no step to bring his case forward, but lodges a detainer, because that can be done without making Oath of the Amount of the Debt.

Illegality
of detainer
lodged by
Brooks.

The other Detainer is by Mr. Brooks for a large Sum *said to be due* in a Bill of Exchange; I enclose a Copy of a Letter written to him on his Application to me, which will explain the transaction, and of which I request Your Excellency's Perusal; it will be perceived that Mr. Brooks is not even *the Holder of the Bill on which He pretends to rest his claim*; that there are two of the set known to be in existence and in *the Hands of Persons residing in Calcutta and London*; who may in all possibility, if any thing is due will, sue me in the Bills themselves; so that it is attempted most unjustly to keep me in the Colony to answer claims to which I am not personally liable, and as Executrix even, am not liable beyond the sufficiency of the effects. Mr. Brooks well knows that He has not the slightest ground on which *an Action at Law could be for a Moment supported*, and takes this unjust advantage of the *iniquitous System of Detainers*, by which any Person may detain another in the Colony for even a pretended Debt, as no Affidavit is required but merely the Payment of Five Shillings to the Judge Advocate's Clerk, a system of which I have heard my late Husband express his sense of its illegality and the injustice of its longer continuance.

The system
of detainers.

The whole of this System rests as I have been informed on one of the Port Regulations,* which expresses "Debts, Recognizances, Bail Bonds, &c.;" I submit it to Your Excellency, whether any doubtful *Claims of this Kind can be intended to be included by*

* Note 75.

those Words; and whether it is just or right that I should be compelled to enter into Security, when no Affidavit of a Debt has been made. And I am further *advised* that a *Writ of the Exeat* is the only legal cause by which a Party can be detained, in which case Oath of the Debt is always required.

1817.
3 April.

I may also say that, by my detention in the Colony, I am prevented from administering to the Property at Home, out of which all Claims can alone be satisfied. Waiting Your Excellency's reply,

I have, &c.,

E. BENT.

[2] *Secretary Campbell to Mrs. Bent.*

Madam,

Secretary's Office, 15th March, 1817.

I have received His Excellency the Governor's instructions to acknowledge the receipt of your Letter of yesterday's date to him, accompanied by the Copy of a Letter therein referred to.

Macquarie's
refusal to
interfere with
detainers.

His Excellency having given every Consideration in His power to the circumstances stated by you in regard to Detainers being Lodged against you, as Executrix of the late Mr. Judge Advocate Bent and also against Mr. J. H. Bent, as Executor to the same person, and finding upon your own representation (which is all the Ground His Excellency has to reason upon) that the Validity of the Detainers wholly depends upon and involves itself in Questions and Merits of a legal Nature and Construction only, His Excellency therefore does not think that He would be warranted in any Summary and *unusual* interference on the Occasion, more especially previous to the matter being brought before the regular legal Jurisdiction, which has for so many Years (from the foundation of the Colony itself) obtained and been resorted to on all Occasions similar to that of which you complain. That Jurisdiction, however incompetent it may be deemed by you, was Acted upon for the whole of the time the late Mr. Judge Advocate Bent presided in the Law Courts of the Colony, and is unquestionably fully competent to give you the fullest redress, in the event of the Detainers which have been lodged against you and Mr. J. H. Bent proving to be "*unjustly and Cruelly laid,*" or to be unsupported by the general principles of Law and the Established usages of this Colony. I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

[3] *Mrs. Bent to Governor Macquarie.*

Sir,

Sydney, 15th March, 1817.

I have received Your Excellency's communication through Your Secretary; I beg leave to mention that Your Excellency interfered in the case of Captn. Johnstone of the Guildford, in

1817.
3 April.

Macquarie's
consent required
for Mrs. Bent's
departure.

which an Order was sent to the Act'g Judge Advocate to dismiss the detainer; I ask only that the regulation be amended by directing the Debt stated may be sworn to. Captain Raine of the Surry having however entered into a Bond not to take any Free Person out of the Colony without Your consent and approbation, I hope for the Signification of Your objections to my Departure if any. No Process from any Court of Law has issued against me, nor am I liable to any.

I require therefore allowance to depart as a Free Subject, being advised that I am entitled to leave this Colony unless I am Arrested by due Process of Law.

I have, &c.,
E. BENT.

[4] *Secretary Campbell to Mrs. Bent.*

Madam, Secretary's Office, 15th March, 1817.

Regulations to
be enforced.

The Laws of the Colony and the Port Regulations, which Constitute a part of them, are and must be the same to you as to every other Member of the Community; to them, Madam, His Excellency the Governor desires to refer you in reply to Your Letter of the present date.

I have, &c.,
JNO. THOS. CAMPBELL, Secretary.

[5] *Mr. Justice Bent to Governor Macquarie.*

Sir, Sydney, 15th March, 1817.

J. H. Bent's
request for
Macquarie's
consent to his
departure.

Understanding that the Captain of the Surrey has entered into a Bond under the Penalty of £500 not to take any Free Person out of the Colony without the Consent and approbation first had and obtained of the Governor of N. S. Wales, And having been recalled by His Majesty's Government by a Letter a Copy of which is in Your Excellency's Possession, and wherein liberty is given to me to return whenever it may suit my Convenience (and my Successor being arrived), (without admitting the necessity of the consent required by the Bond, in order to prevent any Scruples that may be started on this point by the Captain), I have now to ask whether Your Excellency has any and what Objections to my departure in that Ship; No Writs or Process from any Court have been taken out against me, nor am I liable to any.

I have therefore to require that I shall be allowed to depart, unless I am arrested by Process according to due Course of Law.

I have, &c.,
J. H. BENT,
late Judge of the Supreme Court.

[6] *Governor Macquarie to Judge-Advocate Wylde.*

1817.
3 April.

Sir, Government House, Sydney, 15th March, 1817.

Having received from Mrs. Bent and Jeffery Hart Bent, Esqre., late Judge of the Supreme Court, certain communications as to Detainers being lodged against them in your Office; I have to enquire whether you have taken the same into consideration, and whether the Certificate required by Persons wishing to obtain Permission to leave the Colony, under the 13th Article of the Port Regulations, has been refused at your hands on any application made, and a due examination taken of the Cause of the Detainers laid; and I have further to request that you will advise me generally of all the Circumstances and your opinion thereon.

Judge-advocate
Wylde to
submit a
report.

I have, &c.,

L. MACQUARIE.

[7] *Judge-Advocate Wylde to Governor Macquarie.*

Judge-Advocate's Office, Sydney,

Sir, 15th March, 1817.

I beg leave to acknowledge the receipt of your Letter of this Day's date, desiring me to inform Your Excellency generally of the circumstances relative to any Detainers lodged in my Office against Mrs. Bent, or J. H. Bent, Esqre., late Judge of the Supreme Court, and My Opinion thereon.

As to the Circumstances I beg leave to Copy the Written Instructions upon which the Detainers were lodged and entered as dated with the Clerk (as usual) in my Office.

(Copy.)

Dear Sir,

I request you will enter a Detainer in the Book kept for that purpose at the Judge Advocate's Office against the Departure of Jeffery Hart Bent, Esqre., and Mrs. Eliza Bent as the personal representatives of the late Ellis Bent, Esqre., deceased, until the Sum of £22 13s. 6d. due to Michael Ryan, Carpenter of Richmond upon the balance of Accounts be paid, or the usual Security given.

Copies of
detainers lodged
against J. H.
and Mrs.
Ellis Bent.

I am, &c.,

Sydney, 25th Feby., 1817.

FREDERICK GARLING.

Joshua Jno. Moore, Esqr., Judge-Adv. Clerk.

(Copy.)

Mr. J. J. Moore,

Please to enter a Detainer in the Book kept for that purpose at the Judge Advocate's Office against the departure of Jeffery Hart Bent, Esquire, and Mrs. Eliza Bent as the

1817.
3 April.

personal representatives of the late Ellis Bent, Esqre., until the sum of £470, due to Richard Brooks, Esqre., for Money advanced to the said Ellis Bent, Esqre., in his life time be paid or the usual Security given.

Yours, &c.,

11th March, 1817.

FREDERICK GARLING.

No applications lodged for permission to leave the colony.

I have further only to state in this respect that not any application whatever for the necessary certificate under the 13th Article of the Port regulations has been made up to the *present Moment* by or on behalf of the parties, against whom the present Detainers are lodged, and of course therefore it has not occurred to refuse the Certificate in question.

Former practice adopted when detainers were lodged.

As to my opinion on the Circumstances I beg leave to state, as your Excellency will perhaps know, that the usual Practice, which has obtained under my Predecessor, Mr. Judge Advocate Bent, and ever since the Port Regulations were established, has been that upon Persons about to leave the Colony applying for the Judge Advocate's Certificate, and having *then* Notice that detainers are lodged, to take out a Summons, if the Justice of the Detainer is disputed, for the party lodging it to attend at a given time before the Judge Advocate and to shew cause why it should not be discharged; and upon a hearing before the Judge Advocate, the Detainer is discharged or Security (all that is ever in *any* Case required) ordered to be given to answer the Judgment or Decree that may be finally given in and by *the Courts* upon the Cause of Action. This hearing has not taken place of course with respect to the Detainers of which Your Excellency enquires, as the parties have not applied for that certificate, which would have allowed me to obtain Information of the Merits of the Question between the parties, and I know no more therefore than the terms of the Detainers themselves Convey.

Port regulations re detainers.

The Terms of the Port Regulations,* Your Excellency will observe, are that persons about to leave the Colony are to produce certificates that no Detainers *are lodged*, which therefore cannot be given in any case where Detainers are *in fact* lodged, and no appeal is made upon which The Judge Advocate, upon hearing both parties before him, can determine upon the equity and propriety of requiring the usual Security. The regulation is certainly, it seems to me, of wholesome and equitable Expediency and is not productive, as I am aware, in a general View of individual Hardship or Grievance.

J. H. Bent informed when detainer was lodged.

It may be as well perhaps to mention (in Order that the report of the Circumstances may be entire) that in Courtesy I directed My Clerk to inform Mr. Bent of the fact of the *first*

Detainer being lodged immediately upon its receipt, who was pleased to return it open by the Messenger with some strange and uncivil remark upon the outside of it.

1817.
3 April.

I have, &c.,

JNO. WYLDE, Judge-Advocate, N.S.W.

[8] *Secretary Campbell to Mr. Justice Bent.*

Sir, Secretary's Office, 15th March, 1817.

His Excellency the Governor desires me to refer you to the Port Regulations and the general Laws of the Colony for an Answer to your Letter of this date on the Subject of Your Departure from hence.

J. H. Bent
referred to port
regulations.

Those Laws and Regulations will not bend to any Private consideration.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 13 of 1817." per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 29th August, 1818.)

My Lord, Sydney, New South Wales, 3d April, 1817.

I do myself the honor to transmit herewith for your Lordship's perusal and information the Copy of a short Correspondence, which took place in December last between me and the present Judge Advocate Wylde, and his father, Mr. Solicitor Wylde, together with a Copy of a Government and General Order issued by me on the 1st of January last, Announcing the Appointment of Mr. Wylde Senior (ad interim) to the Situations of Clerk of the Peace and Solicitor for the Crown.

Thomas Wylde
appointed clerk
of peace and
solicitor to
crown.

These Appointments are made of Course Subject to your Lordship's future Approval, and have not in the Mean Time Any Salary attached to them, Mr. Wylde having Very liberally offered his Services free of Salary, until the result of my present reference to Your Lordship should be known.

In a former Despatch dated the 18th October, 1811, addressed to Lord Liverpool, wherein I first had the honor of submitting to His Majesty's Government the expediency of Granting a New Code of Civil and Criminal Law for this Colony, I also enumerated the List of Officers, which I considered would be necessary for the Carrying into effect the proposed Arrangement; and among others I particularly enumerated that of Clerk of the Peace as being almost a Sine qua non in the Constitution of the Criminal Court, adding on the suggestion of the late Mr. Bent that the same Person, who held that situation, might also Act as King's Proctor, Registrar of the Civil Courts, &c. And on the same Authority I proposed that a Salary of £500 P'r Annum should be attached to those Offices.

Previous
proposal for
appointment of
clerk of peace.

1817.
3 April.
Reasons for the
appointment of
a clerk of the
peace.

By the Constitution of the Courts, which has since taken place under the late Patent, possibly some of the above Situations have merged in others of a different Name or Denomination, and would of Course be now unsuitable to bestow. But the situation of Clerk of the Peace, which is Attached to the Criminal Department, remaining still to be supplied, and being One of much Importance and of almost Absolute necessity for the reasons pointed out as well by Myself in the Dispatch alluded to, as by the late Judge Advocate Bent in his Letter quoted by the present Judge Advocate in the Accompanying Correspondence, and being borne out by Mr. Judge Advocate Wylde's assurance that such an Appointment had been referred from Your Lordship's Department to my decision. I have had no hesitation in making the provisional Appointment of Mr. Wylde Senior to it, and for the reasons so well assigned by the Judge Advocate. I have also given the further Appointment of Solicitor for the Crown under the same Conditions to Mr. Wylde Senr. If the Creating of these Appointments should meet Your Lordship's Approbation, which I trust the Necessity for them, as ably stated by the late and present Judge Advocate, will fully Secure, I hope Your Lordship will please to Confirm My Nomination of Thomas Wylde Esqr., and that Your Lordship will please to assign such liberal Salary and Allowances as will render them Objects of due Consideration with the Gentleman now in the Discharge of the respective Duties of them, and Compensate for the Importance of the Services to be rendered by him.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Judge-Advocate's Office, N. S. Wales,

Sir,

26th December, 1816.

Previously to my leaving England on my present Appointment, having observed in the public Dispatch* of my predecessor, the late Ellis Bent, Esqre., dated the 19th October, 1811, a recommendation among other Subjects connected with the proposed New System of Judicature then referred to His Majesty's Principal Secretary of State for the Colonies, "that a professional person should be sent out as Clerk of the Peace, whose Duty it would be to draw up all Indictments and informations, to manage the formal parts of all prosecutions, to make up and have the Custody and Charge of all the Orders and records of the Courts": I beg to inform Your Excellency that I took the opportunity of addressing a Communication to the Secretary of State submitting the request, that if such an Appointment were Approved of by His Majesty's Government that it might be given

Previous
advocacy for
appointment of
clerk of peace.

to My Father, Mr. Thos. Wylde, about to accompany Me to the Colony with leave to Act as a Solicitor in our Supreme Court of Judicature.

1817.
3 April.

In a personal Communication, which afterwards took place at the Colonial Office, I was informed that it was deemed proper that such a Measure should in the first instance originate with Your Excellency, and that if the same were so far Approved and deemed expedient, as to be referred home by Your Excellency, the recommendation would of course meet with due consideration with His Majesty's Government.

Recommendation required from Macquarie.

I beg leave therefore to submit to Your Excellency the Grounds upon which I have been induced to form the opinion that such an appointment would be proper beneficial and expedient.

Necessity for the appointment.

I have already been long enough in the execution of My Office to agree in Opinion with my Predecessor, that the Duty of the Judge Advocate in this Colony is both laborious and Complicated, particularly as President of the Court of Criminal Judicature.

Duties of the judge-advocate in criminal procedure.

"For it is his Duty," as observed in the Dispatch already referred to "to examine the Depositions taken (perhaps by himself as a Magistrate) upon the Committal of Offenders, to prepare the Information upon which they are to be tried, to cause the necessary Witnesses to be summoned, to exhibit those Informations to the Court, to conduct and take Minutes of the Trial, to take down the Evidence, to make such observations thereon to the other Members of the Court as he may deem expedient, to pronounce the Judgment of the Court, to make up the record of the Conviction or acquittal of the Prisoners and to take Charge of all the records of the Court.

"Thus the Judge Advocate is at once the Committing Magistrate, Public Prosecutor, and Judge, and he is called upon to *decide upon the legality of the Information drawn up and Exhibited by himself*; while from being so intimately concerned in the Preliminary steps of every Prosecution it is hardly possible for the Judge Advocate to free his mind from some degree of Bias against the Innocence of the Prisoners, and it need hardly be added that his opinion must necessarily have great weight with the other Members of the Court."

It is *this last Consideration* and not any weight of Duty that urges me to bring this Subject before Your Excellency; as whatever may be the real Influence of such previous Duties and Interference on the part of the Judge Advocate, and even if in truth none whatever prevails, the Confidence of the Public cannot I fear be brought to the conviction that the Judge Advocate under these circumstances proceeds to Judgment with that perfect Independence of opinion and feeling which should characterize

Effect of such duties on independence of judgment of judge-advocate.

1817.
3 April.

Effect of
such duties on
independence
of judgment of
judge-advocate.

and can never safely be withdrawn from such highly penal and conscientious functions. An undue influence cannot but be suspected as naturally arising from former circumstances and Duties, which certainly, even in themselves, seem inconsistent with the Character, Office, and Independence of the Judge, in matters of legal Import and Judgment, and much more in Trials of Criminal Judicature.

It is also to be remarked in many Instances of Public Indictments and even of some brought forward Expressly on the behalf of the Crown, it may be found necessary that enquiries should be made after, and Examinations taken upon additional Evidence, or upon that already adduced; which, if the Judge Advocate could possibly find leisure to make, would still more affect or be thought to affect his Judgment upon the Trial, and Impress upon him that Bias which upon the best principles should ever on the trial be not *against* but in *favor* of the Offender.

Advantages
of altered
procedure
in court.

It is also to be further observed that it might be expedient in some Cases, especially where the Crown immediately prosecutes, that the Public proceedings upon the Trial in the Court should be conducted more formally and at large than could possibly be done by the Judge Advocate, who in every case could only pursue the usual Mode of proceeding by the Examination of the Witnesses, and thus bringing the facts of the Case to the Knowledge of the Court; the effect of which might be in some cases more advantageously impressed by a previous opening statement and reply, made too by one who might be even esteemed less interested than the Judge Advocate in the Issue of the Decision.

Proposed
appointment of
clerk of peace;

With these views and for the purposes already stated, I take the liberty of requesting Your Excellency's consideration whether it would not be Expedient and beneficial that some professional Person should be appointed Clerk of the Peace, in and for this Territory and its Dependencies.

and of solicitor
for the crown.

Connected with the above recommendation is another, which I also at the same time submitted to His Majesty's Government, and which upon further reflection and experience, though short, now personally obtained, I also feel desirous of at least making known to Your Excellency, and that is that the same Person, who may act as the Clerk of the Peace, may also be appointed Solicitor for the Crown in this Colony.

John Wylde's
motives in
suggesting the
change.

It will not, I trust, be suspected that I have any Desire to withdraw myself from the honorable, however highly responsible, Situation of Principal Law adviser of the Crown in the Colony; indeed I cannot but feel persuaded that my general Conduct, during the time I have been in Office, will immediately dispel such an Idea from your Excellency's Mind; the duty will ever be

rendered the Government readily and with my best ability; but I cannot but think that it would prove of great advantage, public facility and expediency, that the Governor should have promptly and constantly at command the assistance of professional advice and direction in matters of general business and enquiry, or not perhaps of sufficient importance to be referred to the Judge Advocate, although of doubtful expediency or management; but more especially does it appear to me expedient that such an Appointment should take place, and the person appointed called on to act in cases where proper enquiries, which professional Knowledge and habits can best prefer and supply, are necessary perhaps to substantiate the claims of the Crown, where official correspondence and communication may be requisite, and thus most favorably conducted perhaps for the Interests of the Crown, whose legal Proceedings on behalf of the Crown are afterwards determined upon, and are to be conducted to and at the Trial in the Courts of Civil Judicature; and where, if in the Governor's Court, the Judge Advocate will have to preside as Judge, and should, if possible, and thus would be left free from all bias, prejudice, and previous determination.

Upon these grounds, I beg leave to submit to Your Excellency's Consideration that it would be beneficial and expedient, that the professional person, who may act as Clerk of the Peace may also be appointed Solicitor for the Crown in the Territory and its Dependencies. I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

True Copy:—JNO. THOS. CAMPBELL.

[Enclosure No. 2.]

MR. THOMAS WYLDE TO GOVERNOR MACQUARIE.

Sir,

Sydney, 27th December, 1816.

It having been Communicated to Me by My Son, the Judge Advocate, that he has recommended to Your Excellency the Appointment of some Professional Person as Clerk of the Peace and Solicitor for the Crown in the Colony, I beg leave to tender you my Services on the Occasion, and to suggest that, if Your Excellency should be pleased to approve of such a measure and to be desirous at least of trying what might be the results of adopting it, I will very readily undertake the Office and Duties without Salary, till Your Excellency and the Government shall be satisfied of the propriety and expediency of the same, and establish the Appointment in such Manner as shall be deemed fit and proper.

I have, &c.,

THOS. WYLDE, Sol'r.

True Copy:—JNO. THOS. CAMPBELL, Secy.

1817.
3 April.

Advantages of
an independent
legal adviser to
the governor.

Application
of Thomas
Wylde for
appointment
without salary.

1817.
3 April.

[Enclosure No. 3.]

SECRETARY CAMPBELL TO MR. THOMAS WYLDE.

Sir, Secretary's Office, 31st December, 1816.

Acceptance by
Macquarie of
Thomas Wylde's
voluntary offer.

I have the honor to communicate to You His Excellency the Governor's reply to your letter, dated the 27th Inst., tendering your services in the situations of Clerk of the Peace and Solicitor for the Crown.

His Excellency, deeming the situations of Clerk of the Peace and Solicitor for the Crown almost indispensably necessary in the present advanced state of the Colony, and being well assured of Your Competency from legal knowledge and long professional experience to fill those Departments with Credit to Yourself and benefit to the Public, is happy to avail Himself of your liberal proposal to perform the Duties of those Departments *gratuitously*, until such time as the pleasure of His Majesty's Ministers shall be known thereon.

Under the present Circumstances, His Excellency cannot take the responsibility on Himself of attaching a Salary to the Appointments, but He will avail Himself of the earliest opportunity to recommend to His Majesty's Ministers to Confirm you in the respective Situations of Clerk of the Peace and Solicitor for the Crown with a Suitable Salary annexed to them.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

True Copy:—JNO. THOS. CAMPBELL.

[Enclosure No. 4.]

SECRETARY CAMPBELL TO JUDGE-ADVOCATE WYLDE.

Sir, Secretary's Office, 31st December, 1816.

I have it in Command from His Excellency the Governor to acknowledge the receipt of Your Letter, dated the 26th Instant, on the importance and expediency of creating the Situations of Clerk of the Peace and Solicitor for the Crown in this Territory, and recommending Thomas Wylde, Esqre., as a suitably qualified professional Gentleman for those Departments.

John Wylde
notified of
Thomas Wylde's
appointment.

His Excellency fully coinciding in the expediency of, if not absolute necessity for, such appointments in the present improved and advanced state of the Colony, and at the same time happy in availing Himself of Your Recommendation, has Communicated to Mr. Wylde under the present date, that He will accept his Services (which had been liberally tendered on the 27th Inst.) in those Departments, And His Excellency will make an Early Communication hereon to His Majesty's Ministers, at once recommending the full Establishment of those Situations and the

Confirmation of Mr. Wylde in them, with a Suitable Salary, He having tendered his services *ad interim* without Salary.

1817.
3 April.

I have, &c.,

JNO. THOS. CAMPBELL, Secretary.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 5.]

GOVERNMENT AND GENERAL ORDERS.

Government House, Parramatta, Wednesday, 1st January, 1817.

Civil Department.

THE Governor deeming it essentially necessary for the more effectual Conduct of the Proceedings in the Court of Criminal Judicature in this Colony, the more ready Attainment of professional Assistance to the Government, and the better Management of the Public Interests, that a duly qualified Person should be appointed without further Delay to the Situations of Clerk of the Peace and Solicitor for the Crown, has been pleased to accept the liberal Offer of Thomas Wylde, Esqre., to discharge the Duties of those Offices *without Salary*, until and unless His Royal Highness the Prince Regent and His Majesty's Government shall think fit to confirm them with a suitable Salary. The Expediency of which Measure His Excellency means to submit and recommend to their consideration.

General orders
appointing
Thomas Wylde
clerk of peace
and solicitor
for the crown.

His Excellency therefore hereby constitutes and appoints the said Thos. Wylde Esqre. (a Solicitor of the Law Courts in England, and authorized by the Government to act as such in the Supreme Court in this Colony) Clerk of the Peace and Solicitor for the Crown in and for the Territory and its Dependencies: and orders and directs, that, from and after the present date, the said Thomas Wylde, Esqre., shall be regarded, acknowledged, and obeyed as Clerk of the Peace and Solicitor for the Crown in all Matters and Things belonging or appertaining to those Offices.

By Command of His Excellency,

JNO. THOS. CAMPBELL, Secretary.

True Copy:—JNO. THOS. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 14 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 12th May, 1818.)

Government House, Sydney, New South Wales,

My Lord,

3rd April, 1817.

Having been already under the necessity, in My Dispatch of the 8th of March, 1816, to represent to Your Lordship the disrespectful, insulting, and insubordinate Conduct of Mr. Solicitor Moore in regard to the Seizure of the American Ship

1817.
3 April.

Preparation of
a memorial to
the House of
Commons by
W. H. Moore.

Traveller, And having also Mentioned the Measures I had adopted therein, I now beg to lay before Your Lordship another part of Mr. Moore's Conduct still more reprehensible than the former.

This Gentleman, who has endeavoured to tread in the Steps of his Preceptor and Patron, Mr. J. H. Bent, in rendering indiscriminate opposition to all the Measures of my Government, as far as a Weak head and a bad heart could impel Him, some time since lent himself so far to a Mischievous and Mean faction as to become the Chief Mover and promoter of a Memorial,* Addressed to the House of Commons, ostensibly for the purpose of Obtaining a free Navigation and Trade and relief from Certain imaginary grievances, but in reality to Convey Charges of the Most false and Malicious Nature against me. This Memorial was sent from hence for England in June last in Charge of the Revd. Mr. Vale, which I was aware of at the time; but, not being so fully informed of its object as I have become since, I did not feel it Necessary to Make Your Lordship any Communication at that time in regard to it. Since that time Owing to a Copy of the Memorial having been privately taken by a Person who had frequent and unsuspected access to it, it has Come to light that the Signatures of Several persons had been put to the Memorial without their having had any knowledge whatever of the Circumstance; and some of these People, whose sentiments and principles would have revolted against so base an Act, finding that their Names have been affixed to it and justly dreading my displeasure, have Come forward and disclaimed on Oath their ever having Signed or Authorized any one else to sign for them the Paper in Question, and at the same time reprobated the false and Malevolent Assertions Contained in it. As soon as it was discovered that I meant to withhold Grants of Land and other Indulgences from any Persons then about to receive such, whom I should find had been concerned in the business of the Memorial, some Persons, getting alarmed, immediately set about exculpating themselves; And it is an extraordinary fact that Mr. Solicitor Moore had the Audacity to address a letter to me in behalf of his Brother (to whom I had promised a Grant of Land, but had Cancelled it on finding his Name was affixed to the Memorial) declaring that He had himself put his brother's Name to the Memorial without his privity or Consent, at a time his Brother was in the Country and unacquainted with its Contents; A Copy of his letter and that which I directed my Secretary to Write in Answer to Mr. Moore accompany this.

Signatures
forged to
memorial.

Grants and
indulgences to
be withheld
from
signatories.

Confession of
W. H. Moore
to the
virtual forgery
of his brother's
signature.

By such Means, My Lord, has this Worthless and Unprincipled reptile, under the pupilage of Mr. Bent, shewn himself a ready Agent to undermine me and blast, if possible, My honor and

* Note 77.

Public Character. I shall only further trouble Your Lordship on the Subject by transmitting (out of several which have been made) the Copies of Two Depositions and Letters transmitted to Me by Mr. Samuel Terry, a wealthy Trader here, and Mr. Gustavus Lowe, formerly An Officer in His Majesty's Service, who Came out here Some Years Ago as a Convict, both of whom disclaim in the strongest Manner ever having either Signed or Sanctioned any other Person to Sign for them the Memorial alluded to.

1817.
3 April.

Repudiation
of signatures
by Terry and
Lowe.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

MR. W. H. MOORE TO GOVERNOR MACQUARIE.

George Street, Sydney,

Your Excellency,

18th September, 1816.

I have to apologize for troubling you with a Letter at a time, when your indisposition may render it improper, but I am anxious to make an explanation to Your Excellency that may prevent my Brother suffering unjustly on my Account, and I fear that any delay in my doing so would be equally injurious to him. I am informed that the Grant of Land, intended to have been made to him, is withheld on Account of Misconduct in his Name appearing to a Petition to the House of Commons for the redress of certain grievances, which I considered the Settlers in this Colony had just reason to complain of. Now I have no hesitation in declaring to Your Excellency that I took upon myself to attach his Name to such Petition, that he never saw it, and that every thing relating to it was transacted during his Absence from Sydney, when he was up the Country.

Confession of
W. H. Moore
to the
virtual forgery
of his brother's
signature.

I also beg leave to state to Your Excellency that the land was actually Measured and in his Possession, several Weeks before he heard he was to be deprived of it, and that he has Consequently been put to a very considerable expence in providing himself not only with Tools of all kinds but with Materials for erecting a House, which will become an entire loss to him, unless Your Excellency is Pleased to rescind your late Orders for Cancelling such Grant.

I am, &c.,

W. H. MOORE.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 2.]

SECRETARY CAMPBELL TO MR. W. H. MOORE.

Secretary's Office, Sydney,

Sir,

20th September, 1816.

I have it in Command to acknowledge the receipt of your Letter of the 18th Instant, addressed to the Governor, and to Convey to you His Observations thereon.

1817.
3 April.

Macquarie's
previous
knowledge
of Moore's
methods.

His Excellency is not altogether unacquainted with the clandestine and Surreptitious means resorted to for the obtaining or affixing Signatures to the Paper you designated a "*Petition for the redress of certain grievances,*" which in the course of your very short residence in this Country you discovered to exist in it, and of which in your Opinion "The Settlers had just reason to Complain." Neither is His Excellency to be at this time informed, who were the principal Agent in that business, nor of the degree of success with which the Solicitations for Signatures was attended even among the lowest and most base of the Community. These things are already unfolded, and, in the present stage of the business, the Men and the Measure are alike held too Contemptible to require a more minute Investigation. The Malicious Misrepresentations with which the Petition is fraught, combined with the Consideration of Contemptible imbecility of the faction from which it originated, screens some of its most Active Members for the present from the Pillory and loss of Ears, tho' at no very distant day the offended Laws may make the necessary examples. In silence, these Measures have been observed during their progress, and the present Animadversions would not have been drawn forth, but for the Circumstance of your having had the temerity to avow (in the Letter now under Answer) that you had yourself affixed the Name of a Person to that Petition, who had never seen it and who had never given you any Authority so to make use of his Name. This avowal of an Act of Forgery, calculated to impose upon the August Assembly of the British Senate, and Unaccompanied as it is with any Sentiment of Contrition, could not fail of producing the most lively Sentiments of indignation at the unprincipled Conduct which gave birth to it.

Refusal
to accept
W. H. Moore's
testimony in
exculpation of
his brother.

In regard to the Object you have had in view in making this Avowal, Namely the inducing the Governor to rescind an Order made by Him for Cancelling a Grant originally intended for your Brother, His Excellency desires to observe that the highly Criminal Act, which you now stand self convicted of, renders your testimony on this or any other Occasion totally inadmissible by those laws with which you should have been better acquainted, the Nature of your Profession considered. Under all the Circumstances of *the Petition*, you will of course not be surprized to find that no further reliance will be placed in your exculpation of your Brother than to induce His Excellency to institute an enquiry into the real state of the Case, and when that shall be done to adopt such Measures as may be Conducive to Justice.

Whilst His Excellency cannot but regret that a Person, Nominated as you had been so lately to the lucrative and respectable

situation of a Law Solicitor under this Government, should have so far lost sight of what was due to that Character as to Commit himself in the Manner you have done; yet, the fact being so, it is His Excellency's desire that you do not address him any further on this or any other subject, A Correspondence of any nature with you being unsuitable and inadmissible.

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3 April.

Further
correspondence
with Moore
refused.

I am, &c.,

J. T. CAMPBELL, Secy.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 3.]

MR. SAMUEL TERRY TO GOVERNOR MACQUARIE.

Sydney, 12th October, 1816.

May it Please Your Excellency,

With the greatest respect and submission I beg leave to solicit Your Excellency's attention to the following plain statement of facts, relative to an Offence the Commission of which no Person whatever in this Colony could be more averse to than myself.

On the 10th of this instant Month, Mr. Gustavus Lowe (who has the Superintendance and management of my Agricultural Concerns) informed me that Mr. James Meehan, Deputy Surveyor of Lands, stated to him that he, Mr. Meehan, had it in Command from Your Excellency not to measure the 300 Acres of Land Your Excellency was some time since Pleased to Grant to me, as Your Excellency had Cancelled that Grant in consequence of my having been lately Guilty of Seditious Practices by Signing or procuring others to Sign a Seditious Paper, which had been lodged at Mr. Solicitor's Moore's for that purpose.

Land grant
to Terry to
be cancelled.

Some time since Mr. Moore was my Solicitor; I called at his house one day on business; He produced to me a Paper purporting to be a Memorial to the House of Commons, desired me to read it, and requested me to sign it; I read as far as the two first Paragraphs, laid it down, and said to Mr. Moore, "Mr. Moore this is a very improper Paper, I will never sign such a One, And I am satisfied if His Excellency the Governor was to know this paper lay at your house, He would send His Dragoon both for you and it."

Terry's
refusal to sign
memorial.

I solemnly assure Your Excellency that I never signed nor approved of the Letter alluded to; that I never desired or solicited another Person whatever to sign it; that I never was at any Meeting concerning it; and that on the Contrary I actually prevented One Person and advised others against signing it.

Terry's actions
re the memorial.

I beg leave to assure Your Excellency that I am induced to lay this statement before you not from any Motives of interest, for the gain or loss of a few hundred Acres of Land can be of very

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3 April.

little difference to me, but entirely with a view of removing from Your Excellency's mind the impression of my having been concerned in Seditious Practices.

Terry's former
conduct.

I have been going on 20 Years in this Colony; I have a Young family and extensive Agricultural and Mercantile Concerns therein; Sedition, until now, was never laid to my Charge; as far as in me lay, I have obeyed and supported the Government; I have received favor from Your Excellency, for which I am truly thankful; and I do assure Your Excellency that I am not so inimical to my Own and my Family's interest, nor so insensible of Your Excellency's goodness to me, as to enter into or Countenance or abet any Seditious Practices against Your Excellency's Government. And with the greatest deference I should submit to Your Excellency that it would be but Justice to myself and family to have me brought into the presence of Your Excellency there to have an Opportunity of Confuting the Calumniators of My Character, which will confer a greater Obligation than those I am already Under to Your Excellency, And I have the Honor to affix myself,

With the highest respect, &c.,

SAML. TERRY.

True Copy:—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 4.]

AFFIDAVIT OF MR. SAMUEL TERRY.

Cumberland to Wit.

SAMUEL TERRY of Sydney, Merchant, Voluntarily Came before Me, One of His Majesty's Justices of the Peace for the said County, and Maketh Oath and Saith, that the Matters and things stated and set forth in the foregoing Letter are true and Correct in substance and Matter of fact to the best of this Deponent's knowledge and belief, And further saith that he never has by Act or Deed Committed any offence that might be considered as Militating against the Government of this Colony.

SAM'L TERRY.

Sworn before Me, this 12th day of October in the Year of
Our Lord One thousand, Eight hundred and Sixteen.

D. WENTWORTH, J.P.

[Enclosure No. 5.]

MR. GUSTAVUS LOW TO GOVERNOR MACQUARIE.

Sir,

12th October, 1816.

Impressed with Sentiments of the most profound respect, I beg permission to lay the enclosed Affidavit before Your Excellency on a Subject that I feel deeply affects My interests in this Colony.

Attestation
of letter by
Samuel Terry.

In doing this, I cannot convey to Your Excellency my feelings, when the Accusation of Seditious Practices was Convey'd to me on Thursday last by an Officer under Your Excellency's Government, a Crime so foreign to the Principles I inculcated from my earliest Youth.

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3 April.

Low's
disclaimer.

Ruinous as the deprivation of my Land must be to Me after expending so much Money and Labour thereon, that loss would not be so severely felt by me as the impression of ingratitude which must (unless removed) remain upon Your Excellency's mind, in my being concern'd in any Matter derogatory to Your Excellency's Government.

Having stated thus much, the only and the greatest favor, I have to beg, is to be brought before Your Excellency, as well as the Individuals from whence the information has been derived, and then Your Excellency will have an Opportunity of Judging upon whose cheek the blush of shame will appear; this appeal I make to the humanity so Manifest in Your Excellency's Character, in granting which Your Excellency will remove the unhappiness that will otherwise remain upon the Mind of,

Demand to meet
his accusers.

Your Excellency's, &c.,
GUSTAVUS LOW.

[Enclosure No. 6.]

AFFIDAVIT OF GUSTAVUS LOW.

Cumberland to Wit.

GUSTAVUS ADOLPHUS LOW Came before Me, One of His Majesty's Justices of the Peace for the said County, who maketh oath and saith, that on or about Thursday the Tenth day of October instant, as this Deponent was riding from the South Creek, he met Mr. James Meehan, the Deputy Surveyor of this Colony, who inform'd this Deponent that he had received Orders from His Excellency the Governor not to measure this Deponent's Farm upon the South Creek, the same being Cancelled together with all other indulgences heretofore granted; that upon this Deponent's interrogating the said Mr. Meehan as to the Cause of such Orders having been given, This Deponent received for Answer, "That it was for being lately Guilty of Seditious Practices by having signed a paper which had been lodged at Mr. Solicitor Moore's for Signature." Now this Deponent saith that he never did, at any time or place, himself or by Power to others, Sign, Seal or deliver his Name, Initials or any other Mark, directly or indirectly, to any such Paper or Papers, address, or application; and that, if this deponent's Name has appear'd, the same has been done without his privity, knowledge or Consent; And this Deponent further saith that He never has, during his residence in this Colony, affixed his Name, Signature, initials or Mark

Affidavit of Low
repudiating
his alleged
signature to
memorial.

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3 April.

to any Paper or Document Subversive to the Government or good Order of the Colony, Nor did he ever see or hear the Contents of any such Paper or Papers read, and further this Deponent saith not.

GUSTAVUS LOW.

Sworn before Me the 12th day of October, in the Year of Our Lord, One Thousand, Eight Hundred and Sixteen.

D. WENTWORTH, J.P.

True Copy:—JNO. THOS. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 15 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

3rd April, 1817.

Transmission
of registers of
male and female
convicts.

In obedience to your Lordship's commands, conveyed to me in your Lordship's Dispatch No. 40 of date 2nd March, 1815, I have now the honor of transmitting herewith, for your Lordship's notice and information, two large Bound Books containing the Names of all the Male and Female Convicts, who were alive in the Colony of New South Wales at the time of my assuming the Government thereof on the 1st of January, 1810, and including all those who have arrived in the Colony from that period up to the 31st of December, 1816, both inclusive; the whole being Alphabetically arranged in regular order and made out agreeably to the Form enclosed in your Lordship's Dispatch herein alluded to; the large Book, No. 1, containing the names of the Male, and the smaller Book, No. 2, that of the Female Convicts, the two Books being packed up in one Dispatch Box by themselves and forwarded by the Government Brig Kangaroo along with my other Dispatches.

Similar Books to those now sent will be transmitted annually to your Lordship, made up to the 31st of December of each year, agreeably to the Instructions I have received on this head. But from a cursory view of the two Books now transmitted, your Lordship will be able to appreciate the time and trouble it necessarily takes to arrange and make up those Books in the prescribed manner; and I must therefore hope for your Lordship's dispensing with their being sent *in Duplicate*, it having taken up the whole time of one good Clerk for the last Twelve Months to arrange and complete those two Books now forwarded. They must however prove very useful and convenient Documents in the Secretary of State's Office for occasional References from the relations and friends of such unfortunate persons as are from time to time transported to this Colony. I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
3 April.

(Despatch marked "No. 16 of 1817," per H.M. brig Kangaroo;
acknowledged by Earl Bathurst, 3rd July, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

3rd April, 1817.

Mr. Judge Advocate Wylde having made application to me soon after his arrival here to have his Office supplied with Stationary from the Government Stores, I signified to him that, the Office of the late Judge Advocate not having been supplied with Stationary at the expence of the Crown, I could not with propriety comply with his request on this head without first obtaining your Lordship's sanction for so doing. He has accordingly made an Official application in writing to me on this subject, and I now do myself the honor of forwarding herewith Mr. Wylde's letter for your Lordship's favourable consideration.

Application of
judge-advocate
Wylde for
stationery for
official use.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Advocate's Office, 26th March, 1817.

I beg leave to request of your Excellency to take into Consideration whether I might not reasonably solicit of His Majesty's Government, through your Excellency, to Authorize an Issue of Stationary from the Commissariat for the Use of my Office, not as Judge of the Governor's Court (in which respect the Public may be thought to reimburse the expense in the customary Fees) but in respect of the general public Business that falls to me in Correspondence as Judge Advocate, principal acting Magistrate, and on occasion your Excellency's Law assistant and general Adviser. I need not suggest to your Excellency how much of paper Communication and Matter has in fact transpired bet'n the Judge Adv. and yourself, since his Arrival in October, upon various public Subjects of Proclamation, Policy, and general Circumstance, and how certain it is that such from time to time must continue from the nature of the Colony and our relative Concerns with its public Affairs. I have had, and must have, much also of Communication with the Magistrates of the Districts upon matters connected with the Police, Offences, Commitments, Cases of Bail, and the general Conduct and Proceedings of the Criminal Jurisdiction in the Territory.

I have also to communicate, on this and other subjects, with Van Dieman's Land. I may indeed say that there can be no subject of any Importance connected with the civil criminal or general Jurisdiction of the Colony, in which, if I am rightly to

1817.
3 April.

Application of
judge-advocate
Wylde for
stationery for
official use.

conclude from the past, I shall not find it necessary to use Stationery. I must confess that I did not make any enquiry or suggestion at the time my present Appointment was bestowed upon me, because I certainly never entertained a Doubt, but that necessary Stationery was allowed; in consequence I only brought out with me a Supply for private Use, which was soon exhausted, and I have since provided a Supply from the Ship Surrey at £30 expense, which will shortly also be (of course, in *general* business) consumed. Under these Circumstances, without longer intruding upon your Excellency on such a Subject, I submit the Consideration entirely to Your Excellency's Pleasure and Decision.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 17 of 1817," per H.M. brig Kangaroo; acknowledged by Earl Bathurst, 24th July, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

3d April, 1817.

Appointment of
Sorell to
succeed Davey
as lieutenant-
governor of
Tasmania.

1. I have the honor to acknowledge the receipt of Your Lordship's Dispatch, No. 67 of date 18th of April, 1816, Conveying to Me the intelligence of the decision of His Majesty's Government respecting the immediate removal of Lieutenant Governor Davey and the Appointment of Colonel Sorell to succeed him, as Lieutenant Governor of Van Diemen's Land. This Communication, I confess, affords me sincere satisfaction, in as much as it promises much benefit to the Settlements on Van Diemen's Land, and relieves them from a Ruler under whom they were never likely to prosper, or to arrive at a state of either Opulence or respectability; and I must embrace the opportunity now afforded me of returning my best and most respectful acknowledgments to Your Lordship for so readily and promptly attending to My Suggestion for the Removal of Lieutenant Governor Davey. He has given me a great deal of trouble and vexation, from first to last, by his total neglect of his own Duty, and disregard, and even Contempt, of all My Orders and Instructions. But the worst part of his Conduct is his lavish, extravagant and shameful profusion of the Public Property and Colonial Revenue, entrusted unavoidably to his Management and Control. I may safely assert he has lavishly expended in different ways some Thousands of Pounds belonging to the Public, that no other Man except himself would have dared to expend without Authority; and I may also add that it would have saved a great deal of Money to the Crown, had Government given a Pension of Two or Three

Conduct of
Davey in his
administration.

Hundred per Annum to Colonel Davey, instead of sending him out as Lieutenant Governor of the Settlements on Van Diemen's Land.

1817.
3 April.

2. Soon after the receipt of Your Lordship's Dispatch, already adverted to, I forwarded the Letter, which accompanied it, to Colonel Davey, Notifying to him his removal and leaving him the Option of either continuing at the Derwent, till the Arrival of his Successor, or resigning his Command and coming up to Port Jackson. He however availed himself of the former Alternative, and signified to Me his determination to remain at Hobart Town till he should be regularly relieved by his Successor, Colonel Sorell.

Davey's
decision to
remain at
Hobart until
relieved.

3. I also acquainted Colonel Davey that Your Lordship had authorized me to give him a liberal Grant of Land for the benefit of his Family, and in Consideration of his loss of Property by the Capture of the Government Brig, Emu,* in the year 1813, and offered him a Grant of Two Thousand Acres, in addition to 3,000 Acres† which I had formerly given him, but which I omitted to report at the time to Your Lordship; and concluding you were of course unacquainted with the Circumstance of his having received this former Grant, I considered a Grant of 5,000 Acres of Land in the whole, not only a most liberal One, but also more than adequate to Compensate for any losses Colonel Davey might have sustained in Property by the Capture of the Brig Emu. Colonel Davey has however declined accepting of the additional Two Thousand Acres I offered him, as he conceives Your Lordship's intention was to give him at least Five Thousand Acres, exclusive of the first Grant of Three Thousand Acres I gave him at first, and therefore intends making a reference to Your Lordship on the Subject; so that matters must rest as they are, until I am honored with Your Lordship's farther instructions on this subject. I have yet to learn whether Colonel Davey intends returning to England or settling in this Country, tho' I sincerely hope he will do the former.

Lands granted
and offered to
Davey.

4. Colonel Sorell arrived here from England on the 10th, and sailed for Van Diemen's Land on the 27th of last Month.

Arrival of
colonel Sorell.

5. I have been honored with Your Lordship's Letter of date 20th July, 1816, directing me to Pay Colonel Davey One Hundred Pounds from the Colonial Funds, which I have done accordingly, and shall draw as directed for the Amount on the Under Secretary of State for the Colonies. I have also forwarded the Earl of Harrowby's Letter to Colonel Davey, which came enclosed in Your Lordship's Letter to My Address under date the 22nd of July, 1816.

Payment
of money to
Davey.

I have, &c.,

L. MACQUARIE.

1817.
4 April.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 18 of 1817," per H.M. brig Kangaroo;
acknowledged by Earl Bathurst, 29th September, 1818.)

Government House, Sydney, New South Wales,

My Lord,

4th April, 1817.

1. My last General Dispatch to Your Lordship's Address was dated the 8th of June, 1816, and was transmitted to England per The Brig Alexander, which Sailed hence on the 16th of the same Month.

2. Since the Departure of the Alexander I have had the Honor to receive Your Lordship's and the Under Secretary of State's several Letters and Dispatches as specified in the Margin,* together with their respective Enclosures and accompaniments, to all which the most respectful and pointed Attention will be paid by Me in fulfilling and Carrying into Effect the several Orders and Instructions Conveyed to Me in them.

3. I have much Pleasure in reporting to Your Lordship that this Colony is at present in a state of perfect Peace and Tranquility, and also that it Continues in a progressive State of Improvement, which however has been this last Season and Harvest considerably Checked by no less than three successive Inundations of the Rivers Hawkesbury and Nepean and South Creek, by which the Country has been much distressed within the last Nine Months; the last took place in the Month of February of the present Year, Overflowing the Country along the Banks of the Hawkesbury to a great Extent, and sweeping away Farm Houses, Offices, Grain of every kind in Stacks, and on the foot, Horned Cattle, Sheep, Pigs, Poultry, and various other Property to a very great Amount; so much so that many Settlers, formerly Opulent, have been Completely ruined, and I have been laid under the Necessity of extending to these unfortunate distressed People such Relief from Government in respect to Provisions, as their Necessities required to prevent them and their families from Starving. Fortunately for the Country in general these last Inundations only Affect the low Grounds along the Banks of the Rivers and Creeks, whilst the Crops on the higher Grounds and Forest Lands have remained in perfect Security; and I am, notwithstanding, happy to have it in my power to Assure Your Lordship that there is still remaining in the Colony more than a Sufficiency of Grain for the Consumption of all the Inhabitants, in Consequence of the last Harvest having proved a most abundant one over every Cultivated part of the Country.

Acknowledgment of despatches.

Floods in the rivers Hawkesbury and Nepean.

Serious distress caused to settlers.

Abundance of previous harvest.

* 27 July, 17 Aug'st, 24 Sept'r, 6th, 10, 11th, 12th, 24th, 25th & 29th Nov'r, 2, 3, 4, 10th, 11 & 21st Dec'r, 1815. 16 Jan'y, 24 Febr'y, 2 & 22d March, 1, 6, 18, 25, & 26 April, 11, 20, 21, 23d, 24, 25 May, 23d June, 9, 20, 22d & 24 July, 5, 16, & 31 Aug't, 14, 20 Sept'r, and 1st and 3d October, 1816.

It was principally with a View of guarding against the fatal Effects of the Inundations of the Hawkesbury and Nepean Rivers and South Creek, that I adopted, at a very early period of My Administration of this Colony, the Plan of Settling the High Grounds and Forest Lands in the Interior, and the Result has fully Answered my Most Sanguine Expectations. The Colony being now always secure from Famine and even Scarcity, and every succeeding Year must still more ensure our Security against these fatal and distressing Occurrences.

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4 April.

Settlement of
forest lands.

The Lands on the Banks of the Hawkesbury are so very productive, and Cultivated with such very little Trouble, that it is not at all Surprizing the old Settlers, who have lived long on those Farms, should be so partial to and so unwilling to leave them. But it is impossible not to feel *extremely displeas'd and Indignant* at their Infatuated Obstinacy in persisting to Continue to reside with their Families, Flocks, Herds and Grain on those Spots Subject to the Floods, and from whence they have so often had their Property swept away. Whilst, if they were to remove to and reside on those high Grounds in the Townships Marked out long since for their Occupancy, they themselves, their Cattle and Grain (at least as soon as the latter could be gathered in) would be perfectly secure from all Floods; and what makes their Obstinacy and Indolence in this respect still more Inexcuseable is, that None of them would have to Carry their Crops above two Miles at the furthest, and in general not more than one Mile to their respective Places of Residence in the Townships. I have Used every Means in my Power to induce and persuade these infatuated Hawkesbury and Nepean Settlers to Quit the Banks of those Rivers, and Erect their Dwellings, Stock and Corn Yards in those Townships; but they are deaf to All my Remonstrances, and I fear they never will be prevailed on to remove from their favourite Spots and miserable Cottages on the Banks of those Rivers. As a last Effort, however, I Considered the recent awful Visitation of the Floods in February a fit Season for once more admonishing them, whilst Smarting under their late Losses and Calamities, by pointing out to them the folly of their Conduct in not removing to the Townships so as not in future to be Exposed to similar distressing Visitations of their Lives and Properties. Whether this last Admonition will have the wished for Effect, I know not, but I shall at least have the Consolation to reflect that I have done My Utmost to save these deluded people from Ruin and Poverty.

Continued
preference of
old settlers for
the banks of the
Hawkesbury
river.

Macquarie's
endeavours to
safeguard
settlers.

I herewith take the Liberty of Enclosing for Your Lordship's Perusal and Information a Printed Copy of the Government

1817.
4 April.
Loss of life by
the floods.

and General Order Issued on the Occasion of the last Flood. It is with Sincere Pleasure I have to add for Your Lordship's Information that only three persons lost their lives in the last three Calamitous Inundations, but the Quantity of Grain and Number of Cattle destroyed was very great.

Natives.

Cessation of
hostilities with
natives.

4. In my Dispatch P'r the Brig Alexander of date 8th June last, I had the Honor of Informing Your Lordship of the Measures, which I had deemed it advisable to pursue in respect to Quelling and Subduing the hostile Spirit of Violence and Rapine, which the black Natives or Aborigines of this Country had for a Considerable time past Manifested against the White Inhabitants; and I have now much pleasure in reporting to Your Lordship that the Measures I had then and have Subsequently adopted have been attended with the desired Effect, and that all Hostility on both Sides has long since Ceased; the black Natives living now peaceably and quietly in every part of the Colony, Unmolested by the White Inhabitants. The Measure of disarming the Natives had an immediate good Effect upon them, and the Proclamations Issued Subsequently under dates, 20th of July, and 1st of November, 1816, the first outlawing some of the Most Violent and Atrocious Natives, and the Second holding out Indemnity to such as delivered themselves within a prescribed Period, made them at length fully Sensible of the Folly of their Conduct, and soon afterwards induced the Principal Chiefs to Come in at the Heads of their respective Tribes* to sue for Peace and to deliver up their Arms in All due Form in Terms of the Proclamation of the 4th of May, 1816, a Copy of which accompanied My Dispatch under date 8th June last.

Submission of
the natives.

I now do myself the Honor to transmit for Your Lordship's further Information My Proclamation under dates 20th July and 1st November, 1816, relative to the Hostile Natives; a numerous friendly Meeting of whom took place at Parramatta on the 28th of December last, when I gave them a plentiful Treat of Meat and Drink; on which occasion 179 Men, Women and Children were assembled, being a greater Number than had been seen together at any one time for Several Years past; they All appeared happy and perfectly Satisfied at the Meeting, and some of them of their own free Will and Accord gave up their Children for the Native Institution, which I had established at Parramatta some time before; and this Institution, from the progress the Children have already made, gives great Hope that it will ultimately pave the way for the Civilization of a large Portion of the Aborigines of the Country.

Meeting of
natives at
Parramatta.

* Note 10.

5. I do myself the Honor to report to Your Lordship the Arrival of the following Male and female Convict Ships at this Port from England and Ireland, Subsequent to the Date of My Dispatch of the 8th of June last, viz. :—

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4 April.

1st. The Ship Atlas, Commanded by Captain Walter Meriton, Arrived on the 22d of July, 1816, with 187 Male Convicts from England, guarded by a Detachment of the 89th Regt. under the Command of Ensign Kenny of the same Corps, Mr. Patrick Hill being Surgeon and Superintendent of the said Ship. Only one Convict died on the passage, the remainder, as well as the Troops, arrived in good health; Mr. William Howe, Free Settler, and his family, and also two Missionaries Came out Passengers in the Atlas.

Arrival of the
ship Atlas,

with W. Howe
as passenger.

2nd. On the 5th of October, the Ship Elizabeth, Commanded by Captn. William Ostler, Arrived from England with 153 Male Convicts, Guarded by a Detachment of the 46th Regt. under the Command of Capt. Humfries of the same Corps, Mr. — Vickery being the Surgeon and Superintendent of the said Ship. Only two Convicts died on the passage, the rest, as well as the Troops, arrived in good Health.

Arrival
of the ship
Elizabeth,

John Wylde, Esqr., the newly appointed Judge Advocate with his family, his Father, Thomas Wylde, Esqr., Solicitor, and Mr. Joshua John Moore, Clerk to the Judge Advocate, Came out as passengers on board The Elizabeth.

with J. and
T. Wylde and
J. J. Moore as
passengers.

3rd. On the 11th of October, the Ship Mariner, Commanded by Captn. John Herbert, arrived from England with 145 Male Convicts, Guarded by a Detachment of the 46th Regt. under the Command of Lieut. Higgins of the same Corps, Mr. John Haslam being the Surgeon and Superintendent of the said ship; the Whole of the Convicts, as well as the Troops, arrived in good Health, None having died on the Passage.

Arrival of the
ship Mariner,

Mr. Richard Tress, Free Settler, with his Family, and Mrs. Broughton (the Mother of Commissary Broughton) Came out as Passengers on board the Mariner.

with
R. Tress and
Mrs. Broughton
as passengers.

4th. On the 20th of December, the Ship Surry, Commanded by Capt. Thomas Raine, arrived from Ireland with 150 Male Convicts, Guarded by a Detachment of the 46th Regiment under the Command of Lieut. Reveley of the same Corps, Mr. John F. Bayley being the Surgeon and Superintendent of the said Ship; the whole of the Convicts, as well as the Troops, arrived in perfect good Health, None having died on the passage.

Arrival of the
ship Surrey,

Mr. Henry Kitchen, Free Settler, Mr. Allan Cunningham, King's Botanist, and two Missionaries came out as passengers in the Surry.

with
H. Kitchen and
A. Cunningham
as passengers.

5th. On the 24th of February, the Ship Lord Melville, Commanded by Captn. Wetherell, arrived from England, having 100

Arrival
of the ship
Lord Melville.

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Female Convicts on board, Mr. Daniel MacNamara being Surgeon and Superintendent of the said Ship; the Whole of the female Convicts arrived in good Health, one only having died on the passage, 11 Free Women, Wives of Convicts, and 44 Children having arrived in this Ship.

Arrival of
Barron Field
and
John Gurner.

Barron Field, Esqr., the newly appointed Judge of the Supreme Court, and his family, and also his Clerk, Mr. John Gurner, came out as passengers in this Ship.

Arrival of the
ship Fame,

6th. On the 8th of March the Ship Fame, commanded by Captn. Henry Dale, arrived from England, having 198 Male Convicts on board, guarded by a Detachment of the 46th Regt. under the Command of Ensign Orange of the same Corps, Mr. John Mortimer being Surgeon and Superintendent of the said Ship; two Convicts only died on the Passage, and the rest, as well as the Troops, arrived in good Health.

with Laycock
and Mrs. Kitchen
as passengers,

Mr. Laycock (late Captain in the 102d Regt.) Free Settler, and his Family, and Mrs. Kitchen, Wife of Mr. Kitchen, Free Settler, Came out as Passengers in this Ship.

Arrival of ship
Sir William
Bensley,

7th. On the 10th of March, the Ship Sir William Bensley, Commanded by Captn. Lewis E. Williams, arrived from England, having 200 Male Convicts on board, Guarded by a Detachment of the 46th Regt. under Command of Ensign Ross of the same Corps, Mr. William Evans being Surgeon and Superintendent of the said Ship. One Convict only died on the Voyage, the rest as well as the Troops all arriving in perfect Health.

with lieut.-govr.
Sorell and
Fidkin as
passengers.

Lieut. Governor Sorell, with his Family, and also Mr. Fidkin, Free Settler, Came out as Passengers in this Ship.

Advantages of
employment of
naval surgeons
on convict
ships.

6. It must be a Source of peculiar Satisfaction to Your Lordship to reflect how Many Lives of Convicts have been saved within the last four Years by the Introduction of the New System of sending properly Qualified Naval Surgeons in Charge of the Convicts coming hither; as the Contrast between the State of Health they now Arrive in, and that they formerly Used to Arrive in Eight or ten Years ago, must be very Striking indeed on a Comparison; and therefore I Consider the Difference of Expencc as Nothing in Comparison of the great Advantages obtained by the Adoption of that System.

Arrival of
Fryett and
Gray.

7. Exclusive of the Free Settlers whom I have already Mentioned as having Arrived from England lately in this Colony Messrs. Fryett and Gray have also Arrived here in private Ships at their own Expencc.

Death of
Bourdillon on
the ship Atlas.

Mr. Bourdillon, a free Settler, Coming out in the Atlas, and recommended to Me by Your Lordship, Died on the passage and Captn. Meriton took Charge of his Effects.

8. I have reported in the foregoing part of this Dispatch the Arrival of Mr. Judge Advocate Wylde,* and Mr. Justice Field,† the former on the 5th of October, and the latter on the 24th of February last, and I took particular Care that their Arrival should be marked with every Demonstration of Respect due to their high Official Situations, as the two first Judicial Officers of the Country. From what I have already seen of both those Gentlemen, I have every Reason to hope and believe they will, in their respective Situations, prove a great Blessing and Acquisition to this Colony. They appear to be Men of superior Talents and Conciliating Manners.

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Reception of
Wylde and
Field.

Mr. Wylde, ever since his Arrival, has been assiduously and Indefatigably Employed in the Exercise of his Important and Various Judicial Duties as Judge Advocate, and has afforded Universal Satisfaction to the Public by his Zealous Attention to the Interests of the Community, and his Prompt Just and liberal Decisions. I must also add that he has Evinced every possible Desire to support this Government and to Assist Me with his Advice and Counsel.

Employment of
judge-advocate
Wylde,

Mr. Justice Field has not been enabled to Commence his Judicial Proceedings Yet in the Supreme Court; but he purposes doing so on the first of next Month, on which day he is to open the Supreme Court for the Dispatch of Business, and he is busily engaged at present in framing the necessary Rules of Practice and Regulations for Conducting the Proceedings of that Court.

and of
justice Field.

On Mr. Wylde's Arrival here, Mrs. Bent, the Widow of the late Judge Advocate, and her Brother-in-Law, Mr. Jeffery Hart Bent, the late Judge of the Supreme Court, were living in the Judge Advocate's House, and continued to do so for nearly three Months afterwards, but were at length removed from it on the 22d of December last after, however, much opposition on their part. This Occupancy laid me under the Necessity of hiring a House in the mean time for Mr. Judge Advocate Wylde; but this Expence will now Cease, as he is to get into his own House in the Course of a few days hence, it being very nearly ready for his Reception. On Viewing the House, Mr. Wylde expressed a strong Desire to have Alterations and Additions made to it, and I Could not hesitate to Comply with his wishes on this point, where his own personal Comfort and Accommodation and that of his Family were so deeply Involved, Convinced that the Expence Incurred by such Additions and Alterations would not fail to be approved of by Your Lordship. They have however taken more time than was expected, but are at length Completed to Mr. Wylde's entire Satisfaction.

Occupancy of
judge-advocate's
house by
Mrs. Bent.

House leased for
judge-advocate
Wylde.

Alterations to
judge-advocate's
house.

* Note 78. † Note 79.

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Residence for
justice Field.

There being no House belonging to Government at Sydney suitable for the Residence of Mr. Justice Field, I Hired one Immediately for him on his Arrival, for which I have engaged to pay on the part of Government £125 Sterlg. Annual Rent. The House is Small but very Neat, and was the best that Could be got to Hire, and Mr. Field is perfectly satisfied with it as a temporary Residence. He has however given Me to Understand that on his Acceptance of the Office of Judge of the Supreme Court of this Colony, one of his Stipulations with His Majesty's Government, was that he should have a suitable House found him by Government for his Residence, and altho' I am not yet Instructed by Your Lordship on this Head, I Cannot for a Moment Allow Myself to doubt the Accuracy of Mr. Field's Statement upon it.

Official
residence to
be erected by
contract.

Concluding therefore that Your Lordship will approve thereof, I have signified to Mr. Justice Field that I should take for granted that Your Lordship Intended, but Accidentally Omitted, Instructing Me with respect to Supplying him with Quarters at the Expence of the Crown; and that I should, Consequently, immediately set about Causing a suitable House and Offices to be Erected for him in the Town of Sydney, to be built by Contract and the Expence paid from the Colonial Funds, of which I take it for Granted Your Lordship will approve. I would prefer employing the Government Gangs of Artificers and Labourers in building the House and Offices for Mr. Field, to having the Work done by Contract; but they are at present so busily Employed at other Public Buildings of the first Importance that I Cannot with Justice to the Public Interests withdraw them from such Useful purposes.

Rations and
government
servants for
judge-advocate
and judge.

Both Mr. Judge Advocate Wylde and Mr. Justice Field Stated to Me, on their respective Arrivals, that they were promised, besides Houses for their Residence, full Rations for themselves and Families, together with a Certain Number of Government Servants on the Store. I apprized them of the order I had some time since received from Home for abolishing those Extra Allowances to Civil Officers, but as it would appear Your Lordship had either forgotten, or meant to dispense with that order, at the time of making such promises to them, I would take the Responsibility on myself of giving them those Allowances on their own Representations until such time as I should receive Your Lordship's final Instructions on the Subject; and requested at the same time that they would themselves also make a Reference upon it to Your Lordship by the present Conveyance.

9. I have done myself the Honor of addressing a separate Dispatch* to Your Lordship by this same opportunity on the

* Note 80.

Subject of the Recal and Removal of Mr. Jeffery Hart Bent from the Office of Judge of the Supreme Court, which he has filled so Unworthily and with so little Benefit to the Public Interests; and having Given Your Lordship in that Dispatch a Circumstantial Detail of the Insolence and highly Indecent Conduct of that Officer towards Me, ever since he received the Official Notification of his Recal, I shall not trespass longer here on Your Lordship's Valuable Time than in Merely Expressing My Sincere Hope that neither this nor any other Colony belonging to His Majesty may ever have such a Curse entailed on it as to have Mr. Jeffery Hart Bent, or any Person of Similar Temper, Principles and Conduct, appointed to any Official Situation in it.

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Despatch *re*
J. H. Bent's
conduct.

10. It was with Sincere Pleasure I hailed the Arrival here of Colonel Sorell, as Lieut. Governor of Van Diemen's Land; that Gentleman, as I have already reported in a former part of this Dispatch, arrived on board the Sir William Bensley Transport on the 10th of last Month, and Landed at Sydney under the Honors due to his Rank on the following Day. From what little Knowledge I have had the opportunity of acquiring of the Character, Manners and Abilities of Colonel Sorell, during his Short Stay here, I entertain the Hope that he is Well Qualified to execute the Duties of his Office, as Lieut. Governor of Van Diemen's Land, with Advantage to the Public Service, and Honor and Credit to himself, as he appears a Man of good Understanding Energy and Firmness; with these Qualities, Combined with Honor and Integrity (which I have no Doubt Colonel Sorell possesses) he will be a very great Acquisition to that devoted Island, the Settlements on which are in a Most Wretched State of Disorganization, Anarchy and Confusion, owing to the Mismanagement, Negligence and Profligacy of their late Ruler, whose bad Example and total Disregard to all Orders and Instructions have reduced those Settlements to a State of Ruin, Wretchedness and Corruption that will require all the Talents and Energy of Lieut. Governor Sorell for a Considerable time to recover them from, or to place in any state of Comfort and Respectability.

Arrival of
lieutenant-
governor
Sorell.

Macquarie's
opinion of
Sorell.

Condition of
settlements in
Tasmania.

I Endeavoured to Impress, as Strongly as I could, on the Mind of Lieut. Governor Sorell, the Errors and Vices of his Predecessor, and the Consequent Necessity of his Setting out and Commencing on a direct opposite System, which he has promised to do; and it being highly necessary that he should proceed with as little Delay as possible to his Government, I engaged a passage for him on the private Ship Cochin, then under Dispatch for the Derwent, and he sailed from hence for Hobart Town on the 27th of last Month, having been previously furnished by Me

Departure of
Sorell for
Hobart.

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with full and ample Instructions for his Guidance as Lieutenant Governor of the Settlements on Van Diemen's Land.

Instructions
sent to
lieutenant-
governor
Davey.

I had some time since Announced to Lieut. Governor Davey that he was to be removed and to be succeeded Immediately by Colonel Sorell, whom he might then Expect to Arrive very shortly at Hobart Town, and therefore directing him to receive his Successor at the Shortest Notice, leaving it optional with himself either to remain at the Derwent until his Successor Arrived or to Come up to Sydney. He however preferred the former Alternative, but answered My Notification to him of his Removal by Informing Me that he should be ready to receive his Successor, whenever he arrived, at Hobart Town. Having already Written a Short Dispatch* to Your Lordship of Yesterday's date, on the Subject of the Removal of Lieut. Governor Davey, I shall not here trespass longer on your Lordship's Time on this Subject.

Depredations by
bushrangers in
Tasmania.

11. The last Intelligence from Van Diemen's Land stated that the late Harvest at both the Settlements of the Derwent and Port Dalrymple had turned out most Abundant; but I am Sorry to Inform Your Lordship that the Runaway Convicts, or as they are Called the Bush Rangers, Continue Still Committing Depredations and Robberies on the defenceless Settlers at both those Settlements, owing Entirely to a Want of Energy in the Executive Authority in Van Diemen's Land; and as I have no Doubt the Measure will be attended with the desire and wished for Effect, I have deemed it adviseable to Authorize Lieut. Governor Sorell, immediately on his assuming the Government of those Settlements, to Issue a Proclamation holding out Indemnity to those deluded Men for their past Crimes (excepting however such of them as may have Committed the Crime of Murder) on Condition of their Coming in and delivering themselves up to him at Hobart Town within One Month after the promulgation of the said Proclamation; and I entertain great Hopes that this Measure of Lenity will have a good Effect on the Minds of the Banditti, and preclude the Necessity of resorting to more Coercive Measures for their Extermination.

Indemnity to
be offered to
bushrangers on
their surrender.

Reduction
in numbers of
wild cattle.

12. I am sorry to be Compelled to report to Your Lordship that the Wild Cattle belonging to the Crown are very greatly reduced in Numbers, and that I do not believe there is above one fourth now remaining of the Wild Herds I saw myself in the Cow Pastures on my first Visit to that part of the Colony in the Year 1810; this great reduction has Arisen from two Causes, the first of which is the very long and Continued Droughts with which the Colony was visited for the four years preceding 1816, which proved most fatal to the Flocks and Herds throughout

Losses by
droughts.

* Note 80.

the Colony, and from which Immense Numbers of the Wild Cattle perished; the Second Cause of their now reduced State is to be Aseribed to the Constant Depredations upon them by all those Settlers and their Servants, Inhabiting the Banks of the River Nepean for at least a Distance of thirty Miles along the Banks of that River, immediately opposite the Cow Pastures, which they have been for several Years past in the Constant Practice of Crossing over to kill the Wild Cattle and Steal the Calves, which they immediately Incorporate with their own Herds, and thereby escape Detection. The Lands lying along the Eastern Banks of the Nepean were not settled or Granted away till My Arrival in the Colony, and it is only since those Lands were Settled in the Year 1811 that those Depredations have been Committed. Repeated orders have been Issued with a View of preventing these disgraceful practices, and Constables and Military Parties have been frequently sent to the Cow Pastures for the protection of the Wild Cattle and to Apprehend the Delinquents, some few of whom have at different times been Caught in the Act of destroying the Wild Cattle, and have been punished for the same; but they nevertheless continue to Kill and destroy these Cattle and to Incorporate them with their own Herds. Unfortunately, owing to an Immense Tract of Land having been Many Years Since granted by the Crown to Mr. John McArthur and Mr. Walter Davidson in the Cow Pastures, both of whom have large Flocks and Herds on their own Lands there, a great Facility is thus Afforded to their Servants in particular, and to all those Settlers residing in the Vicinity of the Cow Pastures, to Cross over thither at their Pleasure, both Night and Day, under the pretence of going only on Business to the Farms of Messrs. McArthur and Davidson.

These Depredations have of late increased to so alarming and heinous a Degree that after due Consultation with Mr. Judge Advocate Wylde, I issued a Proclamation on this very important Subject, under date the first of January last, declaring the Stealing or destroying of the Wild Cattle to be Felony, a printed Copy of which Proclamation I do myself the Honor of transmitting herewith for Your Lordship's Perusal and Information. Even since the Promulgation of this last Proclamation, several persons have been taken up in the Cow Pastures on Suspicion of Stealing and killing the Wild Cattle, and are now Confined in Jail at Sydney in order to be tried by the first Criminal Court.

I have for some time past had some Constables and two Military Detachments Stationed in different parts of the Cow Pastures for the Protection of the Wild Cattle; but in so very extensive a Tract of Country, it is utterly impossible to protect

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Losses by
depredations of
neighbouring
settlers.

Difficulty
in detecting
robberies.

Stealing or
destroying
wild cattle
proclaimed
a felony.

Military guards
and constables
stationed at the
Cowpastures.

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Attempts to
incorporate
wild cattle
with tame
herds.

Proposal to
drive the wild
cattle across
Blue
Mountains.

Outline map
of settled
districts.

Surveyor-
general's
report on crown
reserves.

such Numerous Herds at all the points to which they range in Quest of Food and Water. I have also Caused some Herds of the Govt. tame Cattle to be stationed for some time past in the Cow Pastures, with the View of their Mixing with the Wild Herds, and thereby Incorporating as many of the latter as possible with the former. The Success hitherto, however, in this Expectation has not been great, only between fifty and Sixty Head of the Wild Cattle having as Yet Joined the tame Herds. It certainly would be most desireable, if it were practicable, to drive the Whole of the remaining Wild Cattle across the Blue Mountains to graze on the New discovered Country to the Westward of them; but unfortunately No Pass or Opening has hitherto been discovered to lead thither from the Cow Pastures, tho' several attempts have lately been Made for that purpose. I Indulge a Hope, however, that after a few Capital Examples have been Made of those Persons who may be Convicted of Stealing and destroying the Wild Cattle, this Practice will be Abandoned. In the Meantime Your Lordship may rest assured that no Effort or Precaution shall be wanting on my part for protecting and Increasing the Wild Cattle belonging to the Crown.

13. Herewith I do myself the Honor to transmit for Your Lordship's Notice and Information an Outline Map of the Settled parts of the Colony, which will serve to give Your Lordship a Knowledge of the quantity of the yet disposeable Land, as well as of that already Granted to Individuals up to the present time, as specified in the Memorandum written on the face of the Map itself by the Surveyor General.

Your Lordship will thence observe that there is not now remaining any very great Quantity of Crown Lands on this Side of the Blue Mountains, or East Side of the River Nepean, Unappropriated, and that future Settlers must Consequently go either across the Blue Mountains to the New discovered Country or to the Southward as far as Illawarra to receive their Lands. I shall therefore be very Cautious how I promise any further Grants of Land to any other Individuals than those Coming out from England with orders for Land, until I am honored with Your Lordship's further Instructions on this Important Head.

14. Having referred Your Lordship's Dispatch, of date 3d December, 1815, to the Surveyor-General as best Competent to afford me the necessary Information on the Points Contained in that Dispatch, relative to the large Allotments of Land reserved for the Use of the Crown and Marked E. in the old Charts of the Colony, and also respecting the reservations of Certain portions of ground directed to be Made by His Majesty's Instructions for Townships, Fortifications, &c., &c., I now do myself the Honor

to transmit herewith for Your Lordship's Information and Notice the Explanation afforded me in a Letter addressed to me by Mr. Oxley, the Surveyor General of Lands, Where he states the Reasons for reserving those large Allotments for the Use of the Crown, and also that for deviating from the King's Instructions in not making the latter small Reservations; and I entirely Coincide in opinion with the Surveyor General that it would be very bad and dangerous Policy, under the peculiar Circumstances of this Colony, to reserve such a Vast Number of small Portions of Intermediate Land between every two great Grants, and I have therefore to Express my Hope that such Deviations from His Majesty's Instructions will be Sanctioned by Your Lordship not only for the past, but also for the time to come.

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Surveyor-general's report on the granting of contiguous lands.

15. On the Subject of Your Lordship's Dispatch of date 4th Decr., 1815, relative to the Abolition of the Office of a Deputy Surveyor General, I have held many conversations with Mr. Oxley, the Surveyor General; and having Addressed a Letter to him on this particular Subject, he has answered it very fully, and I think very satisfactorily, demonstrating the necessity there still remains of allowing him a Deputy. I therefore do myself the Honor of transmitting for Your Lordship's Perusal and Information the Letter Mr. Oxley has Addressed to Me on this Subject, and concurring entirely, as I do in opinion with Mr. Oxley, as to the Expediency and Necessity of a Deputy being allowed him, I now respectfully solicit Your Lordship's Confirmation of Mr. James Meehan, as Deputy Surveyor General. I took occasion formerly of Expressing to Your Lordship My Sense of the Merits of Mr. Meehan, than whom there is not a more useful Officer serving under this Government, being particularly well Qualified for the Office of Deputy Surveyor General from his perfect Knowledge in that particular Line, his local and extensive knowledge of every part of this Territory, and his intimate acquaintance with the History and Cause of every Grant or Lease ever made in the Colony since its first Establishment. His Honor and Integrity are unimpeachable, and the loss of such an Useful and Meritorious Officer would be seriously felt by the Colony at large. I Consequently Entertain an Earnest Hope that on taking into Your Lordship's liberal and indulgent Consideration the Circumstances I have now Stated, and Mr. Meehan's having Acted as Deputy Surveyor for upwards of twelve Years, You will be pleased to Confirm him as Deputy Surveyor General, with the immediate Right of Succession to the principal Situation in the Event of its becoming Vacant by Whatever Cause.

Proposed abolition of office of deputy surveyor-general.

Request for confirmation of Meehan's appointment.

16. My former Dispatches on that Subject would long since have Informed Your Lordship that the Reports, which had reached

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Opening of
ports to free
importations.

You, as stated in Your Lordship's general Dispatch under date 4th of December, 1815, of my having prolonged the General Hospital Contract beyond the 31st of December 1814, were Erroneous and Unfounded, All the Ports of this Territory having been declared open and Free to General Importation of Spirits and other Merchandize from and after the 1st of January, 1815. I was much Concerned that I was unable to remove the existing Restrictions sooner, but which it was impossible to do in Common Justice to the Contractors on account of the Losses they had sustained from my having so far deviated from the Contract as to sanction large quantities of Spirits to be Imported and Landed here, both from England and India, to prevent the Importing Merchant from Sustaining Serious Loss by not being allowed to land them.

Progress in
erection of
public
buildings.

17. As I have already addressed a Separate Dispatch* to Your Lordship on the Expences of the Colony, and the Retrenchments I have already made and proposed hereafter making in them, I shall only here Express My Sincere Regret that they should still be so great; but I hope every succeeding Year will now reduce them, and that when all the Necessary Public Buildings are once Completed the Expences of the Colony will not be more than about one Half of what they are at present. The Constant Wet Weather We have had here for Nearly the whole of this last Year has Greatly retarded and thrown back the Completion of the Public Buildings in progress at the date of my last Dispatch to Your Lordship by the Emu; the Military Barracks, however, and also a House for the resident Chaplain at Sydney, are now very nearly Completed; a Light House and Tower† at the South Head on the Southern Side of the Entrance into the Harbor of Port Jackson, in which Sydney is Situated (a Building which was much required and essentially Necessary in the now Increasing Commerce of the Colony) is about half finished; and the foundation of a large Barrack for Government Convict Artificers and Laborers in Sydney was laid some few days ago. In carrying on these Public Buildings, I feel Myself greatly Indebted to Captn. John Gill of the 46th Regt., who has acted as Engineer and Artillery Officer, and also as Inspector of Government Public Works, ever since the Arrival of that Corps in this Colony, highly to my satisfaction, and with great Honor and Credit to himself; for, from his Activity, Vigilance, and honest honorable Zeal, he has saved some thousand pounds to Government in detecting Frauds and Embezzlements on the public Property and Materials in his Department. From these Considerations, I was Induced to raise Captn. Gill's Salary from 7s. 6d. to 10s. per day, which I can assure Your Lordship is far Inadequate to his

Services of Gill
as inspector of
public works.

Increase of
Gill's salary.

* Note 80. † Note 81.

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Merits and the Various Active and troublesome Duties he has to perform, and which therefore I have earnestly to Solicit Your Lordship's Confirmation of, Such an Office being indispensably Necessary, as long as there are any Public Works or Buildings Carried on at the Expence of Government; there always was an Officer, denominated Acting Engineer and Artillery Officer, employed here ever since the original Establishment of the Colony. I Continued the same Officer, but added to it that of Inspector of Govt. Public Works. From the want of a Scientific person to plan and Superintend the Construction of all Governm't Public Buildings, most of them have hitherto been very badly planned,* and still worse executed. A Man named Francis Howard Greenway, who came out here a Convict in the Year 1814, and who was originally an Architect of some Eminence in England, having been strongly recommended to me by the late Governor Phillip, I have availed Myself of his Skill and Scientific Knowledge as a Civil Architect, and accordingly some time since employed him to Act in that Capacity, and as an Assistant to the Inspector of Public Works, for which he receives 3s. per diem from the Colonial Funds. This Man is extremely Useful, and has already rendered very essential Service to Government in his Capacity of Civil Architect. I therefore respectfully Solicit Your Lordship's Confirmation of this new Office and of the small Salary annexed to it, assuring Your Lordship that I would not have made it, if I did not consider it, as well as Captn. Gill's Appointment, essentially Necessary for the Benefit of the Public Service.

Employment of
F. H. Greenway
as architect.

18. In regard to the Public Buildings still required at Sydney and in the other parts of the Colony, I shall avail myself of the discretionary power Your Lordship has been kindly pleased to grant Me of Erecting such of them as Can Conveniently be paid for from the Colonial Revenue. A Church at Sydney, another at Windsor, and a third at Liverpool (both these last Towns becoming very populous) are very much wanted, and these I shall Contract for Immediately, paying the Expence of Erecting them out of the Colonial Funds. As soon as those three Churches are built and paid for, I intend to have a new Factory and Barrack erected at Parramatta for the female Convicts, and such a Building is particularly Necessary for keeping those depraved Females at Work within Walls, so as in some degree to be a Check upon their Immoralities and disorderly Vicious Habits.

Churches to
be erected by
contract.Female
barracks to
be built at
Parramatta.

In Consequence of the Annual Increase of the Population and Consequent annual Increase of Sick Patients for Medical Cure, the Apartments in the New General Hospital, now allotted for the Assembling of the Courts of Civil and Criminal Judicature, will probably in the Course of a Couple of Years more be

Probable
necessity
for removal
of courts from
hospital.

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Proposals
for erection of
court-house.

required for the purposes they were originally designed, the one Complete Half of the Apartments, or Right Wing of the General Hospital being now Allotted for the Use of the Courts; and therefore I Conceive it will be absolutely Necessary to think now very soon of having a New Civil Court House Erected; but, as this Building Must be done on a large and grand Scale, the Funds of the Colony will not be sufficient to defray the Expence of it 'till after the Churches at Sydney, Windsor and Liverpool, and the Factory and Barrack for the female Convicts at Parramatta, have been first Erected and paid for. All this I hope will be done in About two Years and a Half from this date, or perhaps less, and then I am of opinion the Court House might safely enough be Commenced upon, and the Expence of it defrayed from the Colonial Funds, providing Your Lordship is pleased to approve thereof; and I now respectfully Solicit to be Honored with Your Lordship's Instructions on these several points at as early a period as possible.

Erection of
glebe houses at
Liverpool,
Parramatta, and
Castlereagh.

19. I shall not fail to Avail Myself of Your Lordship's Permission given Me for Erecting of Glebe Houses for Clergymen and School Houses in the different parts of the Colony, where the increase of population requires such Buildings. In pursuance of this Authority, I have already had a very Neat Commodious House Erected at Liverpool for the resident Chaplain there, and a very Elegant large Glebe House and Offices are now Erecting at Parramatta for the Accommodation of the Principal Chaplain, who has always resided at that Station since My taking Charge of the Government. A very good Glebe House was some time since Completed for the Accommodation of the resident Chaplain at Castlereagh, and Consequently there is only one Glebe House now Wanting in all the Colony, namely at Windsor, for the Accommodation of the resident Chaplain there, which shall be commenced as soon as the Church at that Station has been Erected.

Necessity for
increase in
staff of clergy.

20. I beg Leave to Submit to the Consideration of Your Lordship to have at least two other respectable Chaplains sent out as soon as possible for the Service of the Colony; and if a third could be sent, it would be all the better for the Improvement of the Religion and Morals of the Inhabitants of this Country. At Sydney, an additional Chaplain is absolutely Necessary on account of the very rapid Increase of Population here. Another Chaplain is required for Liverpool, which is becoming a very populous Town, and a third is much required to relieve the Revd. Mr. Knopwood, Chaplain at the Derwent, who is quite Superannuated and of late become quite infirm from Dissipation and loose improper Conduct. I therefore Express a Hope that some

respectable Clergyman may be found, that is a proper and discreet person, to Come out to the Derwent for the purpose of relieving Mr. Knopwood who certainly does more Harm than Good at that Settlement. The Revd. Mr. Youl, who by his Commission Stands Appointed as Chaplain to Port Dalrymple, is only waiting here 'till a House is Erected at George Town for his residence, and in the Mean time does Duty as Chaplain at the Town of Liverpool.

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Proposed
relief of Rev.
R. Knopwood.

Mr. Youl
on duty at
Liverpool.

21. The Scarcity of Medical Men in this Colony is very severely felt throughout the Interior populous Districts, and I therefore deem it My Indispensable Duty to submit to Your Lordship's humane Consideration the Expediency and Necessity of sending out at least two Assistant Surgeons to the Colony, with as little Delay as possible, on the regular Medical Establishment of the Colony, One of them being required for the Duties of the General Hospital at Sydney, and the other at Liverpool. It is not to be expected that any respectable Surgeon will leave his Practice at Home without some Adequate Inducement and Hope of improving his Condition in Life; they should therefore be offered at least 7s. 6d. per diem Pay, Free Quarters, Fuel and Rations, and also a Grant of Land with the usual Indulgences; on such terms I should imagine respectable Medical Men might be found willing to come out to this Colony. I have written by this same opportunity to Mr. Allan Maclean, a most respectable Surgeon in the Isle of Mull, in Argyleshire, an old Acquaintance and Friend of Mine, to Invite him to Come out to this Colony as an Assistant Surgeon, and to Apply to Your Lordship for such an Appointment. He has very good Practice and extensive Employment as Surgeon in the Isle of Mull, and is highly respected there, being a very able Clever Man in his Profession; so that I have great doubts whether he will be Inclined to leave so Comfortable a Situation; but as he has lately Married and is likely to have a large Family, I think it probable he may, on that Account, be Induced to Come out to this Country on being Assured of a permanent Appointment in the Medical Establishment of this Colony. I take the Liberty of Enclosing Mr. Maclean a Note of Introduction and Recommendation to Your Lordship, and, in the Event of his Applying for one of those two Medical Situations I have herein Recommended, I have to Solicit the favor of Your Lordship to appoint him to one of them, and also to order a Passage for himself and his Family at the Expence of Government on board one of the Convict Transport Ships. I should not have presumed to have recommended Mr. Maclean, were I not assured that he will prove to be a great acquisition to the Colony.

Necessity for
increase in
medical staff.

Recommendation of
Allen Maclean
as assistant
surgeon.

1817.
4 April.

Superintendent
of government
factory
required.

22. In a former Dispatch,* I stated to Your Lordship that a properly Qualified Person was very much wanted as Superintendent of the Government Factory at Parramatta; and I now beg leave to renew My request on this head, and to recommend that a Sober, Steady, Married Man may be sent out with as little Delay as possible to fill this Situation. He ought to Understand all the Branches of the Weaving Business, cleaning and preparing of Wool and Flax, and to be able to keep Accounts. Such a Man would be a great Acquisition, even if he were to get a liberal Salary.

Proposed
appointment of
a mineralogist.

23. I also made application in the same Dispatch for a Mineralogist to be sent out to reside in the Colony, such a person being very much required and highly Necessary. I therefore beg to repeat my Request that a Gentleman of this Description may be sent out here as soon as possible with a Suitable Salary.

Receipt of
Flinders' chart
and voyage.

24. I beg leave to acknowledge the Receipt of Captn. Flinders' Chart of *Australia*,† and the Journal of his Voyage, which I have received in Duplicate, and have now to return Your Lordship my best Thanks for sending this very Interesting Work for the use of the Colony.

Equipment of
expedition
under
John Oxley.

25. In pursuance of Your Lordship's Commands, as Contained in Your Lordship's Dispatch on this particular Subject under date the 18th of April, 1816, directing me to fit out an Expedition from hence for prosecuting the discoveries recently made to the Westward of the Blue Mountains, I have now the Honor of reporting to Your Lordship that I have fitted out an Expedition‡ for this purpose under the Direction and Guidance of John Oxley, Esqr., Surveyor General of Lands, who in a very handsome Manner Volunteered and Offered his Services to proceed in Command of it; and for which Service I Considered him well Qualified from his general and Scientific Knowledge and liberal Education. With Mr. Oxley I have Joined Mr. Evans, the Original Discoverer, as Second in Command of the Expedition, Conceiving it an Act of Justice due to him to send him in that Capacity in Consideration of his Meritorious Exertions in making the first Discoveries, as well as on account of the Assistance he will be able to render to Mr. Oxley. With these two Gentlemen I have also Joined Mr. Allan Cunningham, One of the King's Botanists, who arrived in this Colony some few Months ago from Rio de Janeiro, to prosecute his Botanical Researches, and to Collect rare Botanical Plants for His Majesty's Gardens at Kew.

This Gentleman was particularly solicitous to go on the Expedition, and I very gladly Acquiesced in his Request. Besides those three Gentlemen, there are ten other Persons of Inferior

* Note 83. † Note 84. ‡ Note 85.

Ranks and in Various Subordinate Characters employed and sent on the Expedition, the whole being supplied with good Clothing, Bedding, and Arms, and furnished with Five Months' Provisions, which are to be Carried on thirteen Strong Pack-Horses well broke in for that purpose, lest there may not be Water Carriage found all the Way to the Western Coast, which however there is every Reason to believe there will; the point, fixed on for the Expedition to take its final Departure from, is the Right Bank of the River Lachlan about one Hundred Miles South West of Bathurst, and which River Mr. Evans discovered in 1815; on this River I have had a Depot Erected, guarded by a small Detachment of Troops, and to this place the whole of the Five Months' Provisions have been already Safely Conveyed for the Use of the Expedition. I have also had two small Boats Constructed on the River Lachlan for transporting the Provisions, in the Event of its being found navigable to the Coast. William Cox, Esqr., Chief Magistrate at Windsor, and from whose Able, active and zealous Exertions I have derived great Assistance in fitting out the present Expedition, went at my Request in December last to the River Lachlan to Examine it* as far as he could proceed by Land along its Banks, and on his Return he gave Me a most satisfactory and pleasing Account of the River itself, and of the fine, rich, open Country along its Banks. From Mr. Cox's account of this River, as far as he explored it, there is every Reason to hope it will be found in most parts Navigable for small Boats; and if so, it will facilitate the Progress and Success of the Expedition Wonderfully. Mr. Cox went over again lately at my Desire to Bathurst to get all the Provisions, Stores, and Horses for the Expedition forwarded to the Depot on the Lachlan; and having received a Letter from him a few days ago, reporting to me that every thing required for the Use of the Expedition had Arrived Safe there, and that the two Boats were ready built and Launched, I lost no time in furnishing Mr. Oxley with the Necessary Instructions for his Guidance, with orders to proceed forthwith to Execute the important Service therein directed. Mr. Oxley accordingly set out this Morning from Sydney on this Expedition, Mr. Evans and the other persons employed on it having proceeded for Bathurst with their Baggage-Carts some few days before. My Instructions to Mr. Oxley were Chiefly Grounded on the Memoranda of Instructions Your Lordship was pleased to transmit in Your Dispatch of date 18th of April, 1816, and I have only now to Express my sincere and fervent Hope that this Expedition may be Crowned with the so much wished for Success, and that Mr. Oxley may be able to trace the River Lachlan to the South West Coast of Australia. It is also to be sincerely

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4 April.

Equipment of
expedition
under
John Oxley.

Exploration of
Lachlan river
by William
Cox.

* Note 86.

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wished that the Macquarie River, which passes thro' Bathurst, may be found to unite with the Lachlan at some distant point from the Sea, and which there is good Reason to hope it does.

Necessity for an
increase to the
military forces.

26. Considering how very much this Colony has lately been Extended in Consequence of the recent Discoveries to the Westward of the Blue Mountains, and to the Southward as far as Shoal Haven,* I trust Your Lordship will see the Necessity and Expediency of directing our Military Force to be Increased to two Regiments, each of Six Hundred, Rank and File, One Regiment in the present extended State of the Colony being perfectly Inadequate to its Defence or Protection in the Event of any Internal Insurrection or Commotion, or a Recurrence of Hostilities on the part of the Native Blacks; at this time there is a small Detachment of Troops stationed at the Depot on the Banks of the River Lachlan, not less than 240 Miles from Sydney in nearly a due West Direction, which Party might very easily be Cut off from my being Unable to establish a regular Chain of intermediate Military Posts for the Support and Protection of the more distant Detachments.

I have therefore Earnestly to Solicit Your Lordship's early Consideration of this Important Subject, and of the Expediency of Increasing the Military Forces of this Colony with as little Delay as possible.

Seeds and
plants to be
collected for the
Emperor of
Austria.

27. In Compliance with Your Lordship's Commands as Conveyed to me in Your Lordship's Dispatch under date the 1st of October, 1816, I shall not fail, as opportunities occur at the proper Seasons, to have the Seeds of the Choicest Plants of New South Wales Collected, and forwarded to Your Lordship for his Imperial Majesty the Emperor of Austria; and I hope by the Return of the Expedition from the Western Coast, I shall be able to Obtain a Most Valuable Collection of Seeds of new and rare Plants for His Imperial Majesty.

Increase of
salary of
J. T. Campbell.

28. I request Your Lordship will be pleased to Accept My Most Cordial and respectful Thanks for your great Kindness and Condescension in Acquiescing in the Request† I took the Liberty of making some time since to Your Lordship in behalf of my Secretary, Mr. John Thomas Campbell, and in Granting the Solicited Addition to his Salary in so handsome and liberal a Manner, and in Terms so very highly Gratifying and flattering to his Feelings, for which Your Lordship may rest assured Mr. Campbell feels the most lively Gratitude. As the present prosperous State of the Colonial Funds easily Admitted of it, I availed Myself of Your Lordship's Permission to pay Mr. Campbell the Annual Addition to his Salary out of it. Your Lordship will I fear think me unreasonable in so soon again Making

* Note 87. † Note 88.

any farther Solicitation in behalf of my Friend, Mr. Campbell; but as I once before Submitted the same Subject to Your Lordship on Occasion of My Soliciting an Increase of Salary for him, I fondly hope Your Lordship will kindly Excuse the Liberty I now take of Earnestly Soliciting that Your Lordship will be pleased to permit and Sanction Mr. Campbell's Assuming the Designation of "Government and Colonial Secretary," as being more respectable, more permanent, and More Congenial to his Feelings; and as this Change of "Secretary to Government" or "Colonial Secretary" will not be attended with any additional Expence to the Crown, I Indulge a Sanguine Hope Your Lordship will be kindly pleased to Acquiesce in my present Request in behalf of my Friend Mr. Campbell.

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4 April.

Proposed
appointment
of Campbell
as colonial
secretary.

29. In Consequence of Your Lordship's having Authorized me so to do, I now send Home His Majesty's Armed Brig, Kangaroo, Commanded by Lieut. Charles Jeffreys, of the Royal Navy, which Vessel is now under Dispatch for England, and will Sail for That Country in three or four days hence. I am rejoiced to be Able to relieve the Colony of the Expence of this Vessel, which has rendered it very little Service since her Arrival in it, owing to the Inactivity and Negligence of her Commander, who is a Vain, Conceited, Ignorant, Young Man, and totally Unfitted for such a Command. The Kangaroo is a very fine Brig, but of much too large a Size, and on too high and Expensive an Establishment for the Service of this Colony. I therefore hope that no such Vessels will ever be sent here again. Pursuant to Your Lordship's Commands, I have Granted Passages on the Kangaroo to England, at the Expence of the Crown, to such well-behaved Free Women as Originally Came out as Convicts, and became Free by Servitude, Including one or two others Who received Pardons in Consequence of their Good Behaviour.

Return of
H.M. brig
Kangaroo to
England.

Passages
granted to
female exprees.

I have also on the same Principle granted Passages on the Kangaroo to some Free Men, formerly Convicts, who became Free by Servitude, Including two or three Old Men who received Pardons on account of good Conduct, and who Expressed a Strong Desire to return now to their Native Country. Four Officers of the 46th Regt. and some discharged Soldiers of the same Corps, with a few Women and Children, proceed also to England in the Kangaroo; and herewith Your Lordship will receive a Nominal Return of all those Persons, whether Civil or Military, to whom I have granted Passages to England in the Kangaroo.

Passages
granted on
the Kangaroo.

30. Exclusive of the Documents herein already Alluded to, I have now the Honor of transmitting herewith for Your Lordship's Information and Notice the following Returns, Reports

and Accounts, including the Annual Musterly Statements of the Colony for the last Year, Viz:—

1st. The Accounts Current of the Expences of the Colony from 25th December, 1815, to the 24th of December, 1816, both Inclusive.

2d. List of Bills drawn by Deputy Comm'y General Allan on the Lords of the Treasury and Colonial Agent from do. to do.

3d. Statement and Return of Provisions in His Majesty's Magazines on the 24th Decr., 1816.

4th. Demand for the Annual Supplies for the Use of the Colony for the present Year.

5th. Reports of the Naval Officer, Containing the Arrival and Departures of Ships and Vessels from the 1st of January to the 31st of December, 1816, Inclusive, Together with the Accounts of Duties Collected by him within that Period.

6th. The Accounts of the Colonial Police Fund from the 1st of January to the 31st of December, 1816, Inclusive.

7. Statement and Return of the Result of the Annual Muster for the Year 1816, not however Including that of Van Diemen's Land, which Lieut. Governor Davey has neglected to forward to Head Quarters, Notwithstanding the Orders he had received.

8. Return and Report of Prisoners tried by the Criminal Court at Sydney from the 1st of March to the 31st of December, 1816, Inclusive.

9. Returns of Marriages, Births and Deaths in the Colony from the 1st of January to the 31st of December, 1816, both Inclusive.

31. This Dispatch will be delivered to Your Lordship by Lieutenant A. G. Parker of the 46th Regt., an Officer well Qualified to Afford Your Lordship any additional Information Your Lordship May wish to Acquire relative to this Colony; and whom I therefore take the Liberty of Strongly recommending to Your Lordship's Favor and Protection.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

GOVERNMENT AND GENERAL ORDERS.

Government House, Sydney, Wednesday, 5th March, 1817.

Civil Department.

THE *Governor's* official Communications from the Interior within the last few Days have excited in *His Excellency's* Mind the most sincere Concern and Regret for the recent Calamities, in which the unfortunate Settlers on the Banks of the Nepean and

1817.
4 April.

Returns, reports
and accounts
transmitted.

Transmission
of despatch.

General orders
re precautions
to be taken
against floods.

Hawkesbury have been once more involved by the late dreadful Inundations of those Rivers.

Whilst it does not fall within the Reach of human Foresight or Precaution to be able to guard effectually against the baneful Recurrence of such awful Visitations, or to avoid being more or less involved therein, yet when the too fatal Experience of Years has shewn the Sufferers the inevitable Consequence of their wilful and wayward Habit of placing their Residences and Stock Yards within the Reach of the Floods (as if putting at Defiance that impetuous Element, which it is not for Man to contend with); and whilst it must still be had in Remembrance that many of the deplorable Losses, which have been sustained within the last few Years at least, might have been in great Measure averted, had the Settlers paid due Consideration to their own Interests and to the frequent Admonitions they had received by removing their Residences from within the Flood Marks to the *Townships* assigned for them on the *High Lands* it must be confessed that the Compassion excited by their Misfortunes is mingled with Sentiments of Astonishment and Surprize that any People could be found so totally insensible to their true Interests, as the Settlers have in this Instance proved themselves.

His Excellency, however, still cherishes the Hope that the Calamities, which have befallen the Settlers, will produce at least the good Effect of Stimulating them to the highly expedient and indispensable Measure of proceeding to establish their *Future Residences* in the *Townships* allotted for the Preservation of themselves, their Families, and their Property, and that they will, one and all, adopt the firm Resolution of forthwith erecting their Habitations on the High Lands, cheered with the animating Hope and fair Prospect of retrieving at no very distant Day their late Losses, and securing themselves from their further Recurrence. Those, who, notwithstanding, shall perversely neglect the present Admonition and Exhortation to their own Benefit, must be considered wilfully and obstinately blind to their true Interests, and undeserving any future Indulgencies; whilst, on the contrary, those, who shall meet this severe Dispensation of Providence with manly Fortitude and unbroken Spirit, may rest assured that their Exertions and Industry will not only merit but obtain the favorable Consideration and Protection of this Government.

These *Orders* are to be read during the Time of *Divine Service* at each of the *Churches* and *Chapels* throughout the Colony, on the three next ensuing *Sundays*.

By Command of His Excellency, LACHLAN MACQUARIE.
JOHN THOMAS CAMPBELL, Secretary.

1817.
4 April.

General orders
re precautions
to be taken
against floods.

1817.
4 April.

[Enclosure No. 2.]

PROCLAMATION.

Proclamation
of outlawry
against ten
natives.

By his Excellency Lachlan Macquarie, Esquire, &c., &c., &c.
WHEREAS the sanguinary Disposition of certain *Banditti* or *Tribes* of the *Black Natives*, which had been for some Time manifested by their frequently committing the most wanton and barbarous *Murders* on several of His Majesty's Subjects residing in the remote Settlements, rendered it expedient and necessary to send Military Parties in pursuit of them with a view by inflicting summary Punishments on some, to deter others from a Repetition of such atrocious and cruel Outrages:—And although this Measure was long delayed, and at length reluctantly resorted to, the numerous Atrocities committed rendered it indispensable, whereby several of the most sanguinary and guilty of them met with and suffered the punishment due to their flagrant Enormities.

And whereas, by Proclamation* under Date the 4th of May last, the *Governor*, after expressing his Regret at the Necessity which the recent Circumstances had placed him under of proceeding to such Extremities against those hostile Natives, and anxious, if possible, to avoid the Recurrence of such Atrocities, did earnestly invite and exhort the said Native hostile Tribes to render Submission, and to return again to those peaceable and unoffending Habits and Manners which had been formerly their best Safeguard from Injury by securing to them all the Protection of the most favoured of His Majesty's Subjects.

And whereas, since the Issuing of the said Proclamation (with which it is well known the said Natives soon became fully acquainted), it has appeared that there are still amongst these People some Individuals far more determinedly hostile and mischievous than the rest, who, by taking the lead, have lately instigated their deluded Followers to commit several further atrocious Acts of Barbarity on the unoffending and unprotected Settlers and their Families;

And whereas, the Ten Natives whose Names are hereunder mentioned are well known to be the principal and most violent Instigators of the late Murders, Namely,

- | | |
|----------------------------------|---------------|
| 1. Murrah. | 6. Bunduck. |
| 2. Myles. | 7. Kongate. |
| 3. Wallah, alias Warren. | 8. Woottan. |
| 4. Carbone Jack, alias Kurringy. | 9. Rachel. |
| 5. Narrang Jack. | 10. Yallaman. |

Now it is hereby publicly proclaimed and declared that the said Ten Natives abovementioned, and each and every of them,

* Note 89.

are deemed and considered to be in a State of Outlawry, and open and avowed Enemies to the Peace and good Order of Society, and therefore unworthy to receive any longer the Protection of that Government, which they have so flagrantly revolted against and abused. And all and every of His Majesty's Subjects, whether Free Men, Prisoners of the Crown, or Friendly Natives, are hereby authorised and enjoined to seize upon and secure the said Ten outlawed Natives, or any of them, wheresoever they may be found, and to bring them before and deliver them up to the nearest Magistrate to be dealt with according to Justice. And in Case the said proscribed Ten hostile Natives cannot be apprehended and secured for that Purpose, then such of His Majesty's Subjects, hereinbefore described, are and shall be at Liberty by such Means as may be within their Power to kill and utterly destroy them as Outlaws and Murderers as aforesaid; and with this View, and to encourage His Majesty's said Subjects, whether white Men or Friendly Natives, to seize upon, secure, or destroy the said Outlaws, a Reward of *Ten Pounds Sterling* for each of the Ten proscribed Natives will be paid by Government to any Person or Persons who shall under such Circumstances bring in their Persons, or produce satisfactory Proof of their having killed or destroyed them within the Period of three Months from the Date hereof.

Provided always that nothing in this Proclamation contained is to be construed to extend to allow of Government Servants, of any Description, to depart from their Duty or Services without the special Permission of those Persons to whom they may be assigned.

In Furtherance of the Object of this Proclamation and of the Measures to be adopted pursuant thereto, the several District Magistrates are hereby enjoined forthwith to assemble the Settlers and other Persons dwelling within their respective District at some convenient central Situation, and to point out to them the Necessity of forming themselves into Associations along the Rivers Hawkesbury and Nepean, so as to be prepared to afford each other mutual Relief and Assistance on Occasions of any Attack or Incursions of the hostile Natives; and in Cases of any Outrages being attempted against them, their Families, or Property, they are to consider themselves authorised to repel such Attacks or Incursions by Force of Arms; at the same Time they are not wantonly or unprovokedly to commence any Aggressions, but only to guard against and resist the Depredations or Attacks of the hostile Natives with a View to their own immediate Defence and Protection.

1817.
4 April.

Proclamation
of outlawry
against ten
natives.

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Proclamation
of outlawry
against ten
natives.

And the Settlers are further hereby strictly enjoined and commanded, on no Pretence whatever, to receive, harbour, or conceal any of the said outlawed Banditti, or afford them any Countenance or Assistance whatever; nor are they to furnish Aid or Provisions to any of the Friendly Natives who may frequent their Farms, but upon the express Condition of their engaging and promising to use their best Endeavours to secure and bring in the said Ten Outlaws, and deliver them up to the nearest Magistrate, or lodge them in Prison:—And those friendly Natives are to be given to understand, that if they faithfully and earnestly exert themselves in apprehending and bringing in the said Outlaws, every reasonable Indulgence and Encouragement will be afforded them by Government; whilst, on the contrary, until this object is attained, no Peace or Amnesty with the Natives at large in this Territory will be made or conceded.

It being impossible to station Military Detachments as a Protection for every Farm in the disturbed or exposed Districts, the *Governor* is desirous of apprising the Settlers in this public Manner thereof, in Order that they may the more speedily and effectually adopt the best Means in their Power for their future Security. But with a View to overawe the hostile Natives generally in those Parts of the Colony where they have committed the most flagrant and violent Acts of Cruelty and Outrage, three separate Military Detachments will be forthwith stationed at convenient Distances on the Rivers Nepean, Grose and Hawkesbury, to be ready to assist and afford Protection to the Settlers whenever Occasion may require it, when called upon by the nearest Magistrate for that Purpose; each Detachment to be provided with an European and also a native Guide, which the District Magistrates are enjoined to furnish them with, carefully selecting them from the most intelligent and trust-worthy Persons within their several Districts.

The Military Parties, stationed at Parramatta, Liverpool, and Bringelly, will receive similar Instructions to those to be given to the three Military Detachments before mentioned.

And the several Magistrates throughout the Territory are hereby directed to give every possible Publicity and Effect to this Proclamation.

Given under my Hand, at Government House, Sydney, this
Twentieth Day of July, One thousand eight hundred
and sixteen.

LACHLAN MACQUARIE.

By Command of His Excellency,

JOHN THOMAS CAMPBELL, Secretary.

God save the King!

[Enclosure No. 3.]

1817.
4 April.

PROCLAMATION.

By his Excellency Lachlan Macquarie, Esquire, &c., &c., &c.

1. *Whereas* since the issuing of the *Proclamation*, bearing Date the 20th of July last, which it was deemed expedient to make in Consequence of the *Murders* and *Depredations* committed by certain of the *Hostile Native Tribes* in the Interior of these Settlements, several of those Natives have been either killed or taken Prisoners under the Authority of that Proclamation; and it being now hoped that the Punishments inflicted and Examples made have effected the desired Object of deterring them from any further Prosecution of such Acts of Violence and Depredation on the Persons and Property of the Settlers and their Families; and that the adoption of conciliatory Measures will produce in the said Native Tribes an Inclination and Resolution to avoid for the future a Repetition of those Barbarities and outrages; *It is hereby publicly proclaimed*, that such Part of the said Proclamation of the 20th of July last, as proscribed certain guilty Natives therein named, is hereby revoked and annulled; and that from and after the Eighth Day of the present Month of November, all hostile Operations, Military or other, against the said Native Tribes will cease and determine.

Proclamation
re cessation of
hostilities with
the natives.

2. And whereas the following Ten Natives are those so proscribed in the said Proclamation of the 20th of July last; viz.:—

- | | |
|---|---------------|
| 1. Murrah; | 6. Bunduck; |
| 2. Myles; | 7. Kongate; |
| 3. Wallah, <i>alias</i> Warren; | 8. Woottan; |
| 4. Carbone Jack, <i>alias</i> Kurringy; | 9. Rachel; |
| 5. Narrang Jack; | 10. Yallaman; |

It is hereby proclaimed and made known, that such of the said Ten Natives as have not been killed or apprehended under the Authority of the said Proclamation, and who shall surrender and give themselves up to a Magistrate, on or before the 28th Day of the next Month of December, will be forgiven and pardoned for their past Offences, and taken under the Protection of the British Government in this Colony, in common with those peaceable and unoffending Natives who have so long enjoyed and are still under its Favour and Encouragement; but if the said proscribed Natives do not avail themselves of the Benefit of this Proclamation, by surrendering within the said limited Time, or shall henceforth commit any Act or Acts of Murder, Violence, or Depredation on the Persons or Property of the Settlers, then, and in such Case, Measures, more strong and effective than those

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hereby revoked, will be resorted to; and the most summary and condign Punishment inflicted on those who shall hereafter disturb the public peace.

A meeting of
natives to
be held at
Parramatta.

3. And whereas in the Proclamation of the 4th of May last, a *General Friendly Meeting* of the *Natives* was proposed to be held at the Market Place in Parramatta, on Saturday the 28th Day of December next ensuing, at Ten o'Clock in the Forenoon; in pursuance of such Proclamation, the said proposed General Friendly Meeting of the *Natives* is hereby invited at the Time and Place therein mentioned, at which Meeting *His Excellency* the *Governor* will confer and advise with them on the Plan of Life they may be inclined to adopt for their own Comfort and Happiness, and they are assured of being treated, on that Occasion, with plentiful Refreshments of Meat and Drink.

4. *The Magistrates*, and other Peace Officers throughout the Settlements, are hereby enjoined to give every possible Publicity to this Proclamation in their several Districts, and exert themselves to make it perfectly understood by the *Natives* to which it refers.

Given under my Hand, at Government House, Sydney, this first Day of November, 1816.

LACHLAN MACQUARIE.

By Command of His Excellency,

JOHN THOMAS CAMPBELL, Secretary.

God save the King!

[Enclosure No. 4.]

PROCLAMATION.

By his Excellency Lachlan Macquarie, Esquire, &c., &c., &c.

Proclamation
re depredations
on herds of
wild cattle and
trespass in the
Cowpastures.

WHEREAS certain *Stock* and *Horned Cattle*, the Property of the Crown, have long since been collected, placed, and suffered to graze and be at large within and upon certain Crown Lands, Pastures and Grounds, partly known and called by the Name of the *Cow Pastures*, and situated to the westward and southward of the River Nepean;

And whereas, in pursuance of continued Directions from His Majesty's Principal Secretary of State for the Colonies to ensure the entire Preservation and secure the speedy Increase of the same, various Public Government and General Orders have from time to Time been issued and proclaimed to effect the same, and to prevent all Trespasses in and upon the aforesaid Government Lands and Pastures;

And whereas notwithstanding all such Orders, Colonial Regulations and Prohibitions, it is well known that many Settlers and

other Persons residing in the Territory, and particularly on the Banks of the River Nepean, have been accustomed on Pretence of hunting the Kangaroo, or looking for stray Cattle, to commit Trespass upon the said Government Lands and Pastures, and then and there to drive away and steal the Government Cattle, to incorporate the same with private Herds, or to slaughter the said Cattle in order to sell or make Use of the Carcases thereof;

And whereas, upon a recent Trial before the Court of Criminal Jurisdiction in and for this Territory, when Sentence of Death was duly pronounced upon Three men on the clearest Evidence capitally convicted of the said Offence (towards whom under all the Circumstances His *Excellency* the *Governor* has since thought fit to extend His Majesty's most Gracious Mercy, and to commute the said Sentence to Transportation within this Colony for the respective Terms of their natural Lives) it appeared that very many persons had incautiously or ignorantly become implicated in the serious and fatal Consequences of having committed the said Offence, whereby great private Distress and Disgrace might be occasioned and arise to the Peace and Character of many Families hitherto respectable within this Colony.

His Excellency the Governor taking the Premises into Consideration, and anxious under the Circumstances to exercise every Forbearance to those committed to his Protection as well as Government, and at the same Time to conform to and fulfil the Commands of His Majesty's Ministers with Regard to the said Cattle, is hereby pleased by and in Virtue of the Authority committed to him, to proclaim and grant Pardon, indemnify, and let free all and every Person and Persons, and the same are hereby proclaimed to be pardoned indemnified and let free as to any, all, and every Offence, or Offences, heretofore committed, done, acknowledged, charged, or assented to, with Respect to driving away, stealing, or slaughtering the said Stock or Cattle, the Property of the Crown as aforesaid, or of any Wrongs or Trespasses heretofore done, committed, suffered, or charged in Respect thereof, or in any wise appertaining thereto.

And in order hereafter effectually to preserve the said Crown Stock and Cattle, and to prevent all Manner of Trespasses whatever in and upon the said Crown Lands and Pastures, it is hereby ordered and directed by the Authority aforesaid, that no Person or Persons whatever (excepting the Civil and Military Officers of the Government, and the Families of Mr. M'Arthur and Mr. Davidson holding Sheep Farms within the said Cow-Pastures,

1817.
4 April.

Proclamation
re depredations
on herds of
wild cattle and
trespass in the
Cowpastures.

1817.
4 April.

Proclamation
re depredations
on herds of
wild cattle and
trespass in the
Cowpastures.

themselves, their Shepherds, or Servants) shall with Dogs or otherwise, under Pretext of hunting the Kangaroo, or looking for stray Cattle, or on any other Cause, Business, or Pretence whatsoever, cross the River Nepean, or pass over, or travel into or within the Lands and Country westward or southward of the River Nepean, unless a Pass, Licence, or Certificate, under the Hand of His Excellency the Governor, or his Secretary, shall have been obtained with Respect to and to permit the same. And if any Person or Persons shall be found, without such Pass, Licence or Certificate as aforesaid, trespassing within or upon the said Crown Lands or Pastures, the Constables, stationed there to protect the Crown Cattle, are hereby authorised and commanded without further Cause or Authority to apprehend and lodge such Person or Persons in the then nearest Gaol, there to be dealt with according to Law.

And it is hereby further declared, ordered, and directed by the Authority aforesaid that if any Horned Cattle, Sheep, Goats, Horses, or any other Stock whatsoever, of or belonging to any Person or Persons (excepting as aforesaid the said Mr. M'Arthur and Mr. Davidson) shall be found grazing or passing, or shall be driven through, or on any Account or in any Way be within or upon the said Cow-Pastures, or any other Crown Lands and Pastures situated to the westward and southward of the River Nepean, the same shall be and are liable to Seizure, and to become and be, absolutely and without Redemption, forfeited to the Crown; unless a Pass, Licence or Certificate of Permission, under the Hand of His Excellency the Governor, or his Secretary, shall have been obtained and be producible in that Respect.

And it is hereby further declared by the Authority aforesaid, that all and every Person and Persons who shall hereafter, or as soon as this Proclamation shall have been promulgated and made known within this Territory, feloniously drive away, or in any other Manner feloniously steal one or more Sheep, Bull, Cow, Ox, Steer, Bullock, Heifer, Calf, Lamb, or other Cattle, of or belonging to the Crown as aforesaid, and collected, grazing and being within the Crown Lands and Pastures as aforesaid, or shall wilfully kill one or more of the same with a felonious Intent to steal the Whole or a Part of the Carcase or Carcases of any one or more of the said Cattle that shall be so killed, or shall assist or aid any Person or Persons to commit such Offence or Offences, or in killing or stealing the same with the Intent aforesaid, and who being thereof convicted shall be adjudged according to the Statute, in that case made and provided, guilty of Felony, without Benefit of Clergy, shall in no wise or upon any

Account receive Pardon or Mitigation of the Sentence in respect thereof, but suffer Death according to Law.

1817.
4 April.

Given under my Hand, at Government House, Parramatta, this First Day of January, One Thousand Eight Hundred and Seventeen.

LACHLAN MACQUARIE.

By Command of His Excellency,

J. T. CAMPBELL, Secretary.

God save the King!

[Enclosure No. 5.]

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

[Enclosure No. 6.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir,

Sydney, 10th March, 1817.

I beg to acknowledge the receipt of Mr. Secretary Campbell's Letter of the 5th Inst., inclosing the Copy of a Despatch from the Right Honble. Earl Bathurst addressed to your Excellency, under date 3d Decr., 1815.

I am directed by Mr. Campbell's Letter to inform Your Excellency of the Grounds on which that part of His Majesty's Instructions,* wherein a reservation of 500 acres between each 1,000 acres granted to Individuals, has been dispensed with by former Governors.

Reasons for making no reserves between adjacent grants.

I am respectfully of Opinion, that the reason for deviating from that Part of His Majesty's Instructions above alluded to originated in the above absolute necessity that existed to concentrate the Settlers and not spread them over a wide and unconnected tract of Country, which would have prevented them from rendering to each other that assistance their Agricultural Labors required; at the time those detached Settlers would have been liable to have been cut off, in Detail, by the Hostile Natives, of which many Instances (although every precaution was used) Occur in the earlier stages of the Colony.

I have also respectfully to observe that had local circumstances admitted this regulation to have been carried into full effect, at least $\frac{1}{3}$ of the Colony would have been unsettled and unappropriated instead of that connected and continuous Population settled on Grounds adjoining to each other which at this moment presents itself over every Part of the Granted Country; Numerous Families, that are now Industrious Land holders, must

1817.
4 April.
Reasons for
making no
reserves between
adjacent grants.

have been deprived of the Means of Settling, and would of necessity become the Tenants of the Larger Land holders instead of holding Ground in their own Right; owing to the increase of Horned Cattle and Sheep, many Grants have been given exceeding 1,000 acres, and to have divided such Grants by reserving 500 acres would have been perplexing to the proprietor without benefitting the Crown, as such spaces must ultimately have been granted.

Crown reserves
in the colony.

I respectfully beg to observe that I consider the Terms* *Township* and *District* as Synonymous, although the latter has been commonly applied in all descriptions of Land granted here. In every considerable District, Lands have always been reserved for the use of a Clergyman and Schoolmaster, whilst the *Common Land* in each District, reserved at the Disposal of the Crown, has hitherto been considered adequate for the Scites of such Towns and Villages, as the local circumstances of the Situation seemed to require, at the same time that any other eligible situation independent of the Common Lands has always been reserved for such Purposes as might be deemed advantageous for the Crown and Beneficial to the Colony.

I am further directed to report to your Excellency such information, as I may possess, respecting the reserved Lands marked E. in the Charts.

Those Lands were reserved for the sole use of the Crown by the Late Governor King for the purpose of Depasturing the Government Flocks and Herds, being marked in the Charts to shew the real situation, as well as to prevent private Individuals applying for the Lands thus reserved. The Description of those Lands have been recorded† and sent home to His Majesty's Principal Secretary of State. It having been found necessary to remove the Govt. Stock from the Land, Marked No. 4, Your Excellency was induced from the Great want of Land to direct that it might be measured to such Persons, as had been deemed by Your Excellency Eligible to become Settlers; Castle Hill District, marked No. 2, has also been permitted to be appropriated, but the small Quantity of useful Land in that district did not render it an Object for the Crown to reserve it, the Proportion of Good Land not exceeding $\frac{1}{10}$ of the Whole.

Proposed sale
or lease of
government
reserves.

In respect to the Sale or Lease of the abovementioned reserved Lands, I am respectfully of Opinion there are not Funds in the Colony Sufficient to purchase them, even were Individuals so inclined, which I conceive would not be the case; considering that it has hitherto been the Practice of Government to Grant Lands to all Persons desirous of Settling in Proportion to the

* Note 91. † Note 92.

Capital proposed to be expended in the Cultivation and Improvement of them, to sell those lands would be to absorb all the funds necessary for such Purposes. On this Subject, it may also be remarked that seldom any but small allotments are ever brought to sale, it being well known that the Larger Grants would not bring a Price in any manner proportioned to the real Value, in consequence of the small Capital that can be afforded to be vested in such Speculations. Should the Grounds be leased, the Rents to be expected would be too trifling to be Worthy the attention of Government; at the same time that no permanent improvement of the Lands could be calculated on, it not being very probable that the Leaseholder would be at any great expence to improve Lands held on such a Tenure, Knowing that they would revert to the Crown with such improvements on the expiration of the Lease.

1817.
4 April.

Proposed sale
or lease of
government
reserves.

I have, &c.,
J. OXLEY, Surveyor-Gen'l.

[Enclosure No. 7.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir, Sydney, 8th March, 1817.

I have the honour to acknowledge the receipt of Mr. Secretary Campbell's Letter of the 4th Inst., inclosing an Extract of a Dispatch from H.M.P. Secretary of State for the Colonies, dated 4th Decr., 1815, addressed to Your Excellency and directing me to report thereon.

Report on the
necessity for
an assistant to
the surveyor-
general.

I had been induced to hope that the representations contained in my Letter to Your Excellency, dated 20th Sept., 1814,* added to Your Excellency's recommendation, would have been deemed a sufficient Ground for the continuance of a Deputy in this Department, and it is with sincere regret, that I learn from Mr. Campbell's Letter, the reasons therein contained have not been considered sufficient to authorise the continuance of such an Office.

The Principal reasons, which appear to me to have influenced the Right Honble. the Secretary of State to come to this Decision, are that no probable increase in the Number of Grants was likely to take place in consequence of the restrictions imposed upon persons proceeding to this Country as Settlers, and also that Nautical Surveys, not being required of me, my undivided attention could be given to the more immediate duties of my Office.

I most respectfully beg leave to represent to Your Excellency, that the Free Settlers from England have ever formed a very small proportion of the Persons receiving Grants of Land from this Government, The Numbers settled during the last Year are

* Note 93.

1817.
4 April.

Report on the
necessity for
an assistant to
the surveyor-
general.

Three hundred and Fifty Two, of whom only Fifteen come strictly under the Denomination of Settlers from England. The Remainder are persons become free by servitude or Pardon, and Young Men born in the Colony, who, from their age and the circumstances of their Parents, are enabled to maintain Families of their own.

The Increase of Population in the Colony within these last few Years has been such, as to add very considerably to the Two last descriptions of Persons, who are considered as entitled to become settlers. That this increase will be progressive in both Classes, I respectfully submit appears to me to be unavoidable, and I believe the Fact is not unknown to Your Excellency, that not one in Ten of the Persons, freed by Servitude or pardoned, now quit the Colony that used formerly to do so, and there are very few Instances of Youth Born in the Colony quitting a Country, to all intents and Purposes, their only Home.

It has been the Humane Policy of Your Excellency's Government to settle all the Persons above described, who could in any way be considered entitled to such a favour, and the Beneficial effects of such a System must I believe be evident to all, who view the improved and improving state of the Country.

I will shortly observe, with regard to the relief afforded by not requiring Marine Surveys from me, that it is well known to Your Excellency that I have never had leisure to perform any; and although since May last Mr. Meehan and myself have been unremittingly Occupied in the Execution of Your Excellency's Instructions, I am very sorry to say a considerable number of Grants still remain in Arrear.

Since I last addressed Your Excellency on this Subject, the Colony has been extended to the Southward, upwards of 30 Miles, whilst the increased Number of Farms and Settlements require a constant attention to the Formation and Direction of Roads and Townships, which in the earlier stages of the Colony were not required or indeed considered necessary.

I trust your Excellency will believe that I have not presumed to exaggerate the increased and Multiplying duties of my Situation, confident as I am that the Facts I have stated must in a great degree have come under your Excellency's own Observation; and under this conviction, I have no hesitation in stating that without the assistance of a Deputy, hitherto afforded, most zealous efforts of a Single Individual must fall far short in the performance of the Duties required of him, and which Duties I again most respectfully observe are, and must from the Nature and Situation of the Colony, Annually increasing.

Confiding in the Known Liberality of His Majesty's Government to afford me that assistance I feel I stand so much in need of, I trust that the unexaggerated and candid statement, now submitted, will be the means of obtaining Your Excellency's recommendation and Support to my respectful request that a permanent assistant may be allowed, feeling confident that such a representation from Your Excellency will meet with that Liberal consideration from The Right Honble. Earl Bathurst the real merits and necessity of the request may deserve.

1817.
4 April.

Report on the necessity for an assistant to the surveyor-general.

I beg Your Excellency will be pleased to accept my Grateful Thanks for your recommendation of an Increase to the Fees, receivable on Grants, and which your Excellency has informed me has received the Sanction of His Royal Highness the Prince Regent.

I have, &c.,

J. OXLEY, Surveyor-General.

[Enclosure No. 8.]

LIST of Names of Officers and other Free Persons, who are to go Home as Passengers on Board H.M. Colonial Brig Kangaroo to England, Vizt.

Return of passengers on H.M. brig Kangaroo.

No.	Names.	Remarks.
1.	Captain W. G. B. Schaw, 46th Regt.	} Not to be Victualled at the Expencc of Government.
2.	Lieutenant Charles Dawe Do.	
3.	Lieutenant G. A. Parker Do.	
4.	Mr. Thomas Hassall	} Those Ten Persons are to be Victualled during the Voyage to England at the Expencc of the Crown. the last Nine, now Free, having Come out Originally as Convicts.
5.	Ensign Chas. J. Bullivant, 46th Regt.	
6.	Mr. J. Speed	
7.	Thomas Alford	
8.	John O'Hearne	
9.	Edmond Flood	
10.	James Nangle	
11.	Benjamin Jacobs	
12.	Thomas Holden	
13.	John Bliss	
14.	Andrew Kane	} Discharged Soldiers and Invalids, with their Wives and Children. to be Victualled at the expence of the Crown.
15.	James Byrne, Private 46th Regt.	
16.	Charles Glass Do.	
17.	Thomas Bate Do.	
18.	Joseph Farley Do.	
19.	Alexr. McKenzie Do.	
20.	John Matthewson Do.	
21.	John Middleton Do.	
22.	James Evans Do.	
23.	Thomas McNabb Do.	
24.	William Downie Do.	
25.	Robert Thorn Do.	
26.	John Frazier Do.	
27.	James Farmer Do.	
28.	Joseph Craddock Do.	
29.	James McMullen, R.V.C.	

[Enclosure No. 8]—*continued.*

1817.
4 April.
Return of
passengers on
H.M. brig
Kangaroo.

LIST of Names of Officers and other Free Persons, &c.—*contd.*

No.	Names.	Remarks.
	<i>Women.</i>	
30.	Mary Coglan	} Free Women formerly Convicts to be Vic- tualled at the expence of the Crown.
31.	Mary Downie	
32.	Elizabeth Craddock	
33.	Patk. Coglan, a Child	
34.	Jane Scott	
35.	Hannah Pleasant Jones	
36.	Sarah Hills	
37.	Anne Coleman	
38.	Sarah Tillett	
39.	Anne Taylor	
40.	Sarah Atherley	
41.	Jane Ewen	
42.	Annastatia Lynch	
43.	Catherine Collins	

L. MACQUARIE.

Government House, Sydney, N. S. Wales, 4th April, 1817.

[Enclosure No. 9.]

THE ACCOUNTS Current of the Expences of the Colony from 25th
December, 1815, to the 24th of December, 1816, inclusive.

Returns,
accounts,
and reports
transmitted.

[Enclosure No. 10.]

LIST of Bills drawn by Deputy Commissary General Allan on
the Lords of the Treasury and Colonial Agent from 25th
December, 1815, to the 24th of December, 1816, inclusive.

[Enclosure No. 11.]

STATEMENT and Return of Provisions in His Majesty's Magazines
on the 24th December, 1816.

[Enclosure No. 12.]

DEMAND for the Annual Supplies for the Use of the Colony for
the present Year.

[Copies of these enclosures will be found in a volume in series II.]

[Enclosure No. 13.]

REPORTS of the Naval Officer for the Year 1816.

[A copy of this enclosure is not available.]

[Enclosure No. 14.]

THE ACCOUNTS of the Colonial Police Fund from the 1st of
January to the 31st of December, 1816, Inclusive.

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

[Enclosure No. 15.]

A GENERAL STATEMENT of the Inhabitants of New South Wales as per General Muster taken by His Excellency Governor Macquarie and Deputy Commissary General Allan from the 23rd Day of September to the 29th Day of October, 1816, inclusive.

	Civil Department victualled.													Military Department victualled.																
	Secretary to the Governor.	Judges.	Solicitors.	Provost Marshall.	Chaplains.	Principal Surgeons.	Assistant Surgeons.	Surveyor General of Lands.	Deputy Surveyor General.	Naval Officer.	Boat Builder.	Clerks and Superintendants.	Women @ s.	Children @ f.	Total of Civil Dept. victualled.	Major.	Captains.	Lieutenants.	Ensigns.	Paymaster.	Adjutant.	Quarter Master.	Surgeon.	Assistant Surgeon.	Serjeants and Corporals.	Drummers and Fifers.	Privates.	Women @ f.	Children @ f.	Total of Military Dept. victualled.
Sydney	1	2	2	1	1	1	1	1	1	1	21	20	25	80	1	6	12	2	1	1	1	1	1	1	32	12	370	91	158	689
Parramatta .....	..	..	..	..	1	..	1	..	..	..	6	7	27	42	..	..	1	..	..	..	..	..	..	..	8	2	35	31	72	149
Windsor .....	..	..	..	..	2	..	1	..	..	..	2	4	23	32	..	..	1	..	..	..	..	..	..	..	5	..	78	11	40	135
Liverpool .....	..	..	..	..	1	..	..	..	..	..	1	2	7	11	..	..	..	..	..	..	..	..	..	..	4	..	19	9	10	42
Newcastle .....	..	..	..	..	..	..	1	..	..	..	1	4	2	8	..	1	1	1	..	..	..	..	..	..	4	..	39	2	2	50
Colonial Vessels .....	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Total	1	2	2	1	5	1	4	1	1	1	31	35	86	173	1	7	15	3	1	1	1	1	1	1	53	14	541	144	282	1,063

1817.
4 April.
General return
of inhabitants.

1817.
4 April.
General return
of inhabitants.

[Enclosure No. 15]—*continued.*
A GENERAL STATEMENT of the Inhabitants of New South Wales, &c.—*continued.*

	Commissariat Staff victualled.				Free Persons victualled.			Prisoners victualled.				Rations.					Persons not victualled.				Total Number of Souls in the Settlement.			
	Deputy Commissary General.	Assistant Commissary General.	Deputy Ass't Com'y General.	Clerks.	Total of Commiss't Staff victualled.	Men.	Women @ $\frac{1}{3}$ s.	Children @ $\frac{1}{2}$.	Total of Free Persons victualled.	Men.	Women @ $\frac{1}{3}$ s.	Children @ $\frac{1}{2}$.	Total of Prisoners victualled.	At Full.	At Two Thirds.	At Half.	At one third.	Total of Full Rations.	Total of Persons Victualled.	Men.		Women.	Children.	Total of Persons not victualled.
Sydney	1	..	..	2	3	202	71	106	379	758	67	73	898	1,439	158	295	158	1,850	2,050	2,144	1,167	1,334	4,645	6,695
Parramatta .....	..	1	..	1	2	71	43	78	192	317	167	89	574	444	217	225	72	727	959	882	374	534	1,790	2,749
Windsor .....	..	..	..	1	1	127	44	62	233	143	6	6	155	360	65	102	40	467	556	1,526	569	930	3,025	3,581
Liverpool .....	..	..	..	..	..	34	23	40	97	69	..	..	69	130	25	56	10	178	219	671	267	393	1,331	1,550
Newcastle .....	..	..	..	..	..	1	5	5	11	245	42	12	299	294	49	23	2	339	368	13	15	17	45	413
Colonial Vessels .....	..	..	..	..	..	28	..	..	28	..	..	..	..	28	..	..	..	28	28	159	..	..	159	187
Total	1	1	..	4	6	363	186	291	940	1,532	282	170	1,995	2,695	514	711	282	3,589	4,039	5,495	2,392	3,208	11,136	15,175

L. MACQUARIE, Govt. in Chief of N. S. Wales.

[Enclosure No. 15]—*continued.*

A GENERAL STATEMENT of the Land in Cultivation, etc.; The Quantities of Stock, etc., as accounted for at the General Muster in His Majesty's Colony of New South Wales by His Excellency Governor Macquarie and Deputy Commissary General Allan from the 23rd of September to the 29th October, 1816, inclusive.

	Acres in—										Horses.			Horned Cattle.		Sheep.	Hogs.	Bushels of—	
	Wheat.	Maize.	Barley.	Oats.	Pease and Beans.	Potatoes.	Garden.	Cleared Ground.	Total Held.								Wheat.	Maize.	
The Crown .. .. .	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
At Sydney	1,709	900	50	84	12	85	250	5,933	64,615	636	6,363	1,904	2,646	4,063	9,846	4,063	9,846		
„ Parramatta	1,605	950	122	97	27	102	260	10,176	62,725	676	5,684	25,483	2,985	1,926	13,040	1,926	13,040		
„ Windsor	7,527	4,428	544	550	22	76	370	18,245	50,245	685	4,449	14,214	8,451	3,778	53,587	3,778	53,587		
„ Liverpool	2,164	1,277	122	53	7	114	222	4,288	43,832	341	5,880	11,958	2,377	1,590	10,147	1,590	10,147		
„ Newcastle	23	35	18½	3	..	3½	..	93	240	6	118	455	95	15	450	15	450		
Total	13,238	7,540	836½	787	68	380½	1,102	38,685	221,657	2,451	25,116	55,097	16,574	11,372	87,070	11,372	87,070		

L. MACQUARIE, Govr. in Chief of N. S. Wales.

1817.
4 April.
General return of agriculture and stock.

1817.
4 April.
Additional
enclosures.

[Enclosure No. 16.]

[A copy of the report on criminal trials will be found in a volume in series IV.]

[Enclosure No. 17.]

RETURNS of Marriages, Births, and Deaths in the Colony from the 1st of January to the 31st of December, 1816, both Inclusive.

[A copy of this return is not available.]

GOVERNOR MACQUARIE TO EARL BATHURST.

(A private despatch per H.M. brig Kangaroo.)

Government House, Sydney, New South Wales,

My Lord,

4th April, 1817.

Testimony in
favour of Cole.

I have the Honor to acknowledge the Receipt of your Lordship's Letter, under a Private Form, of date 21st May, 1816, recommending Mr. Cole, formerly a Private Soldier in the 102nd Regt. and now living in Sydney, to my good Offices; and in obedience to your Lordship's Desire, I have made particular enquiry into the Character and Circumstances of Mr. Cole, whom I have frequently seen and conversed with since being honored with Your Lordship's Letter respecting him.

It affords me much pleasure to have it in my power to acquaint your Lordship, for the Information of Mr. Cole's respectable Family and Friends, that he now conducts himself with great Propriety and Decency and that he has almost entirely abandoned his propensity to drinking, which generally led him into Low, Bad Company here.

Land granted
to Cole.

As there was no Situation under Government vacant that would suit Mr. Cole, I could do nothing better for him in the mean time than settling him on a Farm near Sydney to assist him in maintaining himself and Family. I have accordingly given Mr. Cole a Grant of Two Hundred Acres of Land with the usual Indulgencies annexed to that Quantity.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(A private despatch per H.M. brig Kangaroo.)

Government House, Sydney, N. S. Wales,

5 April.

My Lord,

5th April, 1817.

Sensibly alive to the delicacy of the ground on which I am now venturing to tread, I feel quite embarrassed in the selection of language suitably cautious and sufficiently expressive

of the delicacy to be observed, whilst I have, at the same time, to convey the hope that my motives will be attributed to none other than views and considerations purely of a Public Nature.

1817.
5 April.

In opening the Subject to your Lordship, it may not be unnecessary to premise that, in the construction of our Civil Courts under the last Patent, the Prior Rank is given to "*The Governor's Court*," altho' the Court, which follows next in order after it, Called "*the Supreme Court*," has a paramount Jurisdiction to it, and to render the Point of Precedency* between the two Courts the more difficult to comprehend, the Gentleman who is at *the Head of the Supreme Court* is stiled *Judge*, whilst he, who presides over *the Governor's Court*, is only entitled *Judge Advocate*.

The question of precedence in the law courts and offices of judge-advocate and judge.

These Distinctions, altho' of little or no real importance, have tended to beget a feeling of Jealousy on the part of the Judge Advocate, whose seniority of appointment and Department and superiority of Salary alike confirm him in the opinion, that his superiority of Rank is equally Manifest. But still the Public opinion being in favor of the Pre-eminence of Rank attaching to Him, whose superior Title of Judge seems to bespeak that fact, there is thence an uneasiness excited, which it would be highly desirable to have altogether removed in order to preserve the fullest harmony between the Gentlemen at the Heads of the two Courts.

The grounds of the Public opinion are so very reasonable, that it is not to be wondered at that those, who do not immediately know that the Precedency is given, by the terms of the Patent, to "*the Governor's Court*," and thence by inference to the Judge of that Court, should ascribe the superiority to Him whom they know presides over the Court of superior Jurisdiction. Whilst on the other hand the earnestness with which the late Judge Advocate Bent (when proposing to go to England on account of his health) recommended his Brother to succeed him, and the anxiety of Mr. Justice Bent to be preferred to the situation of Judge Advocate, cannot fail to confirm the opinion derived from the Patent, that the Judge Advocate is the Superior Officer.

The experience I have had of Mr. Judge Advocate Wylde, altho' by no means sufficient to enable me to speak decisively in regard to his Temper, Disposition, and Professional Qualifications, is still sufficient to warrant my bearing testimony to the upright, manly, and dignified conduct, which, under peculiar and very trying circumstances, he has uniformly manifested in his Judicial and other Publications, since his arrival here, and were I not to assure your Lordship that I have ample reason to be, not only satisfied, but highly pleased, with his Public conduct

Testimony in favour of judge-advocate Wylde.

* Note 94.

1817.
5 April.

and Private Character, I should be doing him injustice, and would not sufficiently acquit myself to your Lordship in rendering those acknowledgments, which I feel due to your Lordship for having selected a Gentleman who gives such good earnest of rendering hereafter a perfect and entire satisfaction in the High Department of Judge Advocate.

In paying this well merited Tribute, I have purposely digressed from the principal object of the present address, in order to adduce an additional argument from Character and conduct in favor of what I shall now submit most respectfully to your Lordship's consideration.

Recommendation of John Wyldé for knighthood.

It not being unusual to confer the Honor of *Knighthood* on Gentlemen destined to fill the Higher Departments of the Law on Foreign Stations, I beg, with all due deference, to submit to your Lordship, that were this distinguishing mark of Royal condescension and favor conferred on Mr. Judge Advocate Wyldé, it would contribute most effectually to exalt and give superior Dignity to the Judicial Department over which he is placed, and could not fail to produce in him the most lively sense of gratitude.

I have now, My Lord, only to repeat the earnest hope that, in acceding to or refusing this my request, that you will rest perfectly assured that I have made it with much diffidence, and solely with a view to the Promoting the Public Service.

I have, &c.,
L. MACQUARIE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

7 April.

Sir, Downing Street, 7th April, 1817.

Recommendation of William Hayes as a settler.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, William Hayes, to return to the Settlement of New South Wales with his Family and to remain as a Settler in the Colony.

I am, &c.,
HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

8 April.

Sir, Downing Street, 8th April, 1817.

Recommendation of C. Amet for a land grant.

I am directed by Lord Bathurst to acquaint you that he has granted permission to Mr. C. Amet, late Professor of the French Language at the Royal Military College, to proceed as a Settler to New South Wales, and I am to desire that he may

* Note 22.

receive a Grant of Land proportioned to his means of Cultivation, and from his Recommendations Lord Bathurst is induced to request that you will extend to him any Indulgence and Protection in your power.

I am, &c.,

HENRY GOULBURN.

1817.
8 April.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per H.M. brig Kangaroo.)

Government House, Sydney, N. S. Wales,

Dear Sir,

8th Apl., 1817.

I have the honor to acknowledge the receipt of your very obliging and most acceptable Private Letter of date 25th July, 1816, per the Hands of Mr. Justice Field, by whom I had the pleasure of receiving it, that Gentleman having arrived here from England on board the Ship Lord Melville on the 24th of February. I feel very much obliged to you for making me acquainted with Mr. Field's Character. He appears to be every thing that you say of him, and I am very much prejudiced in his favor already from his mild, modest and conciliating manners, and I am persuaded he will prove a great acquisition and blessing to this Colony both in his Public Judicial Character and Private one. I shall not fail to pay every respect and attention both to Mr. Field and Mr. Wylde, and shall make a point of conciliating them and cultivating the best possible understanding with both of them. From every thing I have yet seen and known of both those Gentlemen, I am persuaded they are peculiarly well qualified to fill their respective offices with credit to themselves and advantage to the Public.

Acknowledgment of letter
re Barron Field.

I have the honor to be with most respectful esteem and regard,

Dear Sir, &c.,

L. MACQUARIE.

P.S.—I had the pleasure of writing to you on the 9th of Novr. last Via India, in reply to your Private Letter of Date 18th May, 1816, by Mr. Judge Advocate Wylde.—L.M.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Almorah.)

Sir,

Downing Street, 9th April, 1817.

9 April.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, William Muckle, to proceed to the Colony of New South Wales, the said William Muckle being Nephew to Mr. John Dickson, who has applied to Lord Bathurst in his favor that he may assist him in his Business in the Colony.

Permission for
W. Muckle
to reside in
the colony.

I am, &c.,

HENRY GOULBURN.

1817.
10 April.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Almorah; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 10th April, 1817.

Permission for
R. Turnbull
to proceed to
the colony.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Robert Turnbull, to proceed to the Colony of New South Wales. I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(A private despatch per ship Lord Eldon; acknowledged by Governor Macquarie, 15th December, 1817.)

16 April.

16th April, 1817.

[A copy of this despatch is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.
(Despatch No. 89, per ship Lord Eldon; acknowledged by Governor Macquarie, 12th December, 1817.)

21 April.

Sir, Downing Street, 21st April, 1817.

Interpretation
of sentences
passed by
Scotch courts.

Having directed a Copy of your Dispatch No. 6, of the 13th March, 1816, relative to the doubts, which had arisen respecting the period of the Sentences of the Prisoners who had been sent to New South Wales under Convictions from the Scotch Courts, to be transmitted to The Home Department; I herewith enclose for your Information the Copy of a letter, which has been received in reply from Mr. Beckett, dated 11th February last; I also enclose the Indents of The "Francis and Eliza" as requested in your Dispatch above alluded to.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

UNDER SECRETARY BECKETT TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 11th Feby., 1817.

Having laid before Lord Sidmouth your Letter of the 23rd Decem'r, with the Copy of one received from Governor Macquarie respecting the Terms in which some of the Sentences of Transportation are expressed for Prisoners, who have been Convicted in Scotland, I am directed to acquaint you for the Information of Lord Bathurst, with a view to a Communication being made to the Governor of New South Wales, that in all those Cases, where the following Words have been notified against the Names of any of the Prisoners tried in Scotland, vizt. "For Life:" "The Contractor to have his or her Services for Years," it implies that the Prisoner is bound to Serve the Contractor and his Assigns for the term of Years therein expressed; at the Expiration of which Term such Prisoners are no longer

liable to Servitude, but it does not relieve them further. The Sentence of Transportation from the United Kingdom (for whatever Terms that may be) still remaining in full force.

1817.
21 April.

The Indents for the Ship Gen'l Hewitt applied for by the Governor of New South Wales are transmitted to you in my Letter of 16th October last; those for the Ship "Francis and Eliza" which conveyed Convicts from Ireland having been lately received, I herewith transmit the same in order to their being forwarded to New South Wales.

I am, &c.,

J. BECKETT.

[Enclosure No. 2.]

[A copy of the indents is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 90, per ship Almorah; acknowledged by Governor Macquarie, 12th December, 1817.)

Sir, Downing Street, 22d April, 1817.

22 April.

As some doubts appear to have arisen in the Minds of many in the Colony under your Government with regard to the Legality of compelling the Convicts, that are transported to New South Wales, to Hard Labour during the period of their Sentence, I herewith transmit to you the Copy of a Letter, which has been received from the Home Department containing the Opinion of the Law Officers of the Crown upon this Subject.

Legal opinion
on the liability
of convicts to
hard labour
during their
term of
transportation.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY BECKETT TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 25th March, 1817.

I am directed by Lord Sidmouth to acknowledge the receipt of your Letter of the 10th of January last, relative to persons transported to New South Wales being compelled to labour after their arrival at that Colony, and His Lordship having referred the Same for the Consideration of the Law Officers of the Crown, I am now to acquaint you, for the information of Lord Bathurst, that they have made the following Report:—

"The Sentence of Transportation being founded on Statutes, the mode of carrying it into effect and of treating the Offender must depend upon their specific provisions. The only Statute inflicting the Punishment of Transportation, which expressly gives a Power to adjudge that the Convict shall be kept to hard labour when transported, is the 22d Charles the 2d, Cap. 5; but this Statute relates only to the particular Offence therein described, and therefore does not affect the general Question.

"From the time of passing the 4th Geo. I, Cap. 11, down to the present time, all the Statutes on the Subject have enacted that

1817.
22 April.

Legal opinion
of convicts to
hard labour
during their
term of
transportation.

the offender to be Transported shall be transferred to the Person, who shall contract to Transport Him, and *that the Person so contracting or his Assigns* shall have a Property* *in the Service of such Offender during the Term for which He is sentenced to Transportation.* When the Captain of the Vessel or other person having made the Contract to Transport, and having arrived at the Place of destination assigns the Offender to the Governor, or such Person, as the Governor nominates, who is willing to take him, Such Assignee of the Contractor acquires a Property in the Service of the Offender, he becomes his Master, and the Convict is bound to perform such Labour as the Master to whom he is assigned shall order; for tho' the Sentence of the Court is only that he shall be Transported, yet the Transfer of his Person by Assignment giving the Assignee a Property in the Service of such Offender, he is bound to perform hard Labour by Virtue of this enactment, if required by his Master. The person to whom he is assigned is not bound to employ the Convict in Labour unless he shall think fit, for having the property in his Service he may exercise such Right of Property with more or less indulgence as he pleases.

"It is clear, therefore, that the Convict does not become a Freeman when transported; but on the contrary is subjected to a State of Servitude during the term of Transportation. Herein consists the distinction between such Convicts, as are permitted to transport themselves* (an indulgence sometimes granted), and Such as are Transported under a Contract, the first becoming a free man except as to the not being permitted to return during the term of Transportation, the other being placed in a State of a complete Servitude during Such Term at the Will of his Master, the exercise of Such Will being always to be regulated by the Rules of Humanity in protecting the Convict from Cruelty or Bodily harm. We report therefore that the Convict is not a free man upon his arrival at the Place of Transportation, but is bound to perform Such Labour as the Person to whom he is assigned shall allot to him.

"The positive Provisions of the Statutes Subject to a State of Servitude every convict, on whom the Sentence of Transportation has been pronounced. The Court, who adjudged the Offender to be Transported, cannot make it a part of the Sentence that he should be kept to hard Labour; it would be an erroneous judgment.

"Such Sentence would also be against the Policy on which the present Laws of Transportation are founded. By the recital of the 4 Geo. I, Cap. 11, which Statute introduced the manner of carrying Transportation into effect by the means of a Contract, and of a Transfer of Property in the Service of the Offender, it appears that one object was to provide Servants in

* Note 95.

His Majesty's Colonies in America, who by their Labour and Industry might be the means of improving them; and, tho' by Subsequent Statutes, His Majesty may order Convicts to be Transported to other Countries, yet the manner of carrying this into effect, and the state of the Convict consequent thereupon, has been always preserved. The Law could not well be altered in this respect without defeating the object of Supplying the Settlers in those Colonies with Labourers and Servants; for if they were to be Sentenced to hard Labour, or all assigned to the Governor alone, they must be kept to hard Labour by the Officer of the Public, and none would be employed in the Service of Private Masters.

"Those, who have questioned the right to compel the Convicts to perform hard Labour, cannot have considered the Enactments of the Statutes, but must have formed their opinion merely on the View of the Words of the Sentence alone."

I have, &c.,

J. BECKETT.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 91, per ship Almorah; acknowledged by Governor Macquarie, 24th November, 1817.)

Sir, Downing Street, 22d April, 1817.

A Letter* has been addressed to me by Mr. Moore, one of the Solicitors of New South Wales, stating the Grievances under which he conceived himself to Labour in consequence of your having deprived him of his Situation as Solicitor to the Colony, and also in not having received a Grant of Land equal in extent to what he had considered himself entitled.

As Mr. Moore appears to have acted in seizing the American Brig, Traveller, merely in the Capacity of Agent for and by the Direction of Mr. Vale, I am to desire that you will take the necessary Steps for reinstating him in the Situation from which he has been displaced. With respect to the Complaint of The Inadequacy of The Grant of Land, which you had assigned to him, I have only to refer you to the answer which I have directed My Under Secretary to return to him in a letter, of which the enclosed is a Copy.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY GOULBURN TO MR. W. H. MOORE.

Sir, Downing Street, 22d April, 1817.

I am directed by Lord Bathurst to acknowledge the receipt of your letter of the 13th March, 1816, stating various grievances under which you consider yourself to labour, and requesting that you may be reinstated in the Situation from which you had been

1817.
22 April.

Legal opinion
on the liability
of convicts to
hard labour
during their
term of
transportation.

Complaints
made by
W. H. Moore
against
Macquarie's
administration.

1817.
22 April.

W. H. Moore to
be reinstated
as solicitor.

displaced by Governor Macquarie in consequence of seizing an American Ship on account of Mr. Vale; I am directed to acquaint you that, as his Lordship considers you merely to have acted in the Capacity of an Agent for and by direction of Mr. Vale, his Lordship has directed the Governor to reinstate you as one of the Solicitors of the Colony, trusting that your future Conduct will prove you to have been worthy of this Indulgence, and that you will not again become the willing Instrument of Acts done in opposition to the Governor of the Colony.

Land granted
to Moore.

With respect to your Statement as to the Inadequacy of the Grant of Land assigned to you, I am directed further to acquaint you that it appears to Lord Bathurst to be more than is proportioned to the Rank which you hold in the Colony, or to any reasonable Expectation which you could have formed on your Departure from this Country.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(A circular despatch per ship Almorah; acknowledged by Governor Macquarie, 12th December, 1817.)

Sir,

Downing Street, 22nd April, 1817.

New seal
for use in the
colony.

I herewith transmit to you a New Seal,* which in consequence of certain alterations in the Royal Arms has been prepared for the Colony under Your Government, accompanied by the Warrant of His Royal Highness The Prince Regent for using the same; and I am to desire that you will return to this Department the Seal which has been hitherto used in the Said Colony.

I have, &c.,

BATHURST.

[Enclosure.]

WARRANT FOR USING THE SEAL OF THE TERRITORY.

In the Name and on the Behalf of His Majesty.

George, P.R.

To our Trusty and well beloved Lachlan Macquarie, Esquire, our Captain General and Governor in Chief in and over our Territory of New South Wales and its Dependencies, or to the Lieut. Governor or Commander in Chief of the said Territory for the time being, Greeting. With this, you will receive a New Seal prepared by our Order for the use of the said Territory of New South Wales, in consequence of certain Alterations which have been made in Our Royal Arms, and Our Will and Pleasure is, and We do hereby authorize and direct that the said Seal be used in Sealing all Public Instruments, which shall hereafter be made and passed in our Name and for our Service in the place

Warrant for
using the seal
of the territory.

* Note 97.

of the Seal now in use in the said Territory. Given at our Court at Carlton House, this tenth Day of February, 1817, in the Fifty Seventh Year of our Reign.

1817.
22 April.
Warrant for using the seal of the territory.

By the Command of His Royal Highness the Prince Regent, in the Name and on the Behalf of His Majesty.

BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Matilda; acknowledged by Governor Macquarie 15th December, 1817.)

Sir, Downing Street, 22d April, 1817.

Lord Bathurst having given permission to Mr. William Francis Weston to proceed as a Free Settler to the Colony of New South Wales, I am directed by his Lordship to desire that you make to him a Grant of Land in proportion to the means he may possess of bringing it into Cultivation, and extend to him the Indulgences usually granted to Settlers of his Class.

Recommendation of W. F. Weston as a settler.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 92. per ship Lord Eldon; acknowledged by Governor Macquarie, 12th December, 1817.)

Sir, Downing Street, 24th April, 1817.

24 April.

I herewith transmit for your Information the Copy of a letter which has been forwarded to me by the direction of Lord Sidmouth, enclosing the Certificate of the Sentence of a person named John Swayne, who was tried and convicted of Stealing under a Commission held for the City of Dublin in the Year 1799.

Certificate of sentence passed on John Swayne.

I have, &c.,

BATHURST.

[Enclosures.]

[Copies of the letter and certificate are not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Almorah; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 24th April, 1817.

I herewith transmit to you by the direction of Lord Bathurst an Assignment of One Hundred and Eighty Male Convicts shipped on board The Almorah for the Colony of New South Wales.

Assignment of convicts on the ship Almorah.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1817.
24 April.

(Despatch per ship Lord Eldon; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 24th April, 1817.

Assignment
of convicts on
the ship
Lord Eldon.

I herewith transmit to you by direction of Lord Bathurst an Assignment of Two Hundred and Twenty Male Convicts which have been embarked on board the Lord Eldon for the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 93.*)

25 April.

Sir, Downing Street, 25th April, 1817.

Report to be
made on the
claims of
J. B. Hugo.

I have the honor to transmit to you an Affidavit and some accompanying Papers, which have been delivered to me by a Person of the Name of Burke Hugo, who states himself to have suffered loss from the Misconduct of certain Officers of your Government.

Although the Individual in question is certainly subject to occasional fits of Derangement, yet I see no reason to doubt his having been in New South Wales, and having possessed the Vessel and Cargo, to the recovery of which his Claim is directed, and I am sure you will not consider his infirmity as entitling him, if his Claim is well founded, to less consideration than he would otherwise have received. I am therefore to desire that you would make immediate enquiry into the circumstances of the Case, and report to me fully both as to the causes which led to the Seizure of the Active, the legal proceedings under which the Vessel was condemned, and as to the manner in which the produce of the Vessel and Cargo was disposed of, in order that measures may be taken for reimbursing to the Individual the Sums, which may be due to him, or for communicating to him the grounds, upon which they are justly detained.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

MR. JONATHAN BURKE HUGO TO UNDER SECRETARY GOULBURN.

11 Grafton Street, Fitz Roy Square,

Sir, 11th January, 1817.

Claims made by
J. B. Hugo.

I yesterday with great reluctance waited at Lord Sidmouth's Office with the following Note, and had an interview with Mr. Beckett, who promised to enter into the Subject of my property, unjustly detained from me by the Government at South Wales; after the refinements on Cruelty exercised towards

me (unparallel'd in the Annals of brutality), it is adding insult to injury to trifle with me in this Manner, for, exclusive of my detained property, Considering my *Undoubted* and *Yet Undecided* Constitutional Rights, I would feel myself perfectly justified in Calling on Government for a *Moderate Subsistence*, and they may rest assured that they must either *Confine* me or *allow* it.

1817.
25 April.
Claims made by
J. B. Hugo.

I have, &c.,

JONATHAN BURKE HUGO.

[Enclosure No. 2.]

MR. JONATHAN BURKE HUGO TO LORD SIDMOUTH.

My Lord, 11 Grafton St., F.R. Sqre., 10th Jany., 1817.

It is with great reluctance that I again wait on your Lordship on the subject of my unjustly detained property, the bare Interest of which for my Subsistence is all I solicit.

I have already in a private letter, and I now Officially declare to your Lordship that, if the Members of Government possessed the real feelings of Gentlemen, they would not subject a Man, whom they know to be their King, De Jure, altho' He is an Irishman, to this humiliating Necessity.

I have, &c.,

JONATHAN BURKE HUGO.

As a Scholar and a Gentleman, I pray you Vide Isaiah 33d chap., 16th verse, and 37th Psalm, 3d verse.

[Enclosure No. 3.]

AFFIDAVIT OF JONATHAN BURKE HUGO.

MIDDLESEX to Wit.—I, Jonathan Burke Hugo of 11 Grafton Street, Fitz Roy Square, do Voluntarily make oath and say that I sailed from Calcutta in September, 1811, in the Brig Active, burthen One hundred Tons, of which I was owner, bound for Sydney, South Wales, With a Valuable Cargo, which stood me in *Eight thousand pounds or thereabouts*; exclusive of which, I had on board a chest of Plate, which stood me in *Three hundred pounds*, a Gold watch, which stood me in *Fifty pounds*, together with books and wearing apparel to a very Considerable amount; of All Which, except some books and wearing apparel, I was deprived by the Government at South Wales as related in the accompanying printed Narrative, and have never received any Account; and I further make oath and say that, if allowed by the Government at South Wales to manage my own affairs, I could to the best of my Knowledge and belief realise *Four thousand pounds* at the least after payment of all my just debts.

Affidavit of
J. B. Hugo re
alleged seizure
of his property.

JONATHAN BURKE HUGO.

Sworn before me at the Public Office, Bow Street, this 11th March, 1817.

F. E. SKETCHLEY.

[Enclosure No. 4.]

MR. JONATHAN BURKE HUGO TO UNDER SECRETARY GOULBURN.

Sir, 11 Grafton Street, Fitz Roy Square, 19th March, 1817.

I have already in your Official Capacity, and I, now as a Private Gentleman, Submit to your Consideration what I hope you will find to be a fair statement of the Prophecies.

With the Constitutional Laws of the Realm and God's special promises in my favour, hard is my fate, Sir, to be on the brink of Starvation in London Streets. I deem it the more particularly so, as I know that, till forced by excess of Cruelty, I never harboured a thought inimical to the family on the Throne.

As a Scholar and a Gentleman, I again beg leave to pray you Vide 37th Psalm, 3d verse, and 33d Isaiah, 16th verse.

The peculiar and distressing nature of my Case will I hope Apologize for my thus addressing you.

I have, &c.,

JONATHAN BURKE HUGO

(by birth) Prince of Scotland.

(and by the Constitutional Laws) of Great Britain and Ireland, Rex de Jure.

[Enclosure No. 5.]

MR. JONATHAN BURKE HUGO TO UNDER SECRETARY GOULBURN.

Sir, 106 Tottenham Court Road, 24th July, 1817.

I have the Honor to hand you Copy of letter addressed by me to Mr. Jno. Palmer, who is generally understood to be the Regent's Agent at Calcutta.

I have, &c.,

JONATHAN BURKE HUGO.

[Enclosure No. 6.]

MR. JONATHAN BURKE HUGO TO MR. JOHN PALMER.

Sir, H.C. Ship Europe at Sangar, 1st Jany., 1815.

Altho' in a very infirm state of health, in consequence of the Cruelties exercised towards me and the infernal doses administered to me at South Wales, and my subsequent long confinement of 2½ years in the General Insane Hospital, Calcutta, in the hope of intimidating me, where I was fed on *provisions* such as No honest Man in England would attempt to feed his *dog* with, I am now placed, under the paultry plea of my being a pauper, a *Charter Party Passenger* on board this Ship by those time serving *Satellites* of that *Unfeeling Illustrious Usurper* The *Prince of Wales*, The Earl of *Moir*, *General Sir George Nugent Bart.*, and Mr. *Udney*, president of the Marine board, whose mother has dry nursed the would be Princess of Orange; but their infamous conduct shall not have the desired effect, and I

1817.

25 April.

Additional
letters written
by Jonathan
Burke Hugo.

trust in God they will all have cause to repent, for as a Lawyer I have long known that When the *Heirdom p. Stirpes* takes place, that the *Heirdom p. Capita* must give Way, and every intelligent Man, who knows me, must be aware that, altho' the Son of an Irish Snuff and Tobacco Seller, I am the lineal Descendant of Earl Bothwell and Mary Stuart, Queen of Scotland, the Great Grand daughter of Henry the 7th of England, in the line of his daughter Margaret, the Wife of James the 4th of Scotland, Consequently the rightful Heir to the *Crown of England*; "but Henry *Plantagenet* I deem the *root* of my family in this Country." I am, &c.,

1817.
25 April.

Additional
letters written
by Jonathan
Burke Hugo.

JONATHAN BURKE HUGO.

Prince of Scotland, and, of Great Britain and
Ireland, Rex de Jure Divina.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Friendship.)

Sir, Downing Street, 28th April, 1817.

28 April.

Mr. Thomas Walker, who is the Bearer of this Letter, being about to proceed to New South Wales to fill the Situation of Deputy Assistant Commissary General, I beg leave to recommend him to your favorable Notice and Protection.

Recommendation of
Thomas Walker.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 94, per ship Lord Eldon; acknowledged by Governor Macquarie. 12th December, 1817.)

Sir, Downing Street, 29th April, 1817.

29 April.

Having submitted to the Consideration of the Lords Commissioners of the Treasury your Recommendation* of an Allowance to the Widow of the Late Ellis Bent, Esqre., I herewith enclose the Copy of a letter, which has been received in reply, stating that under the very special Circumstances of the Case Their Lordships have consented to allow Mrs. Bent the Sum of Two Hundred Pounds per annum to commence from the Death of her Husband and to be continued only during her Widowhood.

Pension granted to
Mrs. Ellis Bent
during her
widowhood.

I have, &c.,

BATHURST.

[Enclosure.]

SECRETARY LUSHINGTON TO UNDER SECRETARY GOULBURN.

Sir, Treasury Chambers, 22nd April, 1817.

I am Commanded by My Lords Commissioners of His Majesty's Treasury to acquaint you for the Information of the Earl Bathurst that, under the very Special Circumstances stated in your Letter of the 23rd of Jany. last, my Lords request you

* Note 99.

1817.
29 April.

will insert, in the Estimates to be submitted to Parliament for the Civil Establishment of New South Wales for the Current Year, an Allowance of Two Hundred Pounds per Annum to Mrs. Bent to commence from the Death of Her Husband and to be continued only during her Widowhood. I am, &c.,

S. R. LUSHINGTON.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

7 May.

Sir, Downing Street, 7th May, 1817.

Recommendation of John Wingfield as a settler.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Mr. John Wingfield, to proceed as a Free Settler to the Colony of New South Wales, and I am to desire that you will make him a Grant of Land in proportion to his means of bringing the same into Cultivation and extend to him the Indulgences usually granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 7th May, 1817.

Permission for John Penman to become a settler.

I am directed by Lord Bathurst to acquaint you that he has granted permission to Mr. Penman, the Bearer of this Letter, to proceed as a Free Settler to the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "Private and Confidential," per ship Sir William Bensley.)

Government House, Sydney, N. S. Wales,

13 May.

My Lord, 13th May, 1817.

Proposals for retrenchments.

Strongly impressed with the justice and expediency of making all practicable Retrenchments in the Public Expenditure of this Colony, and anxious to give the fullest effect to your Lordship's Instructions on that head, I now beg leave to lay before your Lordship some observations which a sense of Public Duty has led me to make, being assured that their adoption will lessen in a very considerable degree the expence of this Colony to the Mother Country and tend to promote its own internal tranquility and Prosperity.

With these views of the subject I shall Commence with the Office of the Lieutenant Governor of the Colony.

Proposed abolition of office of lieutenant-governor.

This Situation, which has a Salary of £400 Per Annum annexed to it, has no precise or fixed Duties whatever attached to it, and of course it appears to be one of those inefficient and altogether useless Departments which could be well dispensed with. When I call it *useless*, I give it a gentler appellation than

* Note 22.

I consider it to deserve; for now, after an experience of Seven years, I am obliged to remark that the Rank and Title of Lieut. Governor seem more favorable to the Cherishing Principles of Opposition to the Measures of the Government and Governor than to the promoting the Public Service; *a jealousy of the power of a Superior*, rankling still in the Breast of Him who sees *that Superior only* between himself and the Possession of the Power *so envied*.

1817.
13 May.

Proposed
abolition
of office of
lieutenant-
governor.

Such Motive of Action, however unworthy, appears to be one of those weaknesses of Human Nature, which it is easier to observe and lament than to correct; And this Jealousy of Power, when excited, will not fail to gather round *him*, who possesses it, all the dissatisfied and Disaffected in the inferior Classes, who will be glad to associate themselves under a Leader of the Nominally high rank of Lieutenant Governor.

By such means an opposition is formed, which is formidable in proportion to the Talents or Disposition of him who takes the lead in it.

On these Grounds, My Lord, I do not hesitate to recommend that, when Colonel Molle the present Lieut. Governor shall be ordered hence with the 46th Regiment, that the office of Lieutenant Governor be totally abolished, this Measure being fully practicable under the terms of the Colonial Patents,* which provide for the Succession to the Office of Governor, in the event of his Death or absence, in the Person of the next senior Military Officer in the Colony, who is thereby required to exercise the Authority of the Governor until a Successor shall be Specially appointed from Home.

The next Measure of Retrenchment, to which I have to advert, is one of a more general nature than the foregoing but not less practicable, and in its consequences not less important or desirable.

Since the first establishment of the Colony to the present time, it has been the continual practice of the Governors to make liberal Grants of Land, with proportionably large indulgencies in Government Men on the Stores and Cattle on long Credits, to the Civil Officers on their arrival, according to their respective Ranks. This Practice in the early stages of the Colony might have been necessary in order to enable those Officers to support themselves and their Families in a decent and comfortable way, which their Salaries alone would have scarcely done at a time when Grain and Animal Food were both very scarce and very dear; but this necessity no longer exists, as every Description of Provisions is now abundantly supplied in the several Public Markets of the Colony on very moderate and reasonable terms.

Proposed
discontinuance
of land grants
and indulgences
to civil officers.

* Note 100.

1817.
13 May.

Proposed
discontinuance
of land grants
and indulgences
to civil officers.

I therefore conceive that the custom of granting Lands and other indulgencies to Civil Officers may hence forward be altogether discontinued, as unnecessary and saddling the weighty expence of victualling not only those Officers themselves but also their Wives and Families, however numerous, on the Government, together with the Government Men assigned to them.

Reasons
in support of
proposed change
in policy.

Another reason, even stronger than the foregoing, for discontinuing the Practice of making Grants, etc., to the Civil Officers, arises out of the circumstance that the Attention of those Officers, which should be devoted exclusively to their Official Duties, becomes hereby divided between their own Private Farming Concerns and their Official Duties to the great and manifest injury of the Public Service; and these Gentlemen, in their characters of Landed Proprietors with extensive Herds and Flocks, form a strong Party in the Colony to the Prejudice of the Crown, instead of being its best Supporters, Counteracting, as far as in them lies, every effort made by the Executive Government in abridging the Colonial Establishments, or in reducing the Prices, and consequently the expence of Animal Food or Grain, their Private Interest being to keep up the Prices of those Articles, which they are thus enabled to send to Market.

I may here observe that on all occasions the persons, who give the greatest opposition to Measures of Retrenchment, are the Civil Officers who possess Lands and Stock, and who by reason of their Official rank are listened to in their harangues with more attention than would be paid to them were they not Officers of the Government and supposed to have a superior knowledge of the expediency or in expediency of the proposed Measure.

In this characterising the Civil Officers in their Capacity of Settlers, I do not mean to say that *all* the Civil Officers act this unprincipled and ungrateful part by Government, there being some of them too liberal and disinterested to enter into any such Measures of opposition or annoyance; but the exceptions are few and not sufficient to form a ground of objection to the Principle I have been recommending.

The Grants of Land, which have been made to the Officers in the Commissariat Department, I consider as particularly impolitic and objectionable, being alike injurious to the Crown and to the regular Settlers in general, an irresistible bias to their own Individual Interests as Graziers and Farmers ever leading them to monopolize, as far as in their power, the Supply of the Government Stores immediately under their own direction to their own Private Emolument and to that of their Partners and favorites.

Various Orders and Regulations have been framed by me from time to time to prevent such fraudulent Practices in the

Commissariat Department; but it appears impossible to frame Regulations which will not be in some degree eluded and defeated by Persons so interested as those Officers, when they once become Graziers and Farmers.

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13 May.

The Saving which would acerue to Government, from the adoption of this Principle in regard to the Civil Officers, altho' it could not be acted upon immediately, as the present officers are already in possession of those advantages, but were it ordered that no Civil Officers should in future receive any such favors, it would be eventually the means of saving a very weighty expence to Government and would render the Officers themselves much more faithful and effective in their several official Departments.

Anticipated
reductions in
expenditure.

If your Lordship agrees in the Policy of the Measure, I beg to state that it would be very desirable that the Civil Officers, who shall hereafter come out, should be apprized officially that they will not receive any such Indulgencies.

On occasions of Officers retiring from the Service with the view to become Settlers, if their Conduct has been Correct, I conceive that Lands and Indulgencies might in such cases be extended to them on a liberal scale, in aid or altogether in lieu of Pensions, when their Services might give a Claim to the consideration of Government; and I beg leave to recommend this measure to your Lordship's Consideration.

Land grants
and indulgences
proposed in
lieu of pensions.

Trusting that your Lordship will see the expediency of adopting these suggestions either wholly or partially; I hope their importance will excuse my having conveyed my sentiments thereon at such length.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 19 of 1817," per ship Sir William Bensley; acknowledged by Earl Bathurst. 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

15th May, 1817.

15 May.

1. I have the Honor to acknowledge the Receipt of Your Lordship's Dispatch No. 78, dated 4th December last, together with its several Enclosures on the Subject of the Surveys held here and at the Cape of Good Hope on His Majesty's Colonial Brig Emu, Commanded by Lieut't Forster of the Royal Navy.

Despatch
acknowledged.

2. In obedience to Your Lordship's Commands, I have Caused an Enquiry to be made into the Circumstances relative to the Difference, there appears in the Papers alluded to, between the Report of the Committee of Survey held here and that at the Cape of Good Hope on the State of the Brig Emu, by again assembling the Gentlemen, who Composed the Committee of

Inquiry re
survey of
brig Emu at
Port Jackson.

1817.
15 May.
—
Inquiry *re*
survey of
brig Emu at
Port Jackson.

Survey (with the Exception of One Member, Captn. John Wilkinson now in England), for the purpose of revising their former Report and stating the Grounds, on which they had formed their opinion, laying before them also the Several Papers received from Your Lordship on this Subject.

Re-affirmation
of former report
of survey of
H.M. brig Emu.

3. The Committee (with the foregoing Exception of one absent Member) assembled accordingly at Sydney, and after having Maturely Considered their former Report and Compared the same with that made at the Cape of Good Hope, they delivered Me in the accompanying revised Report, confirming their former one; and to the Accuracy of which Report they have Voluntarily made Oath before the Judge Advocate.

4. The Gentlemen, who Composed this Committee, having all been formerly either Ship Carpenters or Commanders of Ships, and being All Persons of most respectable Characters, they could have no Motive in making a false Report of the State and Condition they found the Emu in; the Survey on this Vessel was held by my orders on the Representation of the Expediency thereof by Lieut't Forster, her Commander, who Certainly had no wish either to have her Condemned or to leave the Colony; this Officer himself brought me some small parts picked out from her Timbers, which were in a Completely decayed rotten State, and which were Consequently replaced or repaired here. Every part of the Vessel was Examined by the Committee in the presence of Lieut't Forster and the Carpenter of the Emu, and they both Entirely Concurred in the opinion given by the Committee of Survey held on her here.

5. Under all these Circumstances, I am strongly inclined to think that the Report of the Surveyors on the State of the Emu, made at the Cape of Good Hope, is much more likely to prove Inaccurate than the one made originally here, and that, whenever an impartial Survey by Competent, respectable Persons is taken in England on the real State and Condition of the Emu, the Report made here will not be found to be an Unfounded one, as stated in Sir Jahleel Brenton's Letter.

I have, &c.,
L. MACQUARIE.

[Enclosure.]

AFFIDAVIT RELATING TO THE SURVEY OF THE BRIG EMU.

Affidavit of
committee of
survey on
H.M. brig Emu.

PURSUANT to His Excellency Governor Macquarie's Commands conveyed to us in a Letter received this day from John Thomas Campbell, Esqre., Secretary to His Excellency, We whose Names are hereunto subscribed assembled for the purpose of re-examining our Report of Survey on His Majesty's Colonial Brig Emu (the other Member of this Committee Captn. John Wilkinson

being now in England) and upon due and deliberate consideration after carefully examining the said former Report do declare that we see no reason or cause whatever to alter the opinion we then gave as to the State of the said Vessel and we do further Certify that had the said Vessel remained in this Colony it is our opinion she would require constant repairs from her very decayed State. And we do further Certify that we have entered into this re-examination of our said former Report of Survey with such Care and Attention that (if required) we are ready to make Oath to the impartiality of our proceedings.

In Witness whereof we have hereunto Set our Hands at Sydney this 6th day of May, 1817.

THOS. MOORE.
RD. BROOKS.
JAMES BIRNIE.
WILLIAM COSAR.

Sworn before me this eighth day of May, 1817, at my Office in Sydney, New South Wales.

JNO. WYLDE, Judge-Adv., N.S.W.

True Copy:—JNO. THOS. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 20 of 1817." per ship Sir William Bensley; acknowledged by Earl Bathurst, 24th July, 1818.)

Government House, Sydney, New South Wales,

My Lord, 15th May, 1817.

On the Dispatch of His Majesty's Colonial Brig Kangaroo on the 9th of last Month for England direct, I had hoped that All further Correspondence with and Communication respecting Lieut't Jeffreys, the Commander of that Vessel, would have Ceased, and that I should not have been under the Necessity of Intruding further on Your Lordship by making any more Representations on the Subject of that Officer's Misconduct and Disobedience of orders. I now feel much Regret at being laid Under that Necessity, from my Sense of Public Duty, by the Conduct pursued by Lieut't Jeffreys on leaving this Port, and subsequently proceeding to Hobart Town in Van Diemen's Land in direct Violation of the written Instructions which I had given him.

Reports on
misconduct of
lieutenant
Jeffreys.

In a few Hours after the Kangaroo sailed from this on the 9th Ult., it was reported to me that a Merchant of Sydney, Called Garnham Blaxcell,* had effected his Escape from hence on board that Vessel, and that he had been aided and assisted therein

Escape of
Garnham
Blaxcell
on H.M. brig
Kangaroo.

* Note 101.

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Affidavit of
committee of
survey on
H.M. brig Emu.

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15 May.

by Lieut't Jeffreys, her Commander, with a full knowledge that Mr. Blaxcell's Departure in that Clandestine Manner was a flagrant Breach of the 10th and 13th Articles of the Port Regulations,* which, as an Officer in His Majesty's Service, it was his Duty to Maintain and be guided by.

Jeffreys' knowledge of Blaxcell's financial position.

Mr. Blaxcell was well known to Lieut't Jeffreys to be under pecuniary Embarrassments to a very Considerable Extent, and it was equally known to him that his Creditors had no means of Redress for some years past owing to there not being a Court of Justice, until the present time, Competent to afford them relief; both which Circumstances prove how grossly Improper and Illegal Mr. Jeffreys' Conduct has been in thus aiding an unprincipled Man to Elude the payment of his Just Debts.

Blaxcell's indebtedness to government.

Neither was it Unknown to him that this Government had very Considerable Claims against Mr. Blaxcell on Account of Duties on Spirits, Sandal Wood, and Pearl Shells, for which he had given his Notes of Hand or other Accustomed Securities to an Amount Exceeding £2,000, and which still remain unsatisfied owing to the same Circumstance of Want of a Competent Court to sue for it in.

These Debts to the Crown were, at the very time of Mr. Blaxcell's Clandestine Escape, put in Train for being sued for and recovered in the Supreme Court, and the Documents respecting them are at this time in the Hands of the Crown Solicitor to be acted on in the present first Term of that Court. Mr. Blaxcell's Escape in this Manner, just at the opening of the Supreme Court, is evidently to be attributed to the disgraceful Purpose of defrauding the Crown and his other Creditors, and these Circumstances were well known to Lieut't Jeffreys.

Sailing instructions given to Jeffreys.

Having had some Intimation of it being intended by Lieut't Jeffreys to proceed from this to Van Diemen's Land, instead of pursuing his direct Course to England, I introduced an Article into the Sailing Instructions, with which I furnished him, strictly prohibiting him from touching at any Port or Place in this Country or Van Diemen's Land, unless forced thereto by Stress of Weather or other Unavoidable Circumstances. These Instructions I delivered myself to Lieut't Jeffreys, who read them in my Presence the day before he sailed; and he then promised (of course Unsolicitedly) to pay due Obedience to them in every Respect. For Your Lordship's more distinct Information on this Head, I do myself the Honor to transmit Your Lordship herewith a Copy of the Instructions given to Lieut't Jeffreys, which will also shew that he was particularly Enjoined not to take any Person away from this Colony, who was not either regularly borne on the Muster Roll of the Brig's Company under his

* Note 102.

Command, or Included in a List of the Passengers authorized by Me to proceed to England, with which he was furnished Officially by My Secretary.

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Lieut't Jeffreys having taking away Mr. Blaxcell in the Manner described and also proceeded to the Derwent in Van Diemen's Land instead of pursuing a direct Course for England, as he had been Enjoined, will Sufficiently Convince Your Lordship, with what Criminal Disrespect and Disobedience Lieut't Jeffreys has acted towards me and the Laws of the Colony in both these Instances.

Jeffreys'
disobedience
of orders.

The Course, which Lieut't Jeffreys should have taken in obedience to the Instructions with which he was furnished by me to proceed direct for England, would have led him by New Zealand and round Cape Horn, and, at the time of his Sailing from Port Jackson, the Wind was perfectly favorable for that course.

Correct sailing
course for brig
Kangaroo.

The Disobedience of Lieut't Jeffreys, in regard to his touching at Van Diemen's Land and his having Mr. Blaxcell on board, have been confirmed to me by the Arrival a few days ago of a Vessel from Hobart Town; Whereby I received a Dispatch from the Lieut. Governor Sorell, dated the 5th Inst., in which he Informs me that the Kangaroo was then at the Derwent, having put in there a few days before on the Plea of having lost A Boat and suffered some Damage in a Gale of Wind on the Coast. When Lieut. Govr. Sorell became Informed of the orders I had given Lieut. Jeffreys, He directed him Immediately to weigh Anchor and pursue his voyage to England.

Reports received
from Hobart.

With so little Regard even to the Appearance of a decent Compliance with the Colonial Laws has Lieut. Jeffrey's Conducted himself on this occasion, that he allowed Mr. Blaxcell to appear in the Streets of Hobart Town, where he was seen by Several Persons; and his not having Apprized Lieut. Govr. Sorell that such a Person had left this on board the Kangaroo, without Authority, will fully prove that he was himself privy to and assisting in it; otherwise he would have Surrendered him as a Prisoner to Lieut. Govr. Sorell, or at least reported the Circumstance of his being on board without his Leave or Authority.

Evidence of
Jeffreys'
connivance in
Blaxcell's
escape.

Having now, My Lord, stated these Circumstances, I most respectfully submit it as my opinion that Lieut. Jeffreys should be Called upon on his Arrival in England to answer for his disrespectful and Un-Officerlike Conduct towards Me and this Government, and that such Measures as may be best adapted to the occasion be pursued to punish him in such Manner and Degree as his Insolent and premeditated Disobedience to and Breach of my orders and Instructions may Merit.

I have, &c.,

L. MACQUARIE.

1817.

15 May.

Sailing
instructions for
Lieutenant
Charles Jeffreys.

[Enclosure.]

INSTRUCTIONS for Lieutenant Charles Jeffreys, Royal Navy, Com-
mander of His Majesty's Colonial Brig Kangaroo.

Government House, Sydney, N. S. Wales,

Sir,

8th April, 1817.

1. In pursuance of the Commands of The Right Honourable Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, directing that I should send home the Brig under your Command with as little delay as possible, to be disposed of on her Arrival in England in such manner as His Majesty's Government and the Commissioners of the Transport Board may deem expedient, and the Kangaroo being now Completely repaired and fitted Out for Sea, with a Sufficient Supply of Provisions, Stores, Water, and fuel for the Voyage, you are hereby Ordered and directed to proceed on your Voyage to England tomorrow morning at Day-break, Wind and weather permitting, taking care however that all your Crew and Passengers are on Board, and also my Dispatches for His Majesty's Ministers, before You Weigh Anchor.

2. You are particularly enjoined not to touch at any port in Van Diemen's Land nor at any other Port on this Coast, unless You are Compelled to do so from some unavoidable necessity or Stress of Weather. You are also enjoined not to touch at the Cape of Good Hope except from a Similar unavoidable Cause or Stress of Weather.

3. It is proper I should particularly caution you to have every Person on board the Kangaroo Mustered before you leave Port Jackson to ascertain whether they are borne on your Muster Roll or are in the List of Passengers, with which you have been furnished by myself or my Secretary, making, at the same time that you Muster your Crew and Passengers, a strict and dilligent Search in every part of the Brig under your Command, lest there may be any Convicts or other unauthorized Passengers concealed On Board; and if any of either description should be found, you are to send them on shore as prisoners immediately reporting the circumstance to me.

4. On your arrival in England, you are immediately to report the same to the Commissioners of the Transport Board And receive their Orders for your future guidance, shewing them these Instructions on your arrival in London and delivering to them the Letter you will receive herewith to their address from me.

I have, &c.,

L. MACQUARIE, Govr. in Chief of N. S. Wales.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
15 May.

(Despatch marked "No. 21 of 1817," per ship Sir William Bensley; acknowledged by Earl Bathurst, 24th August, 1818.)

New South Wales, Government House, Sydney,
My Lord, 15th May, 1817.

A long attention to and serious Consideration of the Commercial and Shipping Interests of this Colony, and an anxious desire to promote them, as well for the sake of the Colony itself as with a view to the eventually relieving the Mother Country from a portion of that burthen she now bears in consequence of the few Means hitherto possessed by this Country to lessen its weight, have convinced Me that the Imposts or Duties laid here on Articles the produce of the South Sea Islands or surrounding Seas are as Impolitic in principle as they have been proved by the experience of several Years to be Unproductive in Revenue.

Duties on imports from South Sea islands.

The Duties to which I allude are those on Sandal Wood, Pearl Shells, Beeche-le-mer, Fish Oil, Seal and Kangaroo Skins, All of which Articles (the last excepted) being Collected at a Weighty Expence in the Out fit of the necessary Shipping and Principally with a view to re-exportation to England or China; the subjecting them when brought hither to a weighty Impost as at present renders it impossible for our Merchants to send them to England on such advantageous terms as to hold out a sufficient encouragement for them to persevere in the trade; And the Consequence has been that the Spirit of enterprize, which prompted the Merchants of Sydney a few Years ago to equip Vessels for the Trade of those Seas, has been declining and is likely to decline still further, unless some relief be extended to it.

Effect of the duties upon trade.

It is to be observed that at present this Country is not so fortunate as to furnish almost any one article of its own growth or produce worthy of Export; and the Consequence has been that its efforts to obtain Exports have been turned to the procuring the Oil, Skins, Shells, etc., which the surrounding Seas and South Sea Islands produce, but these being taxed here and afterwards on importation into England the profits of the Trade are unequal to the Support of it.

Want of articles for export.

On these grounds My Lord I conceive that the entire Duty, chargeable on the Articles alluded to, should be confined solely to that portion of them which may be consumed here, and that a Drawback of the Duty should be allowed on what is re-exported.

Proposed drawback on articles re-exported.

This Measure would hold out a considerable encouragement to the Trade, and would not be felt in the Amount of the Revenue; for the weight of the Duties at present Acts nearly as a prohibition to it; and I therefore beg to recommend to Your

1817.
15 May.

Lordship's Superior Judgment the expediency of authorizing a Draw Back on all the Articles enumerated in the Accompanying Schedule to be made on being re-shipped for another Market.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

Schedule of
duties on
articles
imported from
the South Seas.

THE following Duties to be levied and Collected by the Naval Officer on the Articles named upon their Arrival and Landing, whether for Colonial consumption or Re-shipment:—

	£	s.	d.
On each ton of sandal wood	2	10	0
On each ton of Pearl shells	2	10	0
On each ton of Beeche-le-mer	5	0	0
On each ton of Sperm Oil (252 Galls.)	2	10	0
On each ton of black whale or other oil	2	0	0
On each fur seal skin	0	0	1½
On each hair Do.	0	0	1½
On each Kangaroo Do.	0	0	1½

True Copy :—JNO. THOS. CAMPBELL, Secy.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

16 May.

Sir,

Downing Street, 16th May, 1817.

Permission for
Shackley to
return to the
colony.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Edward Shackley, to return to the Settlement of New South Wales.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 22 of 1817," per ship Sir William Bensley; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

16th May, 1817.

Visit of H.M.
brig Kangaroo
to the Derwent.

1. I had the Honor of last addressing Your Lordship on the 4th of April by His Majesty's Colonial Brig Kangaroo, which sailed from hence direct (as I had then Reason to suppose) for England on the 9th of last Month; but I have within these few days had the Mortification to learn that the Commander of that Vessel has dared to touch at the Derwent in Van Diemen's Land, in direct Disobedience of my positive Orders and Sailing Instructions to the Contrary. On this particular Subject, however, I have already addressed a Separate Dispatch† to Your Lordship. By the present Conveyance, the Ship Sir William Bensley late male Convict Transport, now proceeding to England Via Bengal, I do myself the Honor to transmit the Duplicates of my Dispatches per the Kangaroo.

* Note 22.

† Note 103.

2. Since the Departure of that Vessel, I have had the Honor to receive Your Lordship's, and the Under Secretary of State's several Letters and Dispatches, as Specified in the Margin* together with their respective Enclosures and Accompaniments, to all which I shall pay the most prompt and respectful Attention in Carrying Your Lordship's Orders and Instructions into Effect.

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16 May.
—
Despatches
acknowledged.

3. I now do myself the Honor to report to Your Lordship the Arrival here of the following Male Convict Ships from England, subsequent to the Date of my last Dispatches per His Majesty's Colonial Brig Kangaroo, vizt:—

First.—The Ship Morley, Commanded by Captn. R. R. Brown arrived on the 10th of April last with 175 Male Convicts from England, guarded by a Detachment of the 46th Regt. under the Command of Lieut. Purcell of the same Corps, and having Mr. Robt. Espie as Surgeon and Superintendent, Mr. J. T. Amos, Free Settler, and some few discharged Soldiers having Come Passengers on board the said Ship and the whole of the Convicts arrived in good Health, None having died on the passage.

Arrival of the
ship Morley,

with Amos as
passenger.

Second.—The Ship, Shipley, commanded by Captn. L. W. Moncrief, arrived on the 24th April last, with 125 Male Convicts from England, guarded by a Detachment of the 46th Regt. under the Command of Lieut. McPherson of the same Corps, and having Mr. George Clayton as Surgeon and Superintendent. Mr. James Williamson and Mr. John Smith, Free Settlers, have Come out as Passengers on board The Shipley. None of the Convicts died on the passage and the whole have arrived in good Health, including the Soldiers, Crew and Passengers.

Arrival of the
ship Shipley,

with
Williamson
and Smith as
passengers.

4. Exclusive of the two foregoing Male Convict Ships, I do myself the Honor to report to Your Lordship that the private Merchant Ship Harriet, Commanded by Captain James Jones, and of which Mr. Joseph Underwood, Merchant of this place, is owner, arrived here from England on the 12th Inst., having sailed thence on the 18th of November last, touching on her Passage at Rio de Janeiro and at the Derwent in Van Diemen's Land, and laden with a very Valuable Cargo of various Goods and Merchandize for the Use of this Colony. In this Ship, Messrs. M. J. Whitaker, H. Thrupp and — Emmett, Free Settlers, Five Missionaries for the Society Islands, and several other private persons have Come out as Passengers.

Arrival of the
ship Harriet,

with Whitaker,
Thrupp, and
Emmett as
passengers.

5. The short time, that has Elapsed since the Date of my last General Dispatch of the 4th Ulto., has not produced any remarkable occurrence in the Colony worthy of reporting to Your Lordship, further than that the Rains having Continued almost

* 6th April, 23d May, 12 Sept., 23d October, 4th Nov., 5th do., 22 do., 2, 4, 5 and 12 December, 1816.

1817.
16 May.
Results of
excessive
rainfall.

Arrival of
Sorell at
Hobart.

Movements of
Davey.

Surrender
of the chief
bushranger in
Tasmania.

Departure of
John Oxley to
explore the
Lachlan river.

Incessant ever since the Date of my last Dispatch, the Public Roads and Bridges in the Interior of the Colony and the Streets in the Town of Sydney have generally been very much Injured. These Constant Rains for almost the Whole of the last Six Months have greatly retarded the public Works of Government, and have also prevented the Settlers generally from working up their Grounds and sowing their Wheat at the Usual time for their next Harvest.

6. By a late Arrival from the Derwent, I received Letters from Lieut. Governor Sorell, dated the 3d of this present Month, reporting his safe Arrival at Hobart Town from hence on the 8th, and having received the Government of the Settlements in Van Diemen's Land from Col. Davey on the 9th Ulto. Col. Davey still remained at the Derwent at the date of my last advices from thence, but whether it be his Intention to return to England or to settle permanently in the Colony is not yet known. It is however his Intention to Come up to Sydney soon for the purpose of prosecuting Assistant Surgeon Younge, who is now here Under an Arrest at His Instance for Disobedience of orders and disrespectful, Insolent Conduct.

Lieut. Governor Sorell reports to me that the Principal Chief or Leader of the Banditti of the Bush Rangers, who have so long Infested the Settlements in Van Diemen's Land, had surrendered himself to Him, and that he was in Sanguine Hopes, thro' the Means of this Leader, of being soon able to apprehend or Extirpate the Whole of this Banditti of Marauders.

7. I have the Pleasure to report to Your Lordship that the Expedition* under the Command of Mr. Oxley, the Surveyor General, which, in Compliance with Your Lordship's Commands, I fitted out lately for the purpose of prosecuting the Discoveries to the Westward, as far as the Ocean, arrived safe at the Depot on the Right Bank of the "*River Lachlan*" on the 25th of the last Month of April, and Set out finally from thence on the 28th of the same Month in good Health and Spirits, well supplied with provisions and Necessaries of every Description fully sufficient for Five Months, in which time there is no doubt they will be able to return to Bathurst after executing the Service they are sent on, and tracing the Lachlan River to the Sea, in Case it extends so far, and which there is every reason to believe it does, as it has every Appearance of being a large River, and is at present Navigable for Small Boats, two of which, built for the purpose, have proceeded with the Expedition, laden with such Provisions and Necessaries as they Could safely Carry and which will, I have no Doubt, prove of great Service. The Depot on the Lachlan River, from whence the Expedition finally took their Departure, is a Distance of 240 Miles nearly due West from

* Note 85.

1817.
16 May.

Sydney, and I therefore conclude they have by this time overcome the principal Obstructions and Difficulties likely to be Encountered in Navigating the Lachlan River. It is now impossible to have any further Intercourse with this Expedition 'till its Return to Bathurst, when I shall not fail to give Your Lordship the earliest possible Information of its Result.

8. It being always Uppermost in my Mind to point out and suggest any Measure that Can possibly tend to Reduce the present Enormous Expences of this Colony to the Mother Country under the present Pressure of Public Affairs at Home, I take the Liberty of respectfully submitting for your Lordship's Consideration, that in the Event of my recent Application for Augmenting the Military Force of this Colony (a Measure indispensably Necessary in the present extended State of it and Increase of Population) being Acceded to, that the Royal Veteran Company of New South Wales, formed here in 1810 at my own Suggestion on the 102d being relieved by the 73rd Regim't, should be disbanded altogether, the Officers placed on the Half-pay, and the Non-Commissioned Officers and Soldiers Pensioned in this Country, with the Option of becoming Settlers in Case they should wish to do so; my Reasons for recommending this Measure are that this Veteran Company is now become Almost Altogether In-Effective, the Men being generally quite worn out through long Service, age, or infirmities, and consequently totally unfit to perform even the Common Garrison Duties. The Commissioned and Non-Commissioned Officers and Soldiers are all (with very few Exceptions) Married with large families of Children, all of whom, agreeably to the King's Regulations, are Victualled at the Expence to Government without its deriving any Adequate Advantage therefrom, as twenty five real Effective Soldiers, added to any Regiment which might be Stationed here, would render more Military Service to the Colony than the whole of the Royal Veteran Company, which at present Consists of One Hundred Rank and File; the Expence of Victualling the Women and Children of which is alone Equal at least to that of Victualling the Whole of the Women and Children of a Complete Regiment of the Line.

Under these Circumstances I take the Liberty of Strongly recommending that the Royal Veteran Company of New South Wales may be disbanded immediately as an Useless Expence, in the Manner I have herein already suggested; and that Your Lordship will accordingly be Pleased to Move His Royal Highness the Commander in Chief to send me orders to the foregoing Effect at whatever time the present Military Force is augmented.

Proposal to
disband the
royal veteran
company.

1817.
16 May.

Discontinuance
of issue of
rations and fuel
to commissariat
officers.

9. In Acknowledging the Receipt of Your Lordship's Letter of date 5th of December last, with its Enclosures, on the Subject of discontinuing the Issue of Fuel and Rations to the Families of the Officers Employed in the Commissariat Department in New South Wales, I cannot help expressing My Sincere Satisfaction at so invidious a Distinction being done away, as it occasioned much Discontent and Murmuring amongst the other Civil Officers to see their Families Struck off, whilst those of the Commissariat Officers were Kept on the Stores. I accordingly directed the Issue of Rations and Fuel to the Officers of the Commissariat Department to be discontinued Immediately on Receipt of Your Lordship's Dispatch on that Subject.

Victualling of
the families of
chaplains.

10. Some time previous to the Receipt of the orders just Adverted to, frequent Applications and Representations had been Made to Me by the Chaplains of the Colony, stating the Difficulties they labored under in having been deprived of the former Indulgence of receiving Rations for their Families from the King's Store, and that they in particular felt this Privation as falling most severely on them on Account of the Smallness of their Salaries, all of them, with the Exception of Messrs. Knopwood and Youl, having large Families to maintain. The Revd. Mr. Cartwright and some of the other Chaplains have also Stated to Me that, on receiving their Appointments at Home, they had been promised Rations for themselves and Families, and also a Government Servant on the Store, adding that they would not have come out to this Country, had not such promise been made to them, and that they are Actually Unable to Maintain their Families, unless this Aid be again Extended to them or an equivalent Addition made to their Salaries; with a View therefore to prevent this Meritorious and Useful Description of Men from Suffering any Distress, I have taken on Myself the Responsibility of ordering the Families of all the Chaplains to be again Victualled from the King's Store for *Eighteen Months* (Nominally in their Capacities as Settlers, according to the former Rule of Victualling Settlers) or until I shall receive further Instructions from Your Lordship on this Point, trusting Your Lordship will approve of my Conduct in this Instance for the Reasons I have Assigned. Those Officers of the Commissariat Department, who have large Families to Maintain, have also Stated the Hardship they suffer by having their Families Struck off the Store, and have represented to me that the Families of the Commissariat Officers in all His Majesty's other Colonies are victualled; Not having it in my Power to Judge of the Accuracy of this Statement, I have been Induced to Yield to the earnest Entreaties of Deputy Commissary General Allan in behalf of himself,

Victualling of
the families of
commissariat
officers.

and to other Married Officers of his Department, to sanction their Families being Continued to be Victualled for Eighteen Months longer (in their Capacities as Settlers) or until I shall receive Your Lordship's further Commands relative to this particular Department. I feel the very serious Responsibility I incur by Complying with these Solicitations from the Chaplains and Married Officers of the Commissariat Department, but I felt a Difficulty in drawing a Line between them on the present Occasion; and therefore I trust and hope Your Lordship will Excuse my Acquiescing in the Requests of both in the present Instance. But I do most sincerely hope the time is not far distant when the Issue of Rations from the Store to the Civil Officers of all Descriptions, and to their Families, shall entirely Cease and be discontinued, as it will be the Means of removing a very weighty Expence to Government, and save a vast Deal of Vexation and Trouble to the Executive Authority of this Country; when these Civil Officers are Indulged with Rations, they appear to set very little Value upon them; but at any time when they happen to be deprived of them, they make a prodigious Clamour, as if it were depriving them of their whole Means of Subsistence.

1817.
16 May.

The problem of victualling civil officers and their families.

Under these Circumstances I take the Liberty of strongly recommending that the Salaries of the Inferior Clergymen in this Colony, the Inferior Medical Officers, and other Subordinate Civil Officers, should be augmented as far as may be a fair and reasonable Equivalent for Rations and Fuel, and that then all Issues of Rations from the King's Store to the Civil Officers and their Families should forever be discontinued and Abolished, Which I am Convinced will be found to be a very great Saving to the Crown. I do not think it will be at all Necessary to augment the Salaries of any of the Commissariat Officers, as they are already very liberally paid and in my opinion ought to be able to live on their Salaries and Allowances very Comfortably, without receiving any Rations either for themselves or their Families from the Store at the Expence of the Crown.

Proposal to augment the salaries in lieu of rations.

11. In Consequence of Mr. Judge Advocate Wyld's now Presiding at the Weekly Meetings of the Bench of Magistrates at Sydney, as had been heretofore the Custom with his Predecessor to do (altho' discontinued by the late Mr. Judge Advocate Bent), he Claimed the Usual Indulgence allowed to other Magistrates of having Four Government Men Clothed and Victualled from the King's Store. I have for the present acquiesced in this Request, until such time as I could make Reference to and obtain an answer from Your Lordship on this point; for, as the Judge Advocate Enjoys a handsome Salary as such, I do not Conceive he ought to have Four Government Men Allowed him in Common

Claim of Wyld as a magistrate to government servants.

1817.
16 May.

Claim of Abbott
to government
servants.

with the other Magistrates who receive no Salaries at all, and who Consequently are entitled to the remuneration for their Services. Mr. Abbott, the Judge Advocate of Van Diemen's Land, has set up a Similar Claim to that of Mr. Judge Advocate Wylde, and his being exactly a Similar Case I have been induced to acquiesce also in it, 'till I am Honored with Your Lordship's final Instructions on all these Points.

Victualling of
Wylde, Field,
and their
families.

Mr. Judge Advocate Wylde and Mr. Field, the Judge of the Supreme Court, having both assured me that they were promised Rations for themselves and Families from the King's Stores here on receiving their Appointments in England, I have taken on myself the Responsibility of putting them and their Families on the Stores, Until I receive Your Lordship's Commands respecting their particular Case, and I have therefore to Express My earnest Hope that Your Lordship will as soon as possible Instruct me fully on all these Points, and that one Rule may be Established respecting the whole of the Civil Officers serving in this Colony, without making any Distinction whatsoever, Confining the whole to their Salaries and fair Established Fees of Office.

Returns from
Tasmania
transmitted.

12. The following Annual Returns and Documents, which had not been received from Van Diemen's Land at the date of my last Dispatches per the Kangaroo, are now herewith transmitted for Your Lordship's Notice and Information, Viz:—

1st. Result of Annual Gen'l Muster of the Settlements of Van Diemen's Land taken for the Year 1816.

2d. Returns of Marriages, Births and Deaths in the above mentioned Settlements from 1st July to 31st of December, 1816, Inclusive.

Return of
pardons.

I have also the Honor to transmit herewith for Your Lordship's Notice and Information the Return of Absolute and Conditional Pardons granted by me from the 2d of June to the 31st of December last, Inclusive.

Transmission
of copies of
Sydney Gazette.

13. I did myself the Honor of forwarding per the Kangaroo for Your Lordship's Notice and Perusal the regular Series of the *Sydney Gazettes* from the 15th of June, 1816, to the 29th of March, 1817, both days Inclusive, but in the Hurry of Closing My Dispatches I omitted to report to Your Lordship that I had transmitted these *Gazettes*.

Transmission
of despatch.

14. This Dispatch will be delivered to Your Lordship by Mr. William Evans, late Surgeon and Superintendant of the Sir William Bensley, Male Convict Ship, who appears to me to be a very Modest, sensible well Informed Man, and I therefore take the Liberty of recommending him to Your Lordship's Favor and Protection.

I have, &c.,

L. MACQUARIE.

[Enclosures Nos. 1 and 2.]

1817.
16 May.*[Copies of the returns relating to Tasmania will be found in a volume in series III.]*

[Enclosure No. 3.]

[A copy of the return of pardons is not available.]

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch marked "Private and Confidential," per ship Sir William Bensley.)

Government House, Sydney, N. S. Wales,

My dear Sir,

17th May, 1817.

17 May.

I am afraid you will consider it a great presumption in me, unknown to you Personally as I am, to importune you with Private Correspondence, for I well know how much occupied you must be with the Details of your own official Avocations, and consequently how unreasonable it is in any one to intrude on your time with any thing of a Private Nature. But I trust to the general Urbanity of your Character for my excuse in troubling you on the present occasion on a few points closely connected with my Public Situation here, which I am particularly anxious to bring to your notice for the purpose of your submitting the same to Earl Bathurst at some convenient opportunity, in case you see no impropriety in so doing.

Apologies for making private communications.

I took the liberty of writing to you, by way of India, on the 31st of August last, enclosing you a paper containing a List of certain Points referred, in my several former Public Dispatches, for the consideration and approval of Earl Bathurst, and on which I had received no communication from his Lordship. In event of that Letter to you on this subject having miscarried, I now send herewith a List of Points referred to His Lordship, to which I have, as yet, received no answers, some of the Points contained in the former List being omitted in the present one in consequence of having been decided on already by his Lordship, and others substituted in the List now forwarded which were not in the former.

Subjects submitted for consideration.

I wish particularly to be informed, as soon as possible, whether Lord Bathurst approved of my appointing a Commandant for a limited period to superintend the Settling and improving of the New discovered Country to the Westward of the Blue Mountains and annexing thereto the proposed Salary of £200 P'r Annum.

Appointment of commandant at Bathurst.

I am also very anxious to know whether Lord Bathurst approves of my paying the Donation of £300 Sterling, proposed in the 9th Paragraph of my Dispatch No. 7 of date 24 June, 1815, to William Cox, Esqr., from the Police Fund, as a reward for his important and very useful Services in the new discovered Country.

Proposed gratuity to William Cox.

1817.
17 May.

I have not yet paid this Money to Mr. Cox not wishing to take on myself the responsibility of so doing without previously receiving Lord Bathurst's approval thereof.

I have in a late Dispatch recommended my Secretary, Mr. John Thomas Campbell, to Lord Bathurst to be confirmed as such under the Designation of "*Government Colonial Secretary*," as being more dignified and consequently more congenial to his feelings, as well as being more permanent. Mr. Campbell being a particular friend of mine and a highly honorable useful Officer, I should esteem it a very particular favor if you would have the goodness to use your good offices with Lord Bathurst to grant my request in his behalf, in respect to his being officially authorized to assume the above mentioned designation.

I must also entreat the favor of you to use your good offices with Earl Bathurst to confirm Mr. James Meehan as Deputy Surveyor General, and to have a regular Commission sent to him as such; as he is a most useful, deserving, Meritorious Man, and has rendered most essential Services to this Colony in his Capacity of Deputy Surveyor and Acting Surveyor General for the last Twelve Years. Mr. Meehan's very extensive Local knowledge, his strict honor and probity, and his superior talents as a Land Surveyor, all render him a most valuable acquisition to this Government, and as such, I take the liberty of strongly recommending him to your Private Patronage and good offices.

The last circumstance, which I shall now trouble you with, and not the least important to myself Personally, is that relative to the wicked, libellous, and Seditious Address* of a few discontented wretches here, of the lowest and most infamous description, sent home in charge of their Emissary, The Revd. Benjamin Vale, for the purpose of being laid before the House of Commons, the said address purporting to be a statement of Grievances they are suffering under my Government. The Writer of this infamous, false, and factious Address is Mr. Solicitor Moore; but there is good reason to believe (tho' no direct proof) that he was only employed as a Tool by Mr. Justice Bent, who was the grand Mover of this vile Libel but who cautiously kept in the back ground. The Means, now well known to have been used by Mr. Solicitor Moore and two or three other unprincipled disaffected Persons here, to obtain the signatures of 30 or 40 Common low drunken fellows to this seditious Address, were most disgraceful, Many of the Persons who signed it having since acknowledged that they were quite Drunk, when taken to Mr. Moore's House for that purpose.

I should not have troubled you on this delicate subject, only that I am particularly anxious to obtain the original address

Proposed
appointment
of Campbell as
government
colonial
secretary ;

and of
James Meehan
as deputy
surveyor-
general.

Address to the
House of
Commons.

* Note 77.

itself if possible, and if not the original, at least an attested Copy thereof. In case therefore Mr. Vale should either deliver this address to Earl Bathurst, or have sufficient interest with some Member of the House of Commons to lay it before that House, I shall esteem it a particular favor, in either case, if you will be so kind as to procure an attested Copy of it and send it me by the first good opportunity. If it were possible to procure and send me the original address, I should be still more gratified, as the being in possession of it would enable me to prosecute the original authors and Contrivers of it here for a Libel, which would deter other ill disposed Persons from resorting to such treacherous and seditious Proceedings in future, the whole of the accusations contained in this address being a Collection of premeditated falsehoods.

1817.
17 May.

Request for
a copy of the
address.

Proposed
prosecution
for libel.

Trusting you will kindly excuse my thus writing to you at such length and occupying so much of your valuable time, I remain with sentiments of sincere esteem and respect,

My dear Sir, &c.,

L. MACQUARIE.

P.S.—I request you will have the goodness to inform me whether Lord Bathurst approves of the new discovered Country being called *Westmoreland*.*—L.M.

[Enclosure.]

LIST of important Points† referred to His Majesty's Principal Secretary of State for the Colonies by Governor Macquarie in former dispatches, to which no answers have yet been received, Viz.:—

Subjects of
importance
referred for
consideration
to England.

1st. The Power of granting Absolute and Conditional Pardons.

2d. The Circulation and stamping of the dollars received from India Per H.M. Ship Samarang for the use of the Colony, and paying them at 6s. 3d. Stg. each.

3d. The Leases granted by Govr. King of parts of the Government domain at Sydney for the *sites of Windmills* for 21 years contrary to the King's Instructions.

4th. The necessity of sending out at least two additional Chaplains for Sydney and Liverpool.

5th. The necessity of sending out a sober, moral, married Man, as Superintendant of the Government Female Factory at Parramatta.

6th. A properly qualified Mineralogist much wanted.

7th. Increasing the Pay and improving the situations of the Medical Officers in New South Wales.

8th. The dismissal of Mr. John Jamieson as Superintendant of Government Stock.

1817.

17 May.

Subjects of
importance
referred for
consideration
to England.

9th. The Pensions recommended for Messrs. Divine and Drummond for their respective services.

10. The necessity of appointing Criminal and Civil Courts of Judicature in Van Diemen's Land.

11. The Expediency of appointing a Commandant in the new discovered Country with a Salary of £200 P'r Annum for the first 3 years after sending Settlers thither.

12. The Donation of £300 Stg. recommended to be paid from the Police Fund to Wm. Cox, Esqr., for his important services in the new discovered Country.

L. MACQUARIE.

Sydney, N. S. Wales, 17th May, 1817.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 95, per ship Friendship; acknowledged by Governor Macquarie, 3rd March, 1818.)

23 May.

Return of wives
of convicts
permitted to
sail for N.S.W.

Sir,

Downing Street, 23d May, 1817.

I herewith transmit to you a Copy of a letter, which has been received from the Home Department, dated the 22d Instant, containing a List of Females, Wives of Convicts, and their Children, who have been permitted to proceed on board the Friendship to join their Husbands upon their arrival in New South Wales.

I have, &c.,

BATHURST.

[Enclosure.]

THE RIGHT HONOURABLE J. H. ADDINGTON TO UNDER SECRETARY GOULBURN.

Sir,

Whitehall, 22nd May, 1817.

Accommodation having been provided for Twenty Females, Wives of Convicts, and their Children on board the Ship Friendship, now fitting at Deptford for the conveyance of Female Convicts to New South Wales, I am directed by Lord Sidmouth to transmit to you the accompanying List containing the Names of some of the Persons, who have been Selected as proper objects to be allowed the Indulgence to proceed to New South Wales, and I am to desire that you will lay the same before Lord Bathurst and to move His Lordship to make a Communication of the same to The Governor of New South Wales, in order that such Persons may be permitted to join their Husbands upon their arrival in that Colony.

I am, &c.,

J. H. ADDINGTON.

[Sub-enclosure.]

[A copy of this list is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 96, per ship Larkins; acknowledged by Governor Macquarie, 11th December, 1817.)

1817.
24 May.

Sir, Downing Street, 24th May, 1817.

With reference to the Case of Mr. Jonathan Burke Hugo, as stated in my dispatch No. 93, I have now to transmit the Copy of a letter which has been received from Lieut. Colonel Gordon dated 21st Ultimo on the subject, and I am to request that you will give the necessary directions for ascertaining whether there are any funds belonging to Mr. Hugo now remaining in the hands of the Agent at Sydney, or whether the Sum in question was remitted to The House of Messrs. Alexander at Calcutta.

Report by
lieutenant-
colonel Gordon
on the claims of
J. B. Hugo.

I have, &c.,

BATHURST.

[Enclosure.]

LIEUTENANT-COLONEL GORDON TO UNDER SECRETARY GOULBURN.

Old Slaughter's Coffee House, 21st April, 1817.

LIEUT.-COLONEL GORDON presents his compliments to Mr. Goulburn, has the Honor to acknowledge the receipt of his note of the 17th inst. accompanying the enclosed statement of Mr. Hugo, which he begs leave to return. And begs leave to acquaint him for his Lordship's information, that this unfortunate Gentleman, as stated in his memorial, arrived at Launceston at the time he mentions, where he was received and treated with the usual attention due to a Stranger and a Gentleman, his manners being prepossessing and appearing to be well-informed and intelligent, until the unfortunate discovery of the unhappy deranged state of his mind; when deeming it absolutely necessary for our security, as well as for his own and his property, that he should immediately return on board his Brig and proceed on his destination to Sydney, Port Jackson. The anxiety he expressed to know who Mr. Hugo was, proceeded from his declaring Mr. Hugo to be an assumed name; that he should soon learn, who he really was, and from some ambiguous hints that he dropt, for a moment, led him to believe him to have been a relative. The Chest of Madeira was no doubt intended as a present by Mr. Hugo, but which under any circumstances he never could have accepted, but more particularly in his unhappy state of mind, and with two others landed during Mr. Hugo's short stay, and sent to him, unknown or unasked for, he paid to his Agent Mr. Jones at Sydney, as did Captain Kenny for some purchases of Spirits and Trowsers for his Comp'y, together with some Madeira Tea and Sugar for himself; Lt. Ron and Dr. Smith made some purchases likewise; this he concludes to be the plunder alluded to by Mr. Hugo, on his return to his Brig, finding them landing the Articles agreed upon by him with those Gentlemen, the second or third day

1817.
24 May.

Report by
lieutenant-
colonel Gordon
on the claims of
J. B. Hugo.

after his arrival, and upon his order, previous to our discovery of his derangement; had his other orders been complied with, he no doubt would really have been plundered to a very great degree, having (as I understood) given many indiscriminately away to persons upon a long Credit, and who could never have any possible means of payment. The Guard, on board the Brig, was customary upon the arrival of all Vessels (and by order) to prevent the escape of convicts, landing of Military Stores, Spirits, &c. and which Guard for further security accompanied the Brig to Sydney with a statement of the occurrences to Governor Macquarrie. Lieut't Lyttleton was the Officer, who attended Mr. Hugo on board his Brig and accompanied him down the River to the Heads, whose humanity and attention to his unhappy sufferer obtained Governor Macquarie's approbation; yet upon Lieut. Lyttleton's return from the Brig, he was sorry to learn from him that he had been under the disagreeable necessity, from Mr. Hugo's violence, to have him tied down on his Cot, to prevent his throwing himself overboard; he afterwards learnt that on Mr. Hugo's arrival at Sydney, that he had been put under Medical treatment under charge of Dr. Redfern, who attended General Macquarrie's own family, but instead of recovering, was after some time sent to Calcutta, and there confined in the Insane Hospital. The Brig Active together with her Cargo was sold at Sydney, without doubt, not so advantageously, as had this unhappy Gentleman been in a state to be capable of managing his own affairs; the proceeds were collected by Mr. Jones, an Agent at Sydney, under the authority of Mr. Campbell, Secretary to General Macquarrie, and were he believes remitted to the House of Alexander at Calcutta, or firm with which Mr. Hugo was connected in the adventure of the Brig; that Mr. Hugo's claims are very just, he cannot entertain the least doubt, regrets much his unhappy derangement and harsh treatment that he has met with; yet has not the least doubt of his property being perfectly secure, altho' not nearly to the amount that he may have calculated upon; at any rate however Mr. Campbell can give every possible information relative to it, which should his Lordship deem requisite, he will immediately apply to him on the subject.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 97, per ship Friendship; acknowledged by Governor Macquarie, 3rd March, 1818.)

25 May.

Sir,

Downing Street, 25th May, 1817.

Proposed pardon
for convicts on
ship Francis
and Eliza.

Having submitted for the Consideration of Lord Sidmouth an Extract of your Dispatch,* wherein you request Authority to grant Conditional Pardons to the Male and Female Convicts who were sent out in the Francis and Eliza, I have now the honor

* Note 106.

to transmit to you a Copy of the Letter, which has been received in reply, stating that his Lordship does not think the circumstances of the case sufficient to justify his approbation of the Measure at present, but suggesting that when the Prisoners have served a further Term, you should be at Liberty to grant them Pardons in proportion to their respective Sentences on the Conditions which you have proposed; I have therefore to desire that you will accordingly comply with the directions contained in the above Letter.

I have, &c.,

BATHURST.

[Enclosure.]

UNDER SECRETARY BECKETT TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 5th May, 1817.

Lord Sidmouth having taken into Consideration the Extract of the Dispatch, which you transmitted to me in Your Letter of the 29th Jany. last, which had been received from the Governor of New South Wales, wherein he requests authority to grant Conditional Pardons to the Male and Female Convicts, who were sent out in the Francis and Eliza as a reward for their Meritorious Conduct, when Captured by an American Privateer, I am directed to acquaint you for Lord Bathurst's Information that it does not appear to Lord Sidmouth that the Grounds stated by Governor Macquarie for Granting this Indulgence are sufficient to authorize his approbation of the Measure, so soon after the arrival of the Prisoners in the Colony. His Lordship has however directed me to suggest for Lord Bathurst's Information, whether it would not be advisable to signify to Governor Macquarie that, when the Prisoners in question shall have served a further Term proportioned to their respective Sentences, He might then be at liberty to Grant these Persons Pardons on the Conditions which he has proposed.

I have, &c.,

JOHN BECKETT.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 98, per ship Friendship; acknowledged by Governor Macquarie, 3rd March. 1818.)

Sir, Downing Street, 26th May, 1817.

I herewith transmit to you the Copy of a letter which has been received from The Home Department, dated the 22d Instant, containing the recommendation of Lord Sidmouth that George Hubbard, who was convicted in the Year 1813 of aiding the escape of French Prisoners, and transported for Life in the Ship *General Hewitt*, should receive a free Pardon provided he has conducted himself with propriety during his stay in New South Wales; Also stating that some doubt having arisen respecting the period of the Sentence of William Roberts, who was sent

1817.
25 May.

Proposed pardon for convicts on ship Francis and Eliza.

26 May.

Proposed pardon for George Hubbard.

1817.
26 May.

The sentence on
William
Roberts.

out in the Year 1803, it was his Lordship's opinion that it would be proper to alter the Sentence from Transportation for Life to the Term of Fourteen Years; I have therefore to desire that you will take the necessary Steps for complying with the directions contained in the enclosed Letter. I have, &c.,

BATHURST.

[Enclosure.]

THE RIGHT HONOURABLE J. H. ADDINGTON TO UNDER SECRETARY
GOULBURN.

Sir,

Whitehall, 22nd May, 1817.

Proposed free
pardon for
George
Hubbard.

Application having been made on behalf of George Hubbard, who was Convicted in the Year 1813 of aiding the Escape of French Prisoners of War, for which he was sentenced to Transportation for Life, and in pursuance of such Sentence was sent to New South Wales in the Ship Gen'l Hewitt, I am directed to acquaint you for Lord Bathurst's Information that Lord Sidmouth, upon full consideration of all the Circumstances of the Case, is desirous that the Prisoner should receive a Free Pardon and be permitted to return to this Country, provided he has conducted himself with propriety during the time that he has been at New South Wales. I am therefore to desire that you will move Lord Bathurst to be pleased to communicate to the Governor of New South Wales Lord Sidmouth's Sentiments respecting the Prisoner above mentioned.

The sentence
passed on
William
Roberts.

An Application having also been received from a Prisoner named William Roberts, who was sent to New South Wales in 1803, respecting the period of his Transportation, and as upon a reference to the Documents in this Office there appears a doubt (two Prisoners of the Same Name having been Convicted at the same Session, one of whom was Transported for Life and the other for 14 Years) whether the Prisoner in question was transported for 14 Years or for Life; I am directed by Lord Sidmouth to desire that you will move Lord Bathurst to direct the Governor of New South Wales to alter the Prisoner's Sentence to Fourteen Years, if it shall appear upon reference to the Indents that it is set down for Life. I am, &c.,

J. H. ADDINGTON.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 23 of 1817," per ship Shipley; acknowledged by Earl Bathurst, 24th July, 1818.)

Government House, Sydney, New South Wales,

3 June.

My Lord,

3rd June, 1817.

In my Dispatch No. 20 of the present year, I have communicated to your Lordship the circumstances of Mr. Garnham Blaxcell, a Merchant of this place, having clandestinely effected

his Escape from hence on board His Majesty's Colonial Brig Kangaroo, Lieutenant Jeffreys Commander, with the full Knowledge and privity of that Officer, and to the great injury of Mr. Blaxcell's numerous Creditors.

1817.
3 June.

Escape of
G. Blaxcell.

I have now the honor further to inform your Lordship that having taken the opinion and advice of Mr. Judge Advocate Wylde under date the 16th Ulto., in respect to the measures which ought to be pursued here for the recovery of Mr. Blaxcell's Debt to the Crown, I received under the Same date that Gentleman's Answer, from whence it appears (as he states) that in consequence of Mr. Blaxcell's escape "no Government Execution can be obtained for the benefit of the Crown in this Country."

Legal opinion
re prosecution
of Blaxcell.

Under the further Advice contained in Mr. Judge Advocate Wylde's letter on this Subject, I have caused an attested copy to be prepared in Triplicate of the debt due from Mr. Blaxcell to the Crown, and now do myself the honor to transmit one of those attested copies herewith for your Lordship's information in case it should be considered expedient and competent to the Crown to take any Measures in that respect in England, whither Mr. Blaxcell is now on his passage.

Owing to the very long interval* which elapsed without there being any competent Court of Law in this Colony to sue for the recovery of the Debt in question, I had it not in my Power to cause any effectual Measures to be taken for that Purpose, until Such time as the Supreme Court under Mr. Justice Field had opened here early in April last, at which time the Solicitor for the Crown was instructed by me to proceed against Mr. Blaxcell.

Impossibility
of prosecuting
Blaxcell.

The absconding of Mr. Blaxcell on the 9th of April has frustrated those efforts for the present, and placed me under the necessity of making this representation to Your Lordship, in the hope that Some Measures may be resorted to for the recovery of this Money in England.

It being understood that the chief object of Mr. Blaxcell's Voyage is to recover a Sum of money of between 5 and £6,000, said to be owing to him by the house of Messrs. Plummer and Co., Merchants of Mincing Lane, London, if any part of that money could be attached in their hands it would be the readiest, if not the only, mode of obtaining Payment of Mr. Blaxcell's Debt to this Government.

Alleged object
of Blaxcell's
voyage.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

GOVERNOR MACQUARIE TO JUDGE-ADVOCATE WYLDE.

Sir, Government House, Sydney, 16th May, 1817.

Mr. Garnham Blaxcell,† Merchant of Sydney, having lately absconded from the Colony and made his escape from his Creditors in a Clandestine Manner on board His Majesty's Colonial

1817.
 3 June.
 Indebtedness of
 Blaxcell to
 government.

Brig Kangaroo, and this Gentleman being indebted to this Government in the Sum of £2,385 8s. 9d. Sterling in Bonds and Promissory Notes, on account of Duties on Spirits, Sandal Wood, and Pearl Shells, I now do myself the honor to hand you herewith for your perusal and consideration the said Bonds and Promissory Notes, requesting you will be pleased to favor me with your legal Opinion in respect to the Measures, which ought to be pursued here for the Recovery of the Said Debt due to the Crown by Mr. Blaxcell, and whether any property he may have left in the Colony can be legally Seized or attached for the payment of the Same.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 2.]

JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Advocate's Office, Sydney, 16th May, 1817.

Opinion of
 judge-advocate
 re proposed
 prosecution of
 G. Blaxcell.

I beg leave to acknowledge Your Excellency's Letter of this day's date, inclosing the Securities and Vouchers relating to the Debt due to this Government from Mr. Garnham Blaxcell (Stated to have absconded from the Colony), in respect to duties chargeable to him, and requesting my opinion as to the Measures which ought to be pursued here for the recovery of the said Debt due to the Crown, And whether any property he may have left in the Colony can be legally Seized and attached for the payment of the same.

The usual proceeding for the recovery of all debts due to the King is by the Writ of Extent, of which it is Sufficient for the present purpose to observe that it issues only from His Majesty's Court of Exchequer in England, to which Court alone therefore all Jurisdiction belonging to such a Special Writ is confined. But as Jurisdiction is given by the Charter of Justice to the Supreme Court in this Colony as to any complaint made against any person, who at the time, when the Cause of Action accrued, resided within the Territory, it is competent certainly to commence a Suit on behalf of the Crown against Mr. Blaxcell for the recovery of the Debt due, which will be preferred and have the priority of Execution to that of any other person, if commenced before Judgment given for the said other person, but would only attach, as it appears to me upon the best Judgment I am enabled to form on the immediate occasion, upon all property then unaltered in the Debtor, and upon which I am not aware that the Government can have any especial right of making any legal Seizures or attachment, but by Virtue of Customary legal Proceedings.

It will be however of little avail to commence a Suit against Mr. Blaxcell at the instance of the Crown; inasmuch as no

Jurisdiction is given to the Court to proceed to the examination of the matter and cause of complaint, unless the Defendant is *personally*, or by his *Bail, in Court*; in the present case, however, rendered impossible by the Defendant's escape from the Colony; and no Judgment or Execution can therefore be obtained for the benefit of the Crown; and the only steps open to Your Excellency under all the Circumstances, and which I am informed your Excellency has already adopted, seem to be that Instructions be given to the Solicitor for the Crown to attend and make claim on behalf of the Crown among the Creditors, who I understand are about to enter into some arrangements for the general advantage of all concerned, and generally, as far as may be allowed, to have in care the Interests of the Government in any property in the Colony that may be found to belong to Mr. Blaxcell.

It may be proper, allow me to suggest to Your Excellency, that a sufficient affidavit of the Debt due from Mr. Blaxcell to the Crown should be forwarded to His Majesty's Government, in case it should be considered expedient and competent to the Crown to take any Measures in that respect, upon which it seems unnecessary, nor with propriety perhaps belongs to me, to offer my opinion.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[Enclosure No. 3.]

PAPERS RELATING TO DUTIES OWING BY GARNIAM BLAXCELL.

TO ALL TO WHOM THESE PRESENTS shall come, I, John Wylde, Esquire, Judge Advocate of and for the Territory of New South Wales and its dependencies, Do hereby Certify, to all to whom it may concern, That on the day of the date hereof personally came and appeared before me, John Piper and Robert Campbell, the Deponents named in the two several Affidavits hereunto annexed, marked respectively with the Letters A and B, being persons well known and worthy of good credit, and by solemn Oath, which the Deponents then took before me upon the Holy Evangelists of Almighty God, Did solemnly and sincerely declare, testify and depose to be true the several matters and things, mentioned and contained in the said two respective Affidavits; Therefore full faith and credit ought to be given thereto in Judicature and thereout. And I do further Certify and Declare, That I have carefully examined all the Exhibits mentioned in the Affidavit, marked B, with the copies thereof contained in the said Affidavit, and that such copies are literally and correctly transcribed.

IN FAITH and Testimony whereof, I have hereunto set my hand and seal, this second day of June, one thousand, eight hundred and seventeen.

JNO. WYLDE, Judge-Adv., N.S.W.

1817.
3 June.

Opinion of
judge-advocate
re proposed
prosecution of
G. Blaxcell.

Attestation by
John Wylde of
depositions.

*Depositions of John Piper and Robert Campbell, Jr.*1817.
3 June.Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

A.

NEW SOUTH WALES.

JOHN PIPER, of Sydney in the Territory of New South Wales, Esquire, Naval Officer for Sydney aforesaid in the said Territory, and Robert Campbell, of Sydney aforesaid, late the Assistant of Henry Glenholme, Esquire, the then Naval Officer for Sydney aforesaid in the Territory aforesaid, Severally make Oath and say: And first this Deponent, Robert Campbell, for himself saith that, on and from the thirty first day of December, one thousand, eight hundred and eleven to and on the fifteenth day of February, one thousand, eight hundred and fourteen, Garnham Blaxcell, late of Sydney aforesaid, Merchant, became indebted unto our Sovereign Lord the King for duties and for monies payable in respect thereof in the Several Sums of money following (that is to say) in the Sum of one hundred and forty two pounds, eighteen Shillings, and two pence, the sum of twenty one pounds, four shillings, and six pence, the sum of Fifty five pounds, eight shillings, and three pence, the sum of twenty four pounds, nine shillings, the sum of Seven hundred and thirty pounds, thirteen shillings and Nine pence, the sum of Fifty four pounds, nineteen shillings, and six pence, and the sum of Fifty one pounds, eighteen shillings, for duties on Spirits imported into Sydney aforesaid in the Ships or Vessels, called the Gambier, Friends, Guildford, General Graham, Wanstead, and other Vessels, which said several sums making together the sum of One thousand and eighty one pounds, Eleven shillings and two pence; and that the said Garnham Blaxcell has given and signed promisory notes or Acknowledgements for the said several Sums of money for duty on Spirits, payable to the said Henry Glenholme, Esquire, as the Naval Officer and Collector and receiver of the said duties, or to this Deponent, the said Robert Campbell as the Deputy or Assistant of the said Henry Glenholme; and this Deponent, Robert Campbell, further saith that, on the thirteenth day of December, one thousand, eight hundred and thirteen, the said Garnham Blaxcell became indebted to our said Sovereign Lord the King in the sum of one hundred and forty pounds, six shillings and three pence, and on the thirtieth day of September in the said year, one thousand, eight hundred and thirteen, in the further sum of four hundred and twenty pounds, eighteen shillings and nine pence, making together with the said last mentioned sum of money the sum of Five hundred and Sixty one pounds, five shillings for duties on Sandel Wood, imported into Sydney Aforesaid, which said two last mentioned sums make together the sum of five hundred and Sixty one pounds, five shillings; and the

said Garnham Blaxcell has given and signed promisory notes or Acknowledgements for the said two several last mentioned sums of Money for duty on Sandel Wood, payable to the said Henry Glenholme, Esquire, as the Naval Officer and Collector and receiver of the said duties. And this Deponent, Robert Campbell, for himself further saith that, on the twenty second day of September, in the year one thousand, eight hundred and fourteen, the said Garnham Blaxcell became Indebted to our said Sovereign Lord the King in the respective Sums of two hundred and thirty Six pounds and fifty Six pounds, one Shilling, making together the sum of two hundred and Ninety two pounds, one shilling, for duties payable on Pearl Shells imported into Sydney in the ships or Vessels called the James Hay and the Daphne; and the said Garnham Blaxcell has given and signed two certain Acknowledgements, bearing date respectively the twenty second day of September, one thousand, eight hundred and fourteen to Henry Glenholme, as the Naval Officer and Collector and receiver of the said duties for the said Monies so payable for the said duties; and that the said three several sums of one thousand and eighty one pounds, eleven shillings and two pence, five hundred and Sixty one pounds, five shillings, and two hundred and Ninety two pounds, one shilling, making together the sum of one thousand, nine hundred and thirty four pounds, Seventeen shillings and two pence, are, as this Deponent verily believes, now in arrear and unpaid, justly due and owing from the said Garnham Blaxcell to our said Sovereign Lord the King. And this Deponent, John Piper, for himself saith that on and from the thirtieth day of June, one thousand, eight hundred and fourteen to and on the eighth day of June, one thousand, eight hundred and fifteen, the said Garnham Blaxcell became indebted unto our said sovereign Lord the King in the several sums of money following (this is to say), in the sum of thirty four pounds, eight shillings, the sum of twenty four pounds, three shillings and three pence, the sum of seventy two pounds, nine shillings and nine pence, the sum of one hundred and twelve pounds, ten shillings, the sum of thirty seven pounds, ten shillings, and the sum of one hundred and Sixty five pounds for duties on Spirits imported into Sydney aforesaid in the ships or Vessels, the Hibernia and General Brown and other Vessels, which said several sums make together the sum of four hundred and forty six pounds, one shilling; and the said Garnham Blaxcell has given and signed promisory notes or acknowledgements for the said several sums of money for duty on Spirits payable to this Deponent, the said John Piper, as the Naval Officer and Collector and receiver of the said duties. And this Deponent, John Piper, for himself further

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

Saith That on the twenty fourth day of August, in the year of our Lord one thousand, eight hundred and fourteen, the said Garnham Blaxcell became indebted to our said Sovereign Lord the King in the further sum of two hundred and Six pounds, ten shillings, for duties payable on Pearl Shells imported into Sydney aforesaid in a Brig or Vessel, called the Governor Macquarie; and the said Garnham Blaxcell has also signed and delivered to this Deponent, John Piper, as such Naval Officer Collector and receiver as aforesaid, an acknowledgement and promise for the payment of the said duties; and that the said before mentioned several sums of four hundred and forty six pounds, one shilling, two hundred and six pounds, ten shillings, and one thousand, Nine hundred and thirty four pounds, Seventeen shillings and two pence, making together the sum of Two thousand, five hundred and eighty seven pounds, eight shillings and two pence, due and of right payable to our said sovereign Lord the King for duties, or in respect thereof, are, as this Deponent John Piper Verily believes, now in arrear and unpaid, and Justly due and owing from the said Garnham Blaxcell to our said sovereign Lord the King for duties as aforesaid.

JOHN PIPER, Naval Officer.

R. CAMPBELL, JUNR., Late Ass. Nav. Off.

Sworn by both Deponents, John Piper and Robert Campbell,
at my Office, Sydney, this second day of June, 1817,
Before me, JNO. WYLDE, J.-A.

B.

JOHN PIPER, of Sydney in the Territory of New South Wales, Naval Officer and Collector and Receiver of certain Monies payable there for duties, and Robert Campbell, of Sydney aforesaid, Gentleman, late Assistant to Henry Glenholme, the late Naval Officer for Sydney aforesaid, and also Collector and Receiver of certain sums of Money then payable for Duties, severally make oath and say; And first this Deponent, Robert Campbell, for himself saith that the several Paper writings, shewn and Exhibited to him this Deponent at the time of swearing this his Affidavit, and which Paper writings and Exhibits are Numbered or Marked respectively with the Figures or Marks, No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 14, No. 15, No. 16 and No. 17, are promisory Notes or Acknowledgements of Garnham Blaxcell, late of Sydney aforesaid, Merchant, and were respectively made and delivered by the said Garnham Blaxcell to the said Henry Glenholme, as the Naval Officer and Collector and Receiver of certain Monies payable for duties, or to this Deponent, as the then Assistant of the said Henry Glenholme, for

some of such Duties, and which said promisory Notes and Acknowledgements are in the Words and Figures following, or as hereinafter is next contained; Vizt:—

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

No. 1.

£428 14s. 9d.

Sydney, 31st December, 1811.

SIX Months after date, I promise to pay Henry Glenholme, Esqr., Naval Officer, or Order; the Sum of four hundred and twenty eight Pounds, fourteen Shillings, and nine Pence, Sterling, being three fourths of the duty on Spirits imported on the Ships Gambier and Friends.

G. BLAXCELL.

(Indorsed) for H. Glenholme—ROB. CAMPBELL, J., Ass. Nav. Off.

Paid by Messrs. Riley and Wentworth* $\frac{2}{3}$ of the within Mentioned Sum, Amount £285 16s. 6d., leaving due £142 18s. 3d.

Exd.—J.W.

No. 2.

Sydney, 15th April, 1812.

ELEVEN Months after date, I promise to pay Mr. Rob. Campbell, Junr., Assistant Naval Officer, or Order, the Sum of twenty one Pounds, four Shillings, and six Pence, in Stirling, being the difference of $\frac{1}{4}$ from $\frac{1}{3}$ of the duties on the Spirits imported Pr. Ships, Guildford and General Graham.

G. BLAXCELL.

£21 4s. 6d. (Indorsed)—R. CAMPBELL, JR., Ass. Nav. Off.

Exd.—J.W.

No. 3.

Sydney, 31st March, 1813.

TWELVE Months after date, I promise to pay Mr. Robert Campbell, Ass. Nav. Off., or bearer, the sum of fifty five Pounds, eight shillings, and three Pence, Sterling, being for part of my share of duties on 4,433 Gallons of Rum for the Quarter ending this Day.

G. BLAXCELL.

£55 8s. 3d. (Indorsed)—R. CAMPBELL, JUN., Ass. Nav. Off.

Exd.—J.W.

No. 4.

Sydney, 30th June, 1813.

TWELVE Months after date, I promise to pay to Mr. Robert Campbell, Ass. Nav. Off'r, or bearer, the sum of twenty four Pounds and nine Shillings, Sterling value received, in part payment of $\frac{1}{2}$ duties on 1,956 Gallons of Spirits.

G. BLAXCELL.

£24 9s. 0d. (Indorsed)—R. CAMPBELL, JUNR., Ass. Nav. Off.

Exd.—J.W.

No. 5.

Naval Office, Sydney, 30th Sept., 1813.

TWELVE Months after date, I promise to pay to Henry Glenholme, Esqr., Naval Officer, or Order, the sum of seven hundred

* Note 108.

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

and thirty Pounds, thirteen shillings, and Nine Pence, Sterling, value received in my $\frac{1}{3}$ proportion of Spirits as Contractor for building the General Hospital. G. BLAXCELL.

£730 13s. 9d. (Indorsed)—H. GLENHOLME, Naval Officer.

Exd.—J.W.

No. 6.

Sydney, 31st December, 1813.

TWELVE Months after date, I promise to pay to Henry Glenholme, Esqr., Naval Officer, or Order, the Sum of fifty four Pounds, nineteen shillings, and six Pence, Stg., being $\frac{3}{4}$ of $\frac{1}{3}$ of duties on 1,466 Gallons of Spirits Pr. Earl Spencer.

G. BLAXCELL.

£54 19s. 6d. (Indorsed) For H. Glenholme—R. CAMPBELL, Ass. Nav. Off.

Exd.—J.W.

No. 7.

Sydney, 15th February, 1814.

TWELVE Months after date, I promise to pay to Henry Glenholme, Esqr., Naval Officer, or Order, the sum of fifty one Pounds, and Eighteen shillings, sterling, being payment for the duties of 346 Gallons of Spirits imported pr. Ship Wanstead.

G. BLAXCELL.

£51 18s. 0d. (Indorsed) For H. Glenholme, Nav. Off.—

R. CAMPBELL, Ass. Nav. Off.

Exd.—J.W.

No. 14.

Naval Office, Sydney, 30th Sept., 1813.

TWELVE Months after date, I promise to pay to Henry Glenholme, Esqr., Naval Officer, or Order, the sum of one hundred and forty Pounds, six shillings and three Pence, Sterling, being $\frac{1}{4}$ of the duties on 224 $\frac{1}{2}$ Tons of Sandell Wood.

G. BLAXCELL.

£140 6s. 3d. (Indorsed)—H. GLENHOLME, Naval Officer.

Exd.—J.W.

No. 15.

Naval Office, Sydney, 30th Sept., 1813.

TWELVE Months after date, I promise to pay to Henry Glenholme, Esqr., Naval Officer, or Order, the sum of four hundred and twenty Pounds, eighteen shillings and nine Pence, sterling, being for $\frac{3}{4}$ of the duties on 224 $\frac{1}{2}$ Tons of Sandel Wood.

G. BLAXCELL.

£420 18s. 9d. (Indorsed)—H. GLENHOLME, Naval Officer.

Exd.—J.W.

No. 16.

Sydney, New South Wales, 22d September, 1814.

THE Pearl shells, procured by the Brig, James Hay, among the Eastern Islands within the limits of this Territory, amounting to Eighty Tons, having been landed and Exported from Sydney, and His Excellency the Governor having been pleased to remit the payment of Two Pounds, ten shillings, sterling, pr. Ton, on the said shells for the space of twelve Months from this date, "stating that, in the course of which time, Instructions may be received from His Majesty's Ministers as to the Expediency of reducing the rate of this duty, and also the further Sum of nine shillings sterling P. Ton for Wharfage on the said shells," I hold myself responsible, and hereby promise to pay to Henry Glenholme, Esq., late Naval Officer, or to his Successor, twelve Months after the date hereof, the sum of two hundred and thirty six Pounds, sterling, being at the rate of the present duty and Wharfage, imposed on the above shells, provided His Majesty's Ministers do not deem it expedient to reduce the duty on the same, or otherwise to pay such mitigated duty as they may think proper to order and direct.

G. BLAXCELL.

Signed Sealed and delivered (no stamps being used) In presence of

R. CAMPBELL.

In consideration of the above Bond not being enforced from this 2nd day of December, 1814, I certify that the above was done by His Excellency the Governor's Orders.

R. CAMPBELL, Ass. Nav. Off.

Exd.—J.W.

No. 17.

Sydney, New South Wales, 22d Septem'r, 1814.

THE Pearl Shells, procured by the Brig Daphne among the Eastern Islands within the Limits of this Territory, amounting to nineteen Tons, having been landed and Warehoused at Sydney, and His Excellency the Governor having been pleased to remit the payment of the duty of two pounds, ten shillings, sterling, per Ton, on the said shells for the space of twelve Months from this date, "Stating that in the course of which time, Instructions may be received from His Majesty's Ministers as to the expediency of reducing the rate of this duty, And also the further Sum of nine shillings Stg. per Ton for wharfage on the said shells," I hold myself responsible, and hereby promise to pay to Henry Glenholme, Esq., late Naval Officer, or to his Successor, twelve Months after the date hereof, the sum of Fifty six pounds, one shilling, sterling, being at the rate of the present duty and Wharfage imposed on the above shells, provided His Majesty's

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

Ministers do not deem it Expedient to reduce the duty on the same, or otherwise to pay such mitigated duty as they may think proper to order and direct.

G. BLAXCELL.

Signed, Sealed and delivered (no stamps being used), In presence of

R. CAMPBELL.

In consideration of the above Bond not being enforced from this 2nd Day of December, 1814.

I certify that the above was done by His Excell'y The Governor's Orders.

R. CAMPBELL, late Ass. Nav. Off.

Exd.—J.W.

And this Deponent further saith that the respective signatures of G. Blaxcell to the several Exhibits, Marked No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 14, No. 15, No. 16 and No. 17, are of the own proper Hand Writings of the beforenamed Garnham Blaxcell, and that he, this Deponent, was present and did see the said Garnham Blaxcell sign, seal, and, as his Act and Deed, deliver the Exhibits or Paper Writings, Marked or Numbered respectively No. 16 and No. 17.

And this Deponent, John Piper, for himself saith, that the several Paper Writings shewn and Exhibited to this Deponent at the time of swearing this, his Affidavit, And which Paper Writings and Exhibits are marked and Numbered respectively with the Words and Figures, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13 and No. 18, are promisory Notes or Acknowledgements of Garnham Blaxcell, late of Sydney aforesaid, Merchant, And were respectively made And delivered by the said Garnham Blaxcell to this Deponent, John Piper, as the Naval Officer And Collector And Receiver of certain Monies payable for duties, for some of such duties, and which said promisory Notes and Acknowledgements are in the Words and Figures following, or as herein After is next contained; vizt. :—

No. 8.

£34 8s. 0d. Sterling.

Naval Office, June 30th, 1814.

TWELVE Months after date, I promise to pay John Piper, Esqr., Naval Officer, the sum of thirty four Pounds, eight shillings, sterling, on Acco't of duties in the June Quarter, being for one third of six hundred and Eighty eight Gallons of spirits landed from the Hibernia.

G. BLAXCELL.

(Indorsed) JOHN PIPER, Nav'l Off'r.

Exd.—J.W.

No. 9.

Sydney, 30th Septem'r, 1814.

TWELVE Months After date, I promise to pay to John Piper, Esq., Naval Officer, or Order, the sum of twenty four Pounds, three

shillings and three Pence, Sterling, value received, being $\frac{1}{4}$ of $\frac{1}{3}$ of the duties on the spirits imported this Quarter.

£24 3s. 3d.

G. BLAXCELL.

Exd.—J.W.

No. 10.

Sydney, 30th September, 1814.

TWELVE Months After date, I promise to pay to John Piper, Esq., Naval Officer, or Order, the sum of seventy two Pounds, nine Shillings and nine Pence, sterling, value received, being $\frac{3}{4}$ of $\frac{1}{3}$ of the duties on the Spirits imported this Quarter.

£72 9s. 9d.

G. BLAXCELL.

Exd.—J.W.

No. 11.

Sydney, 31st Decem'r, 1814.

TWELVE Months After date, I promise to pay to John Piper, Esq., Naval Officer, or Order, the Sum of one hundred and twelve Pounds, ten shillings, sterling, being $\frac{3}{4}$ ths of $\frac{1}{3}$ of the duty on 1,000 Gallons of Rum imported p. General Brown.

G. BLAXCELL.

£112 10s. 0d. (Ind'd) JOHN PIPER, Nav'l Off.

Exd.—J.W.

No. 12.

Sydney, 31st Decem'r, 1814.

TWELVE Months after date, I promise to pay John Piper, Esq., Naval Officer, or Order, the sum of Thirty seven Pounds, ten shillings, sterling, being $\frac{1}{4}$ of $\frac{1}{3}$ of the duty on 1,000 Gallons of rum imported p. General Brown.

£37 10s. 0d.

G. BLAXCELL.

Exd.—J.W.

No. 13.

Nav'l Office, June 8th, 1815.

TWELVE Months after date, I promise to pay John Piper, Esqr., Nav'l Officer, or Order, the sum of one hundred and sixty five Pounds, Sterlg., being on Acct. of duties on eleven hundred Gallons of spirits @ three shillings p. Gallon, agreeable to the contract for erecting the General Hospital.

G. BLAXCELL.

(Ind'd) JOHN PIPER, Nav'l Off.

Exd.—J.W.

No. 18.

Sydney, New South Wales, 24th August, 1814.

THE Pearl Shells, procured by the Colonial Brig Governor Macquarie Among the Eastern Islands within the limits of this Territory, amounting to about seventy Tons, been landed and warehoused at Pymont, and His Excellency the Governor having been

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

1817.
3 June.

Depositions of
John Piper and
R. Campbell, Jr.,
re Blaxcell's
indebtedness to
government.

pleased to remit the payment of the duty of two Pounds, ten shillings, Sterling, per Ton, on the said shells for the space of twelve Months from this date, stating that, "in the course of which time, Instructions may be received from His Majesty's Ministers as to the Expediency of reducing the rate of this duty, And also the further sum of nine shillings sterling per Ton for Wharfage on the said Shells," I hold myself responsible, and hereby promise to pay to John Piper, Esqr., Naval Officer, or to his Successor, twelve Months after the date hereof, the sum of two hundred and six Pounds, ten shillings, sterling, being at the rate of the present duty and Wharfage imposed on the above Shells, provided His Majesty's Ministers do not deem it expedient to reduce the duty on the same, or otherwise to pay such mitigated duty as they may think proper to order and direct.

JOHN PIPER, Nav'l Off'r.

G. BLAXCELL.

Exd.—J.W.

And this Deponent further saith that the respective signatures of G. Blaxcell to the several Exhibits, marked or numbered respectively, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13 and No. 18, are of the own proper Hand Writings of the said Garnham Blaxcell.

JOHN PIPER, Nav'l Off'r.

R. CAMPBELL, JUNR., Late Ass. Nav. Off.

Sworn by both Deponents, John Piper and Robert Campbell,
at my office, Sydney, this second day of June, 1817,
Before me, JNO. WYLDE, Judge-Adv., N.S.W.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 24 of 1817," per ship Shipley; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

5 June.

My Lord,

5th June, 1817.

Sorell's report
on Jeffreys'
conduct at
Hobart.

In reference to my Dispatch, No. 20,* of the present year, addressed to your Lordship respecting the Conduct of Lieut't Jeffreys, Commander of His Majesty's Colonial Brig Kangaroo, I have now the Honor of informing your Lordship that by the arrival of a vessel from the Derwent in Van Diemen's Land on Sunday last, the 1st Instant, I received a Dispatch from Lieut't Governor Sorell containing a Statement of Lieut't Jeffreys' behaviour at that Settlement, from the period of his arrival there until the time of his departure; the particulars of which are so circumstantially detailed in Lieut't Governor Sorell's letter and the documents accompanying it, which I have now the Honor of transmitting for your Lordship's Information, that there is little left me to remark on in respect to Lieut't Jeffreys. As however the mutinous and outrageous manner, with which he has acted in

* Note 109.

Defiance of every Principle of Subordination, Discipline and Honor, is certainly of very Serious and alarming Import, I cannot refrain from Expressing the Hope that Such measures will be adopted under your Lordship's authority, on Lieut't Jeffreys' arrival in England, as may bring that Officer to condign and Exemplary punishment not only for his disobedience to my Orders to proceed *Direct to England*, but for his Disrespect, Contumely and Contempt to the Orders of Lieut't Governor Sorell, and his mutinous and disgraceful Conduct on his arrival and during his Stay at the Derwent, as Set forth in Lieut't Governor Sorell's charges against Lieut't Jeffreys.

These Circumstances, combined with the uniform Tenor of Lieut't Jeffreys' Conduct during his Stay in this Colony, which I have been under the necessity before of representing to your Lordship on former occasions, altogether amount to Such an accumulated Series of Charges against him as will evidently show how unworthy he is of any Rank in His Majesty's Navy.

I have, &c.,

L. MACQUARIE.

[Enclosures.]

[*The enclosures to this letter numbered twenty-six; they consisted of lieutenant-governor Sorell's despatch to Governor Macquarie, dated 16th May, 1817, with its lettered enclosures, all of which referred to the conduct of lieutenant Jeffreys when at the Derwent. Copies of these papers will be found in a volume in series III.*]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 25 of 1817," per ship Shipley; acknowledged by Earl Bathurst, 24th July, 1818.)

Government House, Sydney, New South Wales,

My Lord,

5th June, 1817.

Consistent with My anxious wish to avoid by all practicable means the Incurring of unnecessary Expences to this Government, I beg leave to submit to Your Lordship's consideration the very great Expence and Inconvenience of conveying Male and female Convicts from Port Jackson to Van Diemen's Land for the use of the Crown and the Settlers at those Settlements, and therefore most respectfully to suggest and recommend to Your Lordship the Expediency of ordering One Ship with about Two hundred Male Convicts, and One Ship with about One hundred female Convicts, to be sent in future every second Year direct from England to Hobart Town on the River Derwent in Van Diemen's Land for the General use of that Island. Commencing with the early part of the ensuing Year 1818. and Continuing the same System every second Year afterwards.

1817.
5 June.

Request for the
punishment
of Jeffreys.

Proposal
for direct
transportation
of convicts to
Tasmania.

1817.
5 June.

Probable
reduction in
expenditure.

By adopting this Plan, the Government will be relieved from a Considerable Expence; and under the Consideration that the Settlements on Van Diemen's Land are now becoming very populous and extensive, and that many Settlers prefer receiving their Lands there to any part of this Territory, such an Arrangement, as I have now the Honor to propose to Your Lordship, will prevent a Continued Increase of Expence to the Crown now necessarily incurred by transshipping Prisoners from hence to the Derwent; and the Numbers proposed will not be more than the increasing Population of these Settlements will hereafter require.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 26 of 1817," per ship Shipley; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

5th June, 1817.

In my Dispatch No. 22 of the present Year, dated the 16th Ulto., I have had the Honor of Communicating to Your Lordship that I had felt Myself under the Necessity of again placing the Wives and Families of the Chaplains and Officers of the Commissariat Department on the Government Stores for Eighteen Months longer; A Measure I was Induced to take upon Myself the Responsibility of Adopting in Consequence of the Very Earnest Remonstrances and Representations Made to Me on this Subject by the Parties immediately Interested, When I Notified to them Your Lordship's Orders to discontinue their Rations in future.

Altho' I did Not find Myself Warranted to Grant them this Indulgence in their Official Capacities, Yet in Considering that I might Venture to Extend it to them as Settlers and Landholders, I felt principally Actuated by the Consideration that, Within the Period of 18 Months, Answers Might be received to the References Which the Parties themselves have signified their Intention to make to Your Lordship, as well as to the Communications I have had the Honor of Making on this Subject in my last Dispatch; and which I now respectfully beg Leave to repeat, and to express my most anxious Hope that Some permanent Regulation may be Speedily made on this Important Point.

I have now the Honor to transmit for Your Lordship's Information, Copy of the Correspondence, Which has lately taken place between Myself and the Principal Chaplain and Deputy Commissary General.

So far as this Arrangement May Apply to the Principal Chaplain, I am decidedly of Opinion that his present Salary (which

Victualling
of families of
chaplains and
commissariat
officers.

is £350 P. Ann.) and the Amount of his Surplice Fees, together with the Considerable Advantages he derives from Extensive and Valuable Grants of Land and the Numerous Flocks and Herds he possesses as a Farmer and Grazier, are More than sufficient to Maintain himself and his Family in a Very Comfortable and genteel Style Without the Aid of Rations, Fuel, or Government Servants; and More especially When it is taken into Consideration that He is provided with a Dwelling House and Offices at the Expence of the Crown. This Affords a Very Great Contrast to the Situations of the Assistant Chaplains here, Whose Salaries are Small and ought in My Opinion to be proportionally Increased, or that they should receive Rations for their Wives and Children; at the Same time I think and respectfully recommend that the Increase of their Salaries should take place in Preference.

In respect to the Officers of the Commissariat Department, they are already so Amply and liberally paid for their Services by their Salaries, Lodging and Forage Money, that I do not Consider it by any Means Necessary to victual their Wives and Children.

The Documents Alluded to in the Letter of Deputy Commissary General Allan, Addressed to Me under date the 10th of May, 1817, refer to Subjects so foreign to and Unconnected with that of Victualling the Wives and Children of the Officers of his Department at the Expence of the Crown, that I do Not Consider it at all Necessary to trouble Your Lordship with them or make any Comment thereon.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

REVEREND SAMUEL MARSDEN TO GOVERNOR MACQUARIE.

Sir,

Parramatta, 12th May, 1817.

After my long Services in this Colony of Twenty four Years, I indulged a hope that I might have some fair Claim upon my Country for a small Increase to my Salary, instead of which I am suffering a Reduction in my Annual Income of not less than One hundred Pounds Per Annum by the Ration being withdrawn from my family.

I am persuaded Your Excellency will readily allow that my Salary of £350 Per Annum would not supply the Common wants of my Family, when the high Price of all Imported Articles, such as Clothing, &c., are taken into estimation, and enable me to support the Rank I hold in the Colony; I have Five Daughters and one Son to provide for, who become more expensive daily as they Grow up, And my Wife from bodily Affliction cannot render that Assistance to her family she formerly was Able to do.

Should Your Excellency not feel yourself authorized to allow my family a Ration from His Majesty's Store, I should wish to

1817.
5 June.

Objections to
victualling
families of
principal
chaplain and
commissariat
officers.

Application
from Revd. S.
Marsden for
rations for
his family.

1817.
5 June.

Application
from Revd. S.
Marsden for
rations for
his family.

avail Myself of the Opportunity of stating my Case to His Majesty's Government by some One of the Ships now in The Harbour. I humbly Conceive that His Majesty's Ministers will admit the Justice of my Claim according to the Common Rules of the Service, and will not now, when I am advanced in Years and the Burden of my Family increased, withdraw from me that Support which I have ever enjoyed since I had the honor to hold His Majesty's Commission without making me some reasonable Compensation in Lieu of the Ration.

I have, &c.,

SAMUEL MARSDEN.

[Enclosure No. 2.]

GOVERNOR MACQUARIE TO THE REVEREND SAMUEL MARSDEN.

Sir, Government House, Sydney, 27th May, 1817.

I have now to acknowledge the receipt of your Letter, under date the 12th Instant, which I was unable to do sooner in consequence of a heavy press of other Public Business engaging My whole attention for some Weeks past.

Although I cannot for a moment admit that *You, in particular*, have any just cause to Complain of Government having withdrawn the indulgence of Rations heretofore allowed to your Family in the present greatly improved State of the Colony and Consequent reduction in Prices of all the real Necessaries of Life, and also because your Salary and Surplice Fees, together with the great advantages you enjoy in possessing such large Tracts of Land and Numerous Flocks and Herds, ought to be more than adequate to Maintain yourself and Family in most Comfortable and genteel manner; yet in consideration of what you have stated on this subject, and also in consideration of My Own Conviction that the Salaries of the Inferior Clergymen of the Colony are very inadequate to the support of themselves and Families, I shall take upon Myself the responsibility of Ordering your Family, and those of the other Clergymen in this Colony, to be Victualled for a further term of Eighteen Months from Saturday next the 31st Instant in your Capacities of Settlers and Land Holders, unless I should receive further Orders from Home in the intermediate time in reply to a Second representation I have already made on this subject to His Majesty's Ministers; but, in the event of My receiving no Orders to Authorize the Families of the Clergymen to be continued on the Stores within the Period herein stated, I must, at the expiration thereof, be under the painful Necessity of directing the Families of all the Clergymen to be struck off the Victualling List; for I suppose I need not remind you, that, notwithstanding my Instructions from

Macquarie's
decision to
victual the
families of
chaplains for
eighteen
months.

1817.
5 June.

Home were positive on this Point, this is the *Second time* I have taken upon Myself the very heavy responsibility of continuing to Victual your Family for Eighteen Months.

I request you will, on receipt of this Letter, send Me the Names and Ages of all your Children. I have, &c.,

L. MACQUARIE.

True Copy :—JNO. THOS. CAMPBELL, Secy.

[Enclosure No. 3.]

DEPUTY COMMISSARY-GENERAL ALLAN TO GOVERNOR MACQUARIE.

Deputy Commissary-General's Office,

Sir, Sydney, 10th May, 1817.

In reference to Mr. Secretary Campbell's Letter, dated the 26th Ulto., and enclosing a Copy of a Letter* from the Right Honorable The Earl Bathurst together with an Extract of a Letter from S. R. Lushington, Esqre., relative to the issuing of Rations to the Families of the Officers of the Commissariat Department employed in New South Wales, I beg leave to state to Your Excellency the following circumstances to prove that the Officers alluded to cannot mean those of the Army Commissariat, but is meant solely to Colonial Departments.

Claim for exemption of commissariat officers from orders *re* rations.

I need not remind Your Excellency that at the period You were pleased to issue Government and General Orders about 3 Years ago, notifying the pleasure of His Majesty's Ministers that the Families of the Civil Officers of the Colonial Establishment were no longer to be Victualled from the Stores, and altho' that Your Excellency did at the time conceive that myself and those under me were included in this Regulation, yet from the Papers and other Documents I then laid before you I clearly and I believe to Your satisfaction proved that the same had no reference to any of the Military Departments nor to the Commissariat in particular, whose Commissions are purely Military, and none of whose pay in any manner whatever is provided either by the Parliamentary Estimate or from the Colonial Funds as the other Departments are, nor has any Colonial Allowance either directly or indirectly been made to myself or them, but that the whole of such pay and allowances is paid as every other General and Staff Officer from the Ordinaries and Extraordinaries of the Army; under such circumstances I therefore do entertain little or no doubt in my own mind that the communication from Mr. Lushington alluded entirely to a Colonial Commissariat, and the more so, when it is taken in connection therewith, that the Departments alluded to in the former Orders were entirely of this description and in no manner interfering with or altering the Allowances to the Families of the Officers in the Army, either Staff or Regimental.

1817.
5 June.

Former instructions received by Allan.

Rations issued to officers and their families.

Instructions for the victualling of soldiers' families only.

Officers' families replaced on victualling list.

In corroboration of what I have stated above I beg leave to detail the following facts; towards the latter end of the Year 1807, I had first the Honor of being placed at the Head of a Department, and by the Instructions I received on the occasion, dated 27th Novr. in the same Year, and signed by the Right Hon'ble Spencer Percival, the Right Hon'ble W. Surges Bourne and the Right Hon'ble R. Ryder, I was instructed in a particular manner "to be attentive that no persons do receive Provisions, Forage, and Fuel than those that are intitled thereto by the Established Rules and Customs of the Army"; and I did not fail, before I assumed the Charge, fully to ascertain who were entitled thereto by the said Customs, and I found that all such were so if on the Staff, with their wives and families, whose Rank and Station entitled them to Forage Money and other Army Allowances; and I subsequently regulated my issues accordingly, and up to the 12th Febyr., 1812, a period of upwards of four Years, not only my Family but that of every Staff and Regimental Officer and including the Staff Surgeon, the Pay Master, and the Clerk of the Works in the Ordnance Department, the Chaplain of Brigade, The Town Major, the Town Quarter Master, &c. were all regularly victualled, and the Store Accounts, wherein the issues were Charged, have all been passed by the Comptrollers of Army Accounts and a full discharge therein given by the Lords Commissioners of His Majesty's Treasury.

At the period before alluded to, I was honored by a Communication from the Commissary in Chief, dated 27th Jany., 1812, notifying that the Lords Commissioners of His Majesty's Treasury having had under their Consideration an Arrangement for the regulation of the issue of Provisions to Women and Children of Soldiers on Foreign Stations, and which had been approved of by the Commander in Chief, by which Women and Children of Soldiers alone were to be victualled; after the Receipt of this communication, not only my own Family but that of every other Officer ceased to receive Rations.

By a Circular Letter, dated 29th July, 1812, and which I received whilst in London on my way to this Colony, the Instructions contained in the foregoing Letter was rescinded, and the wives and Families of Officers were placed on the same footing as formerly; and by a subsequent communication, which I have received since my Arrival in this Colony, dated 25th August, 1813, the Families of Officers are placed in every respect on the same footing as those of the Soldiers; since which time, until the 12th July last, no alteration whatever has been directed to take place; under the above date His Royal Highness the Prince Regent was pleased to issue his Warrant for establishing a more

regular system in the issues of Rations of Provisions to His Majesty's Forces on Foreign Service, a copy of which, together with a copy of the Commissary in Chief's Letter, dated 20th Augt. last and enclosing the same, I did Myself the honor of inclosing to Your Excellency.

1817.
5 June.

Having now I trust fully established the fact that the Wives and Children of Officers serving on foreign Stations have invariably, according to the Custom of the Army up to the 27th January, 1812, received Rations, and that since the 29th July of the same Year these Rations have been issued by Command of the Lords Commissioners of His Majesty's Treasury on the application of His Royal Highness the Commander in Chief; I shall now endeavour to prove that the Commissariat Department does form part of the Army, and as such that the Officers thereof are entitled to the same Indulgences and Allowances as are granted to every other part thereof.

The Commissariat department claimed to form part of the Army.

By the regulation for the issue of Bat and Forage Money of May, 1809, a Commissary General's Allowances are the same as a Major General, a Depy. Commissary General those of a Depy. Adjutant or a Deputy Quarter Master General, and the Assistants and Dep'y Assistants in all the three Departments are on a like footing; and in the instance of a Ration of Forage Money being granted to Dep'y Ass't Comm'y Gen'ls more than was allowed to Dep'y Ass't Adjutants and Dep'y Ass't Quarter Master Gen'ls, this extra Ration was taken from the Commissariat as exceeding that which their corresponding Rank entitled them to.

Regulations re rations and pensions for army and commissariat officers.

In the regulation for granting Pensions to Officers losing an Eye, or a limb on Service, the like corresponding Rank is clearly and distinctly pointed out.

I now proceed to the increase of Pensions to the Widows of Officers in the Commissariat Department, made under a Warrant from His Royal Highness the Prince Regent and communicated to me by the Commissary in Chief under date of the 1st Decemb'r, 1815, which such an Instrument and from such Authority must most fully define the comparative Rank of the respective Officers of the Commissariat, and which in addition to His Royal Highness's Warrant, dated 12th last July, and already referred to, relative to Rations, certainly can leave no doubt but that the Commissariat are entitled to the same Indulgences as the Officers of every other Department.

Pensions for widows of commissariat officers.

I have to apologize for having thus intruded on your more valuable time, but at the same time I trust that your Excellency's goodness will pardon me, as you are well aware that it is not for myself alone but for those under me, who are equally interested

1817.
5 June.

Rations
for officers of
paymaster's
department.

and would likely suffer as severely as myself on the present occasion; I shall therefore only take the liberty of adding one more enclosure, by which you will perceive that the Officers of the Pay Master's Department (who are certainly less of Military description than the Commissariat) receive Rations in the same manner as other Staff Officers; nor need I repeat to Your Excellency what You are aware of that the Commissariat, independant of their usual Duties, are in the Charge of the Military Chest, and that not only Ordinaries, but also the Extraordinaries of the Army, are now provided by them.

Under such Circumstances, I feel confident that Your Excellency will be satisfied that it never could have been the Intention of the Lords Commissioners of His Majesty's Treasury to single Out the Officers of the Commissariat of this Colony, and to deprive them of that Indulgence which is granted, not only to their Brother Officers in every other Quarter of the Globe, but also to every other Officer that is in any way attached to the Army; and although I have Letters regularly down to the 10th Decr., 1816, from the Commissariat Depart't in the Treasury conveying Instructions for my guidance, and none of which, from the succession of Numbers, have miscarried.

Being confident that if it is the intention of the Lords Commissioners of His Majesty's Treasury that the Families of the Commissariat are not to be victualled, that a Regulation is forthcoming by which neither the Families of Staff nor Regimental Officers are any longer to be Victualled at the Public Expence,

I therefore humbly hope and trust that Your Excellency will have no objections to the Officers of the Commissariat Continuing to Draw Rations for their Families as heretofore, until an Answer to an Application, which I shall make forthwith to the Treasury on this subject, is obtained, or until their Lordships' Instructions on this head reaches me through the usual Channel.

I have, &c.,

D. ALLAN, D.C.-Gen'l.

[Enclosure No. 4.]

SECRETARY CAMPBELL TO DEPUTY COMMISSARY-GENERAL ALLAN.

Sir,

Secretary's Office, 28th May, 1817.

I have it in Command to inform you that His Excellency the Governor has received and read with much attention your Letter addressed to him, under date the 10th Instant, together with the several Documents whereby it was Accompanied, on the subject of the late Order conveyed to you through this Office in regard to the striking off the Wives and families of the Commissariat Officers from the Government Victualling Lists.

Request for
rations for
families of
commissariat
officers.

His Excellency is perfectly aware of the fact being, as you state, that it has hitherto been the practice to Victual the Wives and Children of the Officers of the Commissariat at the expence of the Crown; but He does not thence see any just reason or ground for not putting in force the positive Order received by Him from the highest Authority to Abolish the practice alluded to, and He cannot therefore take so heavy a responsibility on himself as to suspend the Operation of that Order, emanating as it does from His Majesty's Ministers, who have at all times the unquestionable right to encrease or diminish according to their sense of propriety the extra Allowances of Servants of the Crown, and more especially at a time as the present when all possible retrenchments are so necessary in Order to lessen the Public expenditure. It should also be taken into Consideration that the Families of the Chaplains and Medical Officers of this Colony, whose Salaries are much inferior to those of the Officers of the Commissariat Department, have been in like Manner ordered to be struck off the Stores, and it would be highly unreasonable that so invidious a distinction should be made between them as to Keep the families of the Commissariat Officers on the Stores, whilst those of the Chaplains and Medical Officers were struck off. Neither does His Excellency see any Ground of right for continuing the Commissariat Officers' Families on the Stores, because the families of Officers in the Army have that Indulgence, the latter Gentlemen receiving a very limited Pay, which gives them a just Claim for such Indulgence being continued to them. There being also only one Description of the Commissariat Officers in this Colony, it is equally plain that the Secretary of State or the Lords of the Treasury could not have been under any Mistake on that Score, when they sent the Order in question to His Excellency.

Under such Circumstances, His Excellency does not deem himself at liberty to accede to your representations in behalf of your self and the other Officers of the Commissariat.

His Excellency is however pleased to add that as All the Officers of the Commissariat now in the Colony are Landholders and may be considered in that light as Settlers, He will Sanction their families being placed on the Stores for the term of Eighteen Months Commencing on and from Saturday next, the 31st instant, in which time you will have an Opportunity to learn the fate of your reference on the subject to His Majesty's Government, and unless Orders should arrive to Continue them on the Stores His Excellency will then finally carry the present Orders into effect.

I have, &c.,

JNO. THOS. CAMPBELL, Secy.

1817.
5 June.

Macquarie's
refusal to
exempt
commissariat
officers from
orders re
rations.

Families of
commissariat
officers to be
victualled for
eighteen
months.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1817.
13 June.

(Despatch per ship Dick; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 13th June, 1817.

Recommendation of F. Dixon as a settler.

I am directed by Earl Bathurst to acquaint you that his Lordship has granted permission to Mr. F. Dixon to proceed as a Settler to New South Wales, and to request that he may receive a Grant of Land proportionate to his means of cultivation and the usual indulgencies granted to Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Friendship; acknowledged by Governor Macquarie to Earl Bathurst, 3rd March, 1818.)

24 June.

Sir, Downing Street, 24th June, 1817.

Assignment of convicts per the ship Friendship.

I am directed by Lord Bathurst to transmit to you here-with the Assignment of One Hundred and One Female Convicts, embarked on board the Friendship for the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship David Shaw; acknowledged by Governor Macquarie to Earl Bathurst, 3rd March, 1818.)

25 June.

Sir, Downing Street, 25th June, 1817.

Recommendation of Charles Foster as a settler.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Mr. Charles Foster, to proceed together with his Wife, etc., as a Settler to New South Wales, and I am to desire that you will make to him a Grant of Land in proportion to the means, which he may possess of bringing the same into Cultivation, and extend to him the Indulgences usually granted Settlers of his Class.

I am, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per ship Lloyds.)

Government House, Sydney, N. S. Wales,

8 July.

Sir, 8th July, 1817.

Bills drawn to pay money to Davey.

In pursuance of Earl Bathurst's Commands, as Signified to Me in His Lordship's Letter of date 20th July last, I now do myself the honor to inform you that I have this day drawn a Set of Bills on you in favor of D'Arcy Wentworth, Esqre., for One

Hundred Pounds Sterling, in payment of the like Sum directed by His Lordship to be advanced to Lieutenant Governor Davey from the Colonial Funds of this Territory, and which has accordingly been done.

1817.
8 July.

I have therefore to request you will be Pleased to give due honor to the Bills in question, when presented.

I have, &c.,
L. MACQUARIE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Larkins; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 14th July, 1817. 14 July.

Lord Bathurst having given permission to the Bearer, Mr. James Richard Styles, to proceed as a Settler to New South Wales, I am to desire that you will make to him a Grant of Land in proportion to his means of bringing the same into Cultivation, and extend to him the Advantages usually allowed to Settlers of his Class.

Recommendation of J. R. Styles as a settler.

I am, &c.,
HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Larkins; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

Sir, Downing Street, 15th July, 1817. 15 July.

I am directed by Lord Bathurst to transmit to you a Copy of a letter which has been addressed to him by Mr. Thomas M. Moore, stating that you had deprived him of his Grant of Land, in consequence of his having signed The Petition to The House of Commons; and I am to acquaint you that his Lordship cannot consider the Circumstance of having promoted and signed such a Petition, if that is the only Ground of Complaint against this Individual, as affording sufficient Ground for depriving him of the Indulgences, which had been previously extended to him; and I am therefore to desire that you will either replace Mr. Moore in the Situation in which he previously stood, or report to me the circumstances which induced you to deprive him of the Grant originally made to him.

Macquarie to report on cancellation of Moore's land grant.

I am, &c.,
HENRY GOULBURN.

[Enclosure.]

MR. THOMAS M. MOORE TO EARL BATHURST.*

Sydney, New South Wales, 10th November, 1816.

May it please Your Lordship,

I petitioned you some time since to be allowed a grant of Land as a settler in New South Wales, which his Excellency Governor Macquarie had refused me, in consequence of his not

Application of T. M. Moore for confirmation of land grant.

* Note 111.

1817.
15 July.

Application of
T. M. Moore for
confirmation of
land grant.

having received any instructions from Your Lordship on that head; but on a subsequent application, I made to his Excellency, he promised me a Grant of Four hundred acres with some other indulgencies, as soon as I became of Age; that event took place some months past, and the Governor gave orders to the Deputy Surveyor General to measure that quantity of Land at any place, I should point out as an advantageous Spot. I accordingly fixed upon a piece of ground, which was measured and possession of it given to me, and I continued to occupy it for about two Months; during this time, I was at a very great expence in furnishing myself with tools of every description necessary to commence clearing and cultivating. I had also purchased a small quantity of Stock, and had employed Sawyers and other workmen to prepare the necessary materials for erecting a Farm house. After I had laid out a considerable Sum of money in this way, I was informed that the Governor had given directions to the Surveyor General to deprive me of My Land for having joined in a petition to the House of Commons, which reflected upon some of the measures the Governor has adopted here.

I hope Your Lordship will consider that my concurring in the public opinions, expressed in that petition, ought not to be the means of depriving me of the Land, which had been in my actual possession for some time; and I trust Your Lordship will recommend to the Governor to restore it to me, or to make me some allowance for the expence, I have been put to; and I beg to State to Your Lordship that the custom of the Colony has always been to deliver to Settlers possession of Land, as soon as it is *measured*; and from that time it is considered as his Sole property, the Deeds not being executed in some instances for several Years afterwards.

I have, &c.,

THOMAS M. MOORE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Larkins; acknowledged by Governor Macquarie to Earl Bathurst, 12th December, 1817.)

19 July.

Sir,

Downing Street, 19th July, 1817.

I herewith transmit to you, by direction of Earl Bathurst, the Assignment of Two Hundred and Fifty Male Convicts, shipped on board the Larkins for the Colony of New South Wales..

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 23rd July, 1817.

Lord Bathurst having granted Permission to the Bearer, Mr. James Robins, to proceed as a Free Settler to the Colony of New South Wales, I am directed by his Lordship to desire that he may receive a Grant of Land in proportion to His Means of bringing the same into Cultivation. I am, &c.,

HENRY GOULBURN.

1817.
23 July.

Recommendation of Robins as a settler.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 27 of 1817," per ship Lloyds; acknowledged by Earl Bathurst, 24th August, 1818.)

My Lord, Government House, Sydney, 25th July, 1817.

Having had the painful Duty imposed upon Me of Making a Representation under the present Date to His Royal Highness The Duke of York, as Commander in Chief of All His Majesty's Forces, of the Series of disrespectful, Insulting, and Insubordinate Conduct of a Number of the Officers of the 46th Regiment. Since their Arrival in this Colony, towards Me and My Government, in order to its being laid before His Royal Highness the Prince Regent, I now do Myself the Honor to transmit Your Lordship herewith a Copy of that Letter, together with Copies of the several Letters and Documents Alluded to therein, for Your Lordship's Information. I have, &c.,

L. MACQUARIE.

25 July.

Transmission of report re misconduct of officers of 46th regiment.

GOVERNOR MACQUARIE TO THE DUKE OF YORK.

(Despatch per ship Lloyds.)

Sir, Head Quarters, Sydney, N. S. Wales, 25th July, 1817.

It is with a Reluctance almost Insurmountable that I feel Myself Compelled, by a paramount Sense of Duty to My Sovereign and that of Subordination and Discipline which *Forty Years* in the Service have taught Me to Consider Indispensable to the Well Being of Society, to lay before Your Royal Highness, for the gracious Consideration of His Royal Highness The Prince Regent, a Statement of Occurrences which have lately taken place here on the part of the Officers of the 46th Regiment, and 'tho' Nothing Could be More painful to My Feelings than the making a Representation Which Might tend to Injure the Prospects of so numerous a Body of Gentlemen as those Composing the Officers, generally, of the 46th, Yet am I left without an Alternative on this Occasion, as I trust will appear Most fully to Your Royal Highness in the Sequel.

In Order to Explain More Clearly the immediate Occasion of the Communication I have now the Honor of making to Your Royal Highness, it Appears Necessary that I should trace the

Regrets at necessity for reporting misconduct of officers of 46th regiment.

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25 July.

Outline of the Intercourse, which I have had with the 46th Regt. since its Arrival here, and to Observe on a Line of Conduct adopted by that Corps, even previous to its Arrival in this Country, and adhered to with a Pertinacity which would have well become a More liberal Sentiment.

In Venturing to trespass on Your Royal Highness's Most Important and Valuable time at Such Length, as I feel the Subject will require, I Can only express my Sorrow for the Occasion of it, and repeat that Nothing but the Imperious Necessity Imposed upon me should have led me to make so serious an Appeal to Your Royal Highness, as Commander in Chief of All His Majesty's Forces.

Macquarie's
early
intercourse
with officers
of the 46th
regiment.

On the Arrival of the 46th Regt. to relieve the 73rd in the Beginning of 1814, Colonel Molle, and all the other Officers of that Regiment, Were received and Entertained by me with every possible Attention and Hospitality; My House and Table were even More frequently open to them than they had been to My Brother Officers of the 73rd Regt., with a View to do Honor particularly to Colonel Molle, Who had been My old and Much liked Acquaintance, and with Whom I had Served in Egypt and India Many Years Ago. Receiving him thus with the Freedom and Cordiality of Ingenuous Friendship, I possessed, as I thought, his reciprocal Regard, and All My Public Measures seemed for a time to be in perfect Unison with his own public Sentiments and Views of Political Expediency.

Military
opposition to
Macquarie's
policy.

One Measure of My Government I here beg leave to State to Your Royal Highness, and I trust it is one which will Experience Your Royal Highness's fullest Sanction and Approbation, tho' it has Met a determined Opposition from the Officers, Generally, of the 46th, and Covertly from Colonel Molle, who has latterly thrown off the Mask and Shewn the same Disposition to thwart my Views on that Subject, as his Officers had previously done; Which Circumstances I bring here under Your Royal Highness's Notice in order to Justify My Allusion to a Measure Which Might otherwise Appear extraneous to the General Object of this Address.

Macquarie's
practice of
encouraging
well-behaved
emancipists
and expiress.

Viewing this Colony in the Light of a Penitentiary or Asylum on a Grand Scale for those of His Majesty's Subjects, Whose Crimes and the Clemency of the Laws had destined to its Shores in Expiation of their Offences, it has been a Uniform Measure of My Government, and one alike approved by my Head and by my Heart, to rule and Manage these Children of Misfortune, so as at once to make them feel sensibly the Weight of their Crimes in the Hardships to which they Were Exposed, and to hold out to them the distant Prospect of Relaxation from their Chains, and even of Eventual Restoration to their Original Rank in Society,

by a patient Submission during the Period of their Atonement, and Abandoning their Evil Habits, and Shewing themselves anxious to return to the Ranks of honest Industrious Members of Society. This I Conceive to be the benign Spirit of the Original Establishment of the Colony, and of His Majesty's Paternal Instructions as to the Mode of its Government; and When Your Royal Highness will reflect that Many of those Persons, over Whom His Majesty has been Graciously Pleased to place Me, once Moved in the Ranks of Gentlemen, either in the Liberal Professions or in the Honorable Paths of His Majesty's Army or Navy, I trust my thus treating them *as Men not Altogether Without Hope* Will Meet the Approbation of Your Royal Highness's humane and benevolent Disposition. That this Rule of Conduct has not been productive of All the Good I had fondly expected, I must at once admit and Lament. The few, I am sorry to say, *the Very few reforms* in that Class of Convicts Who had fallen from the respectable Rank, prevent Me from boasting of the Success My Measures have been Attended with. The Motives and the Means are not however responsible for the Failure, Which must be attributed to Causes powerfully Operating with the degraded persons themselves.

In Lamenting that Reformation has not been as General as I Could have hoped, I have Still the Satisfaction to think that Some few Men of liberal Educations have made their Way back to the Estimation attached to their Original Rank in the Scale of Society; and Some of the Superior order of them have even been received occasionally at my Table. The Very few* Whom I lament to say have thus been restored to the Consideration, are Gentlemen, Who either Hold His Majesty's Commission in the Church, the Medical Department, and the Surveyor General's Department, or Colonial Appointments in the other Public Departments.

For a Time, Colonel Molle and his Officers Were in the Habit of Meeting and Associating with these Officers of my Government at my Table in Such a Manner as appeared to bespeak their having no Objection to Such Intercourse, and Col. Molle even Entertained Some of them at his own Table.

I Could Not however Observe but with Regret that a different Line of Conduct was pursued by the Officers of the 46th at their own Mess in regard to those persons, None of Whom have been ever Invited there. This Difference in Conduct at my Table and at the Mess Could not fail to Excite my Surprize and Curiosity to Learn the Cause; And the Result of my Enquiries has been the Discovery that the Officers of the 46th Regt., on the particular Recommendation of their Commanding Officer, Colonel Molle, had previous to their Arrival in the Colony, bound themselves

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Macquarie's practice of encouraging well-behaved emancipists and expires.

Intercourse of certain transportees with the governor;

and with the military officers.

Refusal of military officers to admit ex-convicts to their mess.

* Note 112.

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25 July.

never to Admit into their Society or to Hold any Intercourse with any of those persons who had arrived here under Sentence of Transportation.

Resolution of
military officers
re trade and
farming.

They also Entered into another Resolution, at the Same time, never to Engage in any Trading, Farming or Grazing Concerns in this Country, the Observance of which, Altho' by no Means exceeding What should be Expected from their Profession, Would at least have reflected Credit on them as Military Men. Their Adherence to this Rule has been by no Means so rigid as to that in regard to the Other.

Injustice
of rule for
exclusion of
ex-convicts.

Their Indiscriminate Rule of Exclusion, Entered into without any Knowledge of the Merits or peculiar Circumstances of the Individuals, I Could not but Consider premature, Illiberal, and I may add, *Almost Unjust*, towards the Very few Whose Reformation of Manners, Combined with liberal Education and honestly Acquired Independence, had rendered them rather Meriting of Pity and Regret for their former Deviations from the Paths of Virtue, than of a perpetual Brand to disgrace their future Lives.

Criticism
of conduct
of officers.

Whilst I thus Comment on the Resolutions and Conduct, in these Particulars, of the Officers of the 46th, I beg it to be Most Clearly and distinctly Understood by Your Royal Highness that Nothing has ever been further from my Disposition than to Attempt to prescribe any Rules Whatever for the private or Civil Conduct of any Body of Gentlemen. I feel perfectly their Right and Competency to Make Such Rules in regard to the Society to be admitted to their Mess, as they pleased, and with this Consideration of the Subject, I never either Otruded my Opinion on them, or expressed Myself in any Terms of Regret, and Still much less, of Censure, for the Adoption of the Rule. I may now Admit to Your Royal Highness that I did feel that a Courtesy was due to Me as their General, and Governor of this Territory, in regard to making my Table the Rule or Standard for the Admission of Persons into Society, and I Could not but feel Chagrined that a Courtesy So Usual and so becoming should have been Withheld by a Corps of Officers to Whom I had Shewn a particular Inclination to pay every Personal Respect and Attention within my Power.

Molle's
participation in
the exclusion
of ex-convicts
from the mess.

The Officers of the 46th Regt., in Adopting a Rule of Exclusion previous to their having Acquired any local Knowledge of the Country, Could Not Impress Me with any Very high Opinion either of their Good Sense or their Liberality; but I was particularly hurt at the Consideration that Col. Molle, in whose Friendship and Candour I had so fully reposed and who Constantly Expressed himself in Terms of Admiration of the Principles I was Acting Upon, Should have privately lent himself to

a Measure, Which he was either ashamed to avow, or had not Candour Enough to make me acquainted With. Notwithstanding, however, that my Confidence in Colonel Molle's Sincerity was Shaken by the Discovery that he Was the private Adviser of a Measure Militating with my Views of Humane Policy, Yet I Continued (Without Making any Comment on the proceeding) to receive him and his Officers With My Usual Attention, Until After the Arrival of Captain Sanderson of that Corps in 1815.

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This Officer having Used Most unbecoming and disrespectful Language on a particular Occasion to the Chief Magistrate of Police, and to the Bench of Magistrates before whom he had been Summoned for a Misdemeanour, I found it due to those Gentlemen's wounded Feelings to Admonish and reprove Capn. Sanderson for the Conduct he had adopted towards them; but in doing so, I made My Sentiments Known to him in as private and delicate a Manner as the Occasion would Allow of. Resentment, perhaps mingled with even Worse Motives, immediately led Capn. Sanderson to Set about forming a Faction among his Brother Officers, and More especially Among the Younger and more Inexperienced part of them, in Which he has Succeeded but too Well; and by possessing a great Share of the Spirit of Faction and Cabal has even brought over others of the Superior Officers to his Party in Opposition to Me and all the Measures of My Administration. This Party, Which I am Warranted in designating a political Faction, Hostile to the Interests of this Government and of the Colony, is Composed, under its Leader, Chiefly of Major McKenzie, Capn. Miller, and Lieutenants Grant, Hems-worth and Smith; the latter Officer is now returned to England. At their Mess Table, and in Hearing of their Servants, as Well as at other Tables Where I am not present, these Gentlemen are in the Habit of Arraigning and Endeavouring to draw Contempt and Ridicule on all and every Measure of My Government. To Such an Unwarrantable Length had these Gentlemen Suffered themselves to Indulge in reviling and Scoffing at the Civil Establishments and Regulations of the Colony, that Colonel Molle, Who had Certainly Not taken the early Measures to repress this Spirit of Faction, Which in his Capacities of Lieutenant Governor and their Commanding Officer he ought to have done, found it at length Necessary to Lecture Several of them (As he Afterwards told me) on the bold Licence they gave to their Tongues. Notwithstanding My being Aware of the Mutinous Licentiousness of this Faction, I held it Most Suitable to My own Dignity and Most Compatible with the Contempt in Which I held their petty Efforts at Annoyance to let them pass over Unnoticed as they were Unregarded.

Sanderson's
conduct towards
magistrates.

Faction created
in opposition to
Macquarie's
measures.

Members of
the faction.

Government
ridiculed by
officers.

Officers
reprimanded
by Molle.

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25 July.

Caricature of
Macquarie
drawn by
Bullivant.

Apology made
by Bullivant.

Connivance of
senior officers.

Invitations to
government
house declined
by military
officers.

Rupture
between
Macquarie
and officers.

Circulation
of a lampoon
on Molle.

The Spirit of Annoyance even descended so low, and became so Vulgar, that in July, 1816, Ensign Bullivant, When on Duty in Command of the Main Guard at Sydney, had the Audacity to draw with Chalk or Charcoal on the Wall of the Guard Room a full length Caricature of Myself in a Position of Ignominy, with Indecent Scurrilous Labels underneath it, and I understand that this Drawing remained for Several days Unobliterated, receiving frequent Visits from Several of the Superior Officers of the Regiment, Who Appeared to Enjoy the Insult thus Offered Me. It was at length by the Captain of the Day Made the Subject of a Report to Col'l Molle, Who gave Orders for its being Effaced and Washed from the Wall. An Enquiry being Instituted, Ensign Bullivant had the Candour to acknowledge himself the Author of it, and on being threatened with a Court Martial He sent me an Apology expressed in such full Terms of Contrition that I Willingly Abandoned my Intention in regard to him, he being Very Young and Inexperienced. I Could not however refrain from Considering the Conduct of those Senior Officers who had Viewed the Picture and appeared to be pleased and gratified with it (some of whom there is good Reason to believe had even Assisted in Writing the Labels underneath it), instead of reprobating such Marked Disrespect and Insolence to me, as Nothing Short of highly Culpable and punishable Insubordination on their own parts. Their Numbers, and the Circumstance of having No Means of Constituting a Court Martial but from among the Officers of the 46th Regiment itself, led me to forego any Prosecution Whatever.

Without any Apparent Cause, and Certainly without any Just one, a Number of the Officers who had Enrolled themselves under the Seditious Banners of Capn. Sanderson refused Invitations to Government House twice in Succession; those Gentlemen, Whose Refusals on these Occasions Were Most pointed, Were Major McKenzie, Capn. Sanderson, Capn. Miller, Lieut. Hems-worth and Lieut. Grant; Some others, Still Younger in the Service, who were under the Influence of the others, also declined, but I willingly Attribute their Conduct to Inexperience and undue Influence.

I have now Arrived at the Circumstance, which has widened the Breach between the Officers of the 46th Regt. and myself, and Which has produced a Rupture betwixt Me and Colonel Molle, Which has laid me under the distressing Necessity of making this long Representation to Your Royal Highness.

Several Months ago A Scurrilous Lampoon in Manuscript was dispersed thro' the Town by some person then unknown reflecting in Unjust and Malicious Terms on Colonel Molle, both in his private and Military Character; and it was the Cause of Great

Disquiet and Annoyance to that Gentleman, Who Strongly Suspected Some of the Officers of the 46th, with Whom he Was not on good Terms, to be the Authors of it. This Anonymous and Scurrilous Production unfortunately took such Possession of Colonel Molle's mind, that, instead of Suffering it by Silent Contempt to become altogether harmless, He provoked Such a System of Enquiry into the Authorship, that it excited a general Curiosity about the Contents of the Lampoon and Copies were quickly Multiplied, so as to gratify every person desirous of Seeing it. Among the Other Means resorted to in order to discover the Author, a Mess Meeting was Called and a Subscription entered into, and With a View to render more effectual that Subscription, I was induced to Offer an Emancipation to any Convict Who might happen to know of, and Would discover the Author. Among other Schemes resorted to by Colonel Molle to discover the Author, He suffered himself to be so blinded to every Sense of what was due to his Officers or any other Gentlemen (being Strongly Suspicious that some of them Were the Writers), that he proposed to them, as a Matter Which Would be Satisfactory to his Feelings, that they would Submit their Writing Desks and Papers to his Examination, which proposition, implying Strong Doubt of the Words of Honor, which they had pledged to him on the Subject, strange to tell! they Submitted to; and the Examination Yielded Not the desired Success, for No Vestige of the Poem Could be traced among any of his Officers' Papers.

1817.
25 July.

Endeavours
to discover
the author of
the lampoon.

The Indignity of the Proposition, which Seemed Not to have been felt in the first Instance, Was Afterwards resented by his Officers, Who Seemed Much hurt at the Measure. They did however afterwards enter into a Subscription for the Discovery of the Author, but this Subscription, with the Rewards formerly Offered, produced Not the desired Object. The State of Irritation produced on Col. Molle by this Lampoon Unhappily proved a Source of another Lampoon (or Pipe, as it is termed in Colonial Phrase) on the Colonel, if possible more Severe and Scurrilous than the former, which did Not fail to Work up the Irritation and Spirit of Resentment in Colonel Molle to the highest Pitch.

Publication of a
second lampoon.

Some Circumstances leading Suspicion to Settle on a Convict, lately Arrived here, Called Robt. Lathropp Murray, formerly a Captain in His Majesty's Service, I ordered at the Instance of the Colonel an Investigation of the Circumstance to take place before a Bench of Magistrates Wherein the Judge Advocate Presided. In the Course of the Investigation, Col. Molle having discovered Who the Author of the former Lampoon Was, it gave him such Joy that he declined prosecuting any further the Enquiry in regard to the Second, which was the Subject Immediately before the Bench, and left the Matter in that Stage of

Inquiry *re*
author of
second lampoon.

1817.
25 July.

Enquiry which Could not by any Means settle the Authorship of the Second on the person Accused, further than the Grounds of Suspicion, which he had previously entertained, had already done. Mr. Wentworth, the Principal Surgeon of the Colony, and Police Magistrate, was the person Who in the Course of his Examination avowed that it had Come to his Knowledge long After the Fact, that his own Son, Mr. William Wentworth,* Was the Author of the first Lampoon. It is Understood that Mr. Wentworth had the less Reluctance in Avowing his Son to be the Author, as he Was then on his passage to England, Where he has since Arrived, and of Course no immediate personal ill Consequence Could be Apprehended from it; Whilst at the Same time it would Settle a Business Which had given Rise to much Suspicion and ill Blood between Colonel Molle and his Officers and Some others of the most respectable Characters in this Country, Whom he had Chosen to Suspect of being the Author of that anonymous Libel. The Avowal produced So Strong an Effect on the Mind of Colonel Molle that he immediately grasped the Hand of Mr. Wentworth, and with an apparently grateful Feeling expressed himself in Terms of the greatest Thankfulness for his having relieved him from the Apprehensions he had Entertained with regard to others; and, Continuing to Shake Hands, He desired that All further Proceedings of the Bench should there Cease, He having Obtained, as he declared, the Chief Object in View in first Instituting the Enquiry. And thus an Investigation, Which had for its Ostensible Object to ascertain the Author of the latter Lampoon, ended with the Discovery of the Author of another of several Months earlier Date.

W. C. Wentworth
the author of
first lampoon.

Address of
congratulation
to Molle from
military officers.

It being thus ascertained that the Officers of the 46th Regt. had been Unjustly Suspected of Lampooning their Commanding Officer, an Address of Congratulation was Immediately drawn up and presented to him by a Committee of his Officers, Consisting of Capn. Sanderson, Surgeon Forster and Lieut't Grant. Had these Gentlemen Confined themselves in their Address to the Mere Subject of the Discovery of the Authorship, it Would perhaps have been very praiseworthy and Honorable on their part to have Made Such an Advance towards restoring that Confidence between themselves and their Commanding Officer, which has been So long Supplanted by dark Suspicions on the one part and Resentment on the Other. But that Address, and Colonel Molle's answer, which I now do Myself the Honor to transmit Your Royal Highness Attested Copies of, having presumed in a most Illiberal, Unjust and Malicious Manner to reflect in Sarcastic, tho' Indirect Terms, on the Measures of My Government, I found it Necessary to Enjoin the Government Printer Neither to Insert

Criticism of
Macquarie's
policy in the
address.

* Note 113.

them in the *Gazette* or to strike off any Copies of them as Hand Bills. I had hoped that My Instructions to the Government Printer Would have sufficiently apprized Colonel Molle and his Officers that I Considered those Papers as Improper for Publication, and Consequently that the Address and Answer would have been either revised, and the Objectionable Passages expunged, or that the giving greater Publicity, than What the Mere Delivery of the Address and Answer Would have Effected, Would not have been Attempted. Instead however of adopting this Line of Conduct, they Immediately Caused a great Number of Copies to be Written, and Several of them were sent in this Manner into a Very General Circulation Under the fullest Conviction that the great and leading Object in Circulating those Papers Was to disturb the Peace and Quiet of the Colony by Attempting to bring Odium on Me and My Public Measures. I deemed it my Duty to address Colonel Molle on the Subject, Apprizing him of My Considering the papers in question as Insubordinate, and Consequently highly Improper on his part and that of his Officers. This Intimation of My Feeling I hoped would have produced some Concession and Acknowledgment from those Gentlemen, and I should have felt most happy in Expressing Myself Satisfied with the Simple Withdrawing of the Objectionable Passages, Which Could not possibly be Explained in any Manner so as not to Imply Censure on My Measures. The Several Letters which passed between Me and Col. Molle, and the other papers Connected therewith, I now do myself the Honor to transmit Correct Copies of for Your Royal Highness's Information.

1817.
25 July.
Copies of
address
circulated
by officers.

Macquarie's
endeavours
to obtain
withdrawal of
objectionable
passages.

I beg to remark that having had some Reason to suspect that the Address had Undergone a partial Change, and that One Sentiment *particularly Offensive* had been Suppressed When it was found that I had determined on resenting it, I addressed a Letter to Col. Molle desiring to be Informed on the Subject of the Address and Whether, or no, it had not Undergone a partial Alteration from its first Form. The Answer I received, Which is No. 4 in the Series, Conveys the Acknowledgment of the Fact that one Passage, which I trust Your Royal Highness Will deem a Most presumptuous One, had been withdrawn by his own Desire. It was, as quoted by Col. Molle, himself, "That the Mess Table of the 46th Regiment was regarded as the Standard of Society in this Colony."

My Motive for bringing this Passage particularly before Your Royal Highness's Consideration is Not so Much to Comment on its own Offensiveness as to Mark the Disposition of the Party to reflect on and to treat with Supercilious Insolence every Rule of my Conduct as well in private Life, as in my public Administration of this Government.

1817.
25 July.

Correspondence
submitted for
consideration.

The Several Letters, Which I feel Myself under the Necessity of Submitting to Your Royal Highness's Perusal on this, to Me, most painful occasion of Duty, will themselves form the best Narrative of those proceedings, Which have Impelled me to address Your Royal Highness at such Length in Explanation of the Charges I have the Honor to Submit to Your Royal Highness herewith for the gracious Consideration of His Royal Highness the Prince Regent; and I shall not enter further into Detail on that Subject, begging Leave however to remark that the Spirit of Opposition to All the Measures of My Government, by Which the Conduct of the Officers, Generally, of the 46th Regt. has been Marked from the Period of their Arrival in this Colony up to the present time, leads Me to View their Speedy Removal from this as Indispensably Necessary to the Well-being Good Order and peaceable Demeanor of the Community.

Suggested
removal of the
46th regiment.

Having in the Early part of this Letter observed that the Rule laid down by the Officers of the 46th Regt. in regard to Not Trading, or being Concerned in Farming Speculations, had not been Adhered to with that Scrupulous regard Which the Solemn Pledge of their Honors required, I have to Inform Your Royal Highness that Major McKenzie, Captain Clarke, Lieutenant Campbell, Lieutenant Skelton, and Assistant Surgeon Bush have been all Engaged in Speculations of Herds and Flocks, Contrary to Your Royal Highness's orders on that Head.

Speculations
of officers in
live stock.

Commendation
of certain
officers.

Those Officers of the 46th, Whose Uniformly Steady and Gentlemanlike Conduct I feel most happy in bearing Testimony to, and Whom of Course I do Not by any Means Include in the Comments and Censures I have felt it my Duty now to Convey to Your Royal Highness, are Brevet Major Stewart, Captains Schaw, Gill, Wallis, and Nairne, Pay Master Campbell, Lieut't Watts (My own Aide de Camp), Lieutenants Dawe and Parker, Adjutant Madigan, and Quarter Master McDonald.

Papers
concerning
ensign
Bullivant.

Having Alluded Also in the foregoing part of this Communication to the Conduct of Ens'n Bullivant, Who had Caricatured Me in the Main Guard Room, I do Myself the Honor to transmit, for Your Royal Highness's more full Information on that Subject, not only a Copy of the Apology which he then made me, but also of a Subsequent Letter from that unfortunate Youth with an Enclosure therein referred to, and also of an Affidavit made by him on this last Occasion, Which Serve to prove that Several of the Officers of the Regt. had Seen and Apparently Approved of the Caricature he had drawn, and also that the Labels underneath it had been written by one or more of his Brother Officers.

I have now gone thro' this unpleasant Detail of the Circumstances, which gave Rise to this Address to Your Royal Highness,

and Which a Sense of Public Duty on my part rendered Altogether Indispensable, and I trust Your Royal Highness will not Impute it to any Motive of private Resentment (Altho' I feel that I have too much Ground to Yield even to an Impression of *that* Nature), but do me the Justice to believe that My Sole Object on this Occasion is to restrain that dangerous Principle of Insubordination, Which has Insulted and tended to Degrade the Honor and Dignity of that Government, Most Graciously Confided to Me by My Sovereign, and at the Same time to Support and Secure that Discipline, So Essential to the Welfare of His Majesty's Service and the Maintenance of Good Order in Society.

With Sentiments of the highest and Most Dutiful Respect,

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

GOVERNOR MACQUARIE TO LIEUTENANT-GOVERNOR MOLLE.

Sir, Government House, Sydney, 23d June, 1817.

On Wednesday last the 18th instant, Mr. Howe, the Government Printer, waited on Me to ask for My Permission to Print off *in Hand Bills* certain papers, which he held in his hand, purporting to be Copies of a Letter addressed to you by Captain Sanderson, Surgeon Forster, and Lieutenant Grant of the 46th Regiment, in the Name of the Officers of that Corps, and of your reply thereto. After a Cursory Perusal of those Documents, I did not think it advisable, on account of the Matter they contained, to give My Sanction to their being Printed *in any Form* at the Government Press, and accordingly directed Mr. Howe to return them to the Person he had received them from, Concluding I should hear Nothing more of them; I did not think it necessary to have Copies of them taken, indeed I had hoped from their not being allowed to be Printed, that that Check alone would have proved sufficient to prevent their Publicity and Circulation in Manuscript; I regret however that I was disappointed in this hope, as I find they have been circulated very generally to persons at Sydney, One of whom favored Me a few days since with a Perusal of them; and as they were thus Publicly Circulated I considered Myself perfectly justified in having Copies of them taken; but upon perusing them leisurely I find that they are not exact Copies of those shewn Me by Mr. Howe on the 18th instant to the best of my recollection, and that considerable Alterations have been made in those Papers since I first saw them.

As the Papers, herein alluded to, may eventually become the subject of a Public Investigation, I now send you enclosed herewith the Copies I had taken, and I have to request you will be so

1817.
25 July.

Reasons for
submitting
report.

Permission
refused for
printing copies
of address and
reply at
government
press.

Circulation of
amended copies
in manuscript.

1817.
25 July.

Copies to be compared with originals.

good as to Compare the Copies now sent with the Originals (which I conclude are either immediately in your possession or at least within Your reach) and inform Me whether they are correct Copies of the originals; I must also request you will inform me whether I am right in the Opinion, herein already stated, that those Copies now in Circulation are not Correct Copies of the first Letter, addressed to you by the Officers of the 46th Regiment under date the 13th instant, and of your first reply thereto under date the day following. I trust you will favor Me with your early Answer to these Questions, returning Me the Copies now herewith sent for your Perusal.

Criticism by officers of Macquarie's policy.

Had the Officers of the 46th Regiment confined themselves, in their late Letter or address to you, to congratulating you on the discovery of the Author of that libellous Paper which gave rise to their address, and reprobating that Production (as every honest man must do), it would be no more than their Duty to and respect for you as their Commanding Officer required them to do. But when they presume to make Strictures on a Political Measure long since adopted and acted on by this Government for the benefit and Improvement of the great Bulk of the Inhabitants of this rising Colony, Sanctioned by the House of Commons,* and approved by His Majesty's Ministers, it becomes My imperious Duty to express My strongest reprobation of such disrespectful and insubordinate Conduct, however indirectly Manifested in their Address to you; And it is but fair to apprise you that it is My intention to submit a full statement of the whole of their Conduct towards Me, since the first Arrival of the Corps in this Colony to His Royal Highness The Prince Regent, thro' His Highness the Commander in Chief and His Majesty's Ministers.

Report to be transmitted to England.

Rule for exclusion of ex-convicts from regimental mess.

Altho' the rule of exclusion, which the Officers of the 46th Regiment have thought proper to adopt in respect to the not admitting into their Society any Person who had the misfortune of having been once a Convict, is directly contrary to My principles of Justice, Humanity and Benevolence, still I admit that they possess the full right of making such a regulation for themselves, nor should I have ever interfered with any such Private rules of Conduct. But I cannot at the same time forbear to express My surprize and Astonishment at their presuming to prescribe Laws for such other Corps, as may succeed them in this Garrison, as well as in Anticipating the *most perfect Approbation of His Royal Highness The Commander in Chief* of the line of Conduct they have thus Adopted.

I have, &c.,

L. MACQUARIE, Governor in Chief of N. S. Wales.

* Note 114.

[Enclosure No. 2.]

CAPTAIN SANDERSON, SURGEON FORSTER AND LIEUTENANT GRANT TO
COLONEL MOLLE.1817.
25 July.Address from
officers to Molle
on discovery
of author of
lampoon.

Sir,

Sydney, 13th June, 1817.

It is peculiarly gratifying to Us to have been this day deputed by our Brother Officers to Convey to You their Warmest and most sincere Congratulations on the result of Yesterday's investigation.

Those false Malignant and Cowardly Attacks on your reputation, which appeared some time since, however they for a while might have interrupted our general happiness, We now beg to assure you never did Alienate that esteem and respect to which you have so strong a Claim from all who know you, and especially from Us who Act under your Command.

The recent disclosure of the Authors and the Concomitant Circumstances thereof, as now evident to the Public, have exalted you so far above the invidious designs of your enemies, have fixed you so permanently in Our Affection, and (in detecting the motives of the Anonymous Productions in Question) have afforded us so proud a Triumph that We hail the Opportunity to give Publicity to those Sentiments, which so Unanimously prevail among us. Publications, of such a Nature as those alluded to, are at best the secret Weapons to which the mean and timid Filchers of good Name resort for the gratification of Personal resentment, and by which they Covertly strive to Wound integrity.

These We perceive issuing from the Pen of Men so much Our Inferiors in Rank and Situation, that We know them not but among that promiscuous Class, which (with Pride We speak it) have been ever excluded from intercourse with *Us*. And here, Sir, allow Us still more to approve and applaud that System of exclusion, which even prior to Our Arrival in a Colony of this Description was wisely adopted, the Benefits of which We have reaped with Advantage to Ourselves as Officers and Gentlemen, and which, altho' it may have prompted the Malignity of those whom We have Kept Aloof, has established the Name of the 46th Regiment on a most respectable Basis. And, Sir, We presume that so Salutary a rule will obtain the most perfect Approbation of His Royal Highness the Commander in Chief, and be as tenaciously adhered to by every Regiment that may in Succession Compose this Garrison.

Had respectable Men been so far forgetful of their own Characters as to have descended to so Vile and mean a Practic as that of Anonymous Scurrility, or to have perverted Talents, bestowed on them for more useful purposes, to the degrading Work of dark Assassins, then indeed the subject now under our

1817.
25 July.
Address from
officers to Molle
on discovery
of author of
lampoon.

Consideration would be more grievous; but *Here* it is enough to Know the *Men, their Origin* and History, and the Venom of their libellous Pens becomes Absorbed in the Contemplation of each Contemptible Mævius in Satire.

We have considered, Sir, that the Arrows were not aimed at you alone, they were pointed no less at those who have the happiness to serve under your Command. The darling Object of their black Conspiracies was to Create among Us Feuds and Animosities, and thence was it Artfully Contrived, insidiously Whispered in your Ear, and Industriously propagated abroad, that the Authors were of our own Body. Can we sufficiently deprecate such Systematic Perfidy? let those, who basely promoted this Satanic fable in Order to destroy that Confidence so much the envy of the ignoble, now blush and hide their ignominious heads.

Each Machination has been foiled; each unprincipled Scheme has been supremely defeated.

An inviolable Friendship, a generous Reciprocity of feeling and interest now happily supersedes the temporary Ferment of Suspicion and distrust; and the "*Wicked Wiles*" are hurled back on the devoted Authors, as well as on the Instigators of and Connivers at the Calumny.

It is but Justice, Sir, to you (and here We reach a very pleasurable part of the Communication We have been directed to make) to declare that even during the Period of that Suspicion, which had a foreign Birth, your Conduct towards *One and All of Us* exhibited you most Uniformly the Man of benevolent feeling of Justice and of Honor; Nor can a single instance be adduced of your having on *that* Account given pain to any individual of the Corps.

The Record of such Qualities of Mind sheds additional Lustre on Professional Honors; and We had insufficiently performed our Duty, had we omitted to give to this grateful Circumstance that Emphasis which is so justly due.

Henceforth We are Confident no hostile inventions can disturb that Union, which it will be our Zealous purpose to Cultivate and support; and the prospect of shortly quitting this (a Quarter in no point of View Congenial to Military feelings) will We hope afford us ample Opportunities to evince that Our Hearts steadily accompany you no less in the active Duties of Our Profession than they will keep pace with you in the Social Walks of Life, and in every wish for your domestic Felicity and Prosperity.

In the Name of the Officers of the 46th Regiment, &c., &c.,
E. SANDERSON, Capt. 46th Regt.
T. FORSTER, Surgeon 46th Regt.
GEORGE GRANT, Lieut. 46th Regt.

Certified to be a Correct Copy of the Original:—G. MOLLE, etc., etc.

[Enclosure No. 3.]

COLONEL MOLLE TO CAPTAIN SANDERSON, T. FORSTER, ESQ.,
LIEUTENANT GRANT AND OFFICERS 46TH REGIMENT.

Gentlemen,

Sydney, 14th June, 1817.

Owing to the forgetfulness of My Servant, your Letter of yesterday was not put into My Hands till this Morning, a Circumstance I much regret as I should otherwise have availed Myself of the opportunity of Communicating My Reply when at the Mess.

You may be well assured that the discovery of the Authors and Abettors of those infamous and Malignant Libels, which occasioned such an interruption to our Cordial and Social intercourse, has been to Me *One of the happiest Moments of My Life*.

I feel it a Duty incumbent on Me to declare *I shall ever deeply regret having for a Single Moment entertained the Suspicions I did in regard to those, under whose Garb I should have well known the Dagger of the Midnight Assassin or the Pen of the Anonymous Libeller never was Concealed*.

The heartfelt Satisfaction, I now experience on this happy occasion, is much Augmented by your affording Me such a Proof of Personal Congratulation that, during the whole period of My labouring under the *Demon of Suspicion*, I never Conducted Myself towards you in any manner painful to your feelings, as Gentlemen, or derogatory to my Own Character as Commanding Officer of the Regiment. This is and ever will be a joyful reflection to Me and Mine.

With regard to the Authors and Abettors of the infamous Libels in question, I can but entertain Your Sentiments and consign them to the Contempt and Oblivion they Merit.

My feelings are now those of the Warmest hope and Confidence that, surrounded by you and My Brother Officers, our *Hearts and Hands* will ever be united in Friendship, Esteem and Emulation, equally Cordial in the hours of Private and Social intercourse, as distinguished in *that* Field, which our speedy removal from this Colony may afford us an Opportunity of enjoying.

I have, &c.,

G. MOLLE.

Certified to be a Correct Copy of the Original:—G. MOLLE, etc., etc.

[Enclosure No. 4.]

COLONEL MOLLE TO GOVERNOR MACQUARIE.

Sir,

Sydney, 24th June, 1817.

1st. I have the Honor to acknowledge the receipt of Your Excellency's Letter of yesterday's date, transmitting Me Copies of two Letters, which have recently passed between the Officers

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25 July.

Colonel Molle's
reply to the
address of the
officers.

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25 July.

of His Majesty's 46th Regiment and Myself (as their Commanding Officer) upon the Subject of the late happy discovery of the Authors of those Anonymous Publications, which so grossly reflected Upon My Conduct and Character as an Officer and a Gentleman.

Verification of
copies of letters.

2nd. In the first place, I have the Honor Most respectfully to state for Your Excellency's information (and agreeable to your desire) that the Copies of the Two Letters, transmitted by Your Excellency to Me, are *Word for Word* the same as those which passed between the Officers and myself, and of which Copies have been Circulated by the Officers of the Regiment among their Friends for the purpose of giving Publicity to the discovery of the Anonymous Libellers in question, as well as to remove all Suspicion from the Corps.

Printing of
letters.

3d. With regard to the intention of Printing the Letters in question, I disclaim All knowledge of such a Measure having been in Agitation till it was asserted by Your Excellency; nor should I have Consented to the Attempt being made, as I am fully aware the Press in this Colony is under Your Excellency's Control, and that the Printing of any Matter must first obtain Your Excellency's Sanction and Approbation.

Omission of
paragraph in
first address
of officers.

4th. As it would appear that Your Excellency has been informed by some *Officious Tale-bearer* that a former Copy of the Letter in question (previous to that now made Public) was submitted to My Perusal, I have no hesitation in Openly avowing the truth of such report; but, as *that* Letter contained one Paragraph (And *one only*) that appeared to Me irrelevant, I requested it might be expunged; it was to the following Effect (for I returned the Letter) "that the Mess Table of the 46th Regiment was regarded as the Standard of Society in this Colony." I looked upon such a Declaration as an improper Assumption of the Mess, and it accordingly was expunged at my desire.

Disclaimer of
opposition to
Macquarie's
policy.

5th. I am free to Confess, with All due Deference towards Your Excellency, that no other part of the Letter in question struck Me as disrespectful or insubordinate towards Your Excellency; nor am I aware that the Officers of the 46th Regiment have in that Letter presumed to make Strictures on any Political Measure of this Government *known to them*, as having been sanctioned by the Right Honorable The House of Commons and by His Majesty's Ministers, and consequently acted upon and adopted by Your Excellency as a general rule and example for the Colony.

6th. Your Excellency has been Pleased to admit that the Officers of the 46th Regiment have the full right to adopt such rules of exclusion in regard to their Society (*as a Corps*) as they may deem proper. The Mess of the 46th Regiment have done no

more, nor have they (with all due respect to Your Excellency's opinion) in My Mind assumed to themselves the right to prescribe Laws for the Society of other Corps's, that may succeed them in this Colony, nor dared to Anticipate with a tone of arrogance "*the most perfect approbation of His Royal Highness The Commander in Chief*" of the line of Conduct they have thus adopted. Their expressions are "and, Sir, We presume," etc., which I only construe into *the hope* and far from *dictatorial Confidence*.

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25 July.

The exclusion
of ex-convicts
from the mess.

7th. Your Excellency has been Pleased to acquaint Me that "you think it but fair to apprise me, that it is your intention to submit a full statement of the whole of the Conduct of the Officers of the 46th Regiment towards you, since the first Arrival of the Corps in this Colony, to His Royal Highness The Prince Regent through His Royal Highness The Commander in Chief and His Majesty's Ministers."

Report to be
submitted to the
commander-in-
chief.

8th. Upon this (to *Me* most surprizing part of Your Excellency's Letter), I have to observe that I cannot conjecture the Grounds or foundation of such a report as the above, which can occasion the framing or transmission of it by Your Excellency to the Throne, either against Myself, or the Officers of the 46th Regiment. For myself, I Challenge the *fullest investigation* of My Own Conduct, *Public* or *Private*, towards Your Excellency, since my having the honor of being under Your Excellency's Command; and for the Officers of the Regiment (whatever may have been their *Private* feelings towards Your Excellency), I can aver that they never evinced before Me the smallest disrespect towards Your Excellency in the high situation you fill in the Colony. I must here beg leave to call to Your Excellency's recollection My Conduct, as Commanding Officer, in regard to the disrespect shown to Your Excellency by Ensign Bullivant.

9th. I am therefore Most respectfully to hope that Your Excellency may have been misinformed as to those parts of the Conduct of the Officers of the 46th Regiment, which have now called forth so severe a reprobation from Your Excellency, and intended to be made the matter of Official Report to the Throne, the more especially at a Moment, when (as far as *Private* intelligence from England goes) the stay of the Corps in this Colony is so nearly drawing to a Conclusion.

10th. It is but a proper respect I owe to Your Excellency to acquaint you that I shall consider it My duty, and a justice I owe to Myself and the Officers I have the honor to Command, to transmit the Correspondence that has passed or may pass between us to His Royal Highness, The Prince Regent, through His Royal Highness, The Commander in Chief, and His Majesty's Ministers,

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Criminal
information to
be laid against
D. Wentworth.

together with a Copy of the Proceedings which took place at the late special Bench of Magistrates at Sydney. And I further think it proper to acquaint Your Excellency that I shall deem it an imperious duty towards Myself to Notify to His Majesty's Ministers (as I now respectfully do to Your Excellency) that it is My intention to cause a Criminal information to be exhibited against D'Arcy Wentworth, Esqre., Justice of Peace and Principal Superintendant of Police in this Colony, for gross disrespect and Contempt of me as His Majesty's Lieutenant Governor of this Territory, and for Aiding and Abetting the Writing and Publishing of those Anonymous and Scurrilous Libels, which went so maliciously to traduce Me as an Officer and a Gentleman.

I have, &c.,

G. MOLLE,

Lieut.-Governor, N. S. Wales, and Lieut. Col. 46th Regiment.

[Enclosure No. 5.]

GOVERNOR MACQUARIE TO COLONEL MOLLE.

Sir, Government House, Sydney, 25th June, 1817.

I have the Honor to acknowledge the receipt of your Letter of yesterday's date. Your explanations, in respect to the Letter addressed to you by the Officers of the 46th Regiment under date the 13th instant, being by no means satisfactory, I must still adhere to the Resolution I had formed of transmitting Home a statement of their Conduct to be Humbly submitted to the gracious Consideration of His Royal Highness, The Prince Regent, through the proper Channels; and I shall take an Opportunity, as soon as I have leisure to draw them up, of sending you, for your own and their information, Heads of the Accusations I intend to exhibit against the Officers of the 46th Regiment generally, which I consider as insubordinate or disrespectful to Myself Personally. I shall take especial care on My own Account to advance Nothing but strong facts, which both you and they must acknowledge to be such. I must at the same time declare in Justice to those particular Gentlemen that there are several Officers in the 46th Regiment, for whom I entertain a high respect and Esteem, and with whom I have no fault to find, except in as far as they may have Concurred in the Sentiments contained in their Letter to you of the 13th instant already pointed out by Me as Offensive and Irrelevant.

I can have no possible Objection to Your transmitting Home, to be laid at the foot of the Throne, Copies of all the Correspondence that has already taken place between you and Me, and indeed I think you do perfectly right to do so.

Charges to be
exhibited
against officers
by Macquarie.

In reply to the Communication you have been Pleased to make to Me as to your intentions respecting Mr. Wentworth, the Superintendent of Police, I have no observation to make.

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25 July.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 6.]

GOVERNOR MACQUARIE TO COLONEL MOLLE.

Sir, Government House, Sydney, 4th July, 1817.

In pursuance of the Communication, I had the honor to make to you in My Letter under date the 25th Ultimo, I now transmit you herewith, for your own information and that of the Officers concerned, a Copy of the Charges, which I intend to prefer against the Officers of the 46th Regiment and to have laid at the Foot of the Throne thro' the Medium of His Royal Highness The Commander in Chief of the Forces and His Majesty's Secretary of State for the Colonies.

Charges to be preferred against officers of the 46th regiment.

I most sincerely lament that there should be a Necessity for My resorting to so Solemn and Serious a Measure, as that of exhibiting Charges of so serious a Nature against the Officers of the 46th Regiment and laying the same at the foot of the Throne, the more especially as it is probable that that Corps will be removed from this Colony in the course of a few Months. But the sacred Duty, I owe to My Sovereign and My Country, and the due support of Discipline and Subordination of the Troops serving Under My Command, together with the Duty I owe to My Own Personal Character and high Station in this distant Colony, alike imperiously Compel Me to make this Solemn Appeal to the Throne, as the only Tribunal Competent to decide finally on the Conduct of the Officers of the 46th Regiment towards Me, as the Representative of Majesty, their Governor in Chief, and Commander of the Forces in this Country.

In respect to your own Conduct as Commanding Officer of the 46th Regiment, I have no Comments to make, further than that I cannot but highly disapprove of your having received from the Officers of the 46th Regiment the Letter, they addressed to you under date the 13th of last Month, Containing Sentiments of such insubordinate Tendency and of disrespect to Me, as I conceive it was your Duty to return that Letter to them with suitable Animadversions on all those Objectionable parts that were Irrelevant to the principal Avowed object of their Address of Congratulation to you, as well as disrespectful to Me in indirectly Censuring My Public Political Measures.

Criticism of Molle's conduct.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 7.]

1817.
25 July.Charges
preferred by
Macquarie
against the
officers of the
46th regiment.

CHARGES Intended to be Preferred by Major General Macquarie against the Officers of the 46th Regiment, *Generally*, Vizt.

1st Charge.—For Insubordinate and highly disrespectful Conduct in Maliciously Animadverting on and severely censuring the Public Measures of Major General Macquarie, as Governor in Chief and Commander of the Forces in New South Wales in the Administration of the Affairs of this Colony, at their Public Mess Table, and making a frequent Practice of the same, with the view apparently to prejudice him in the Public Mind and bring Odium and Contempt on his Government; Such Conduct being highly incompatible with their Duty to him, as Governor in Chief and Commander of the Forces in this distant Colony, and subversive of good Order and Military Discipline.

2d Charge.—For Conniving at and sanctioning a Most daring, insolent and disrespectful Act of insubordination, Committed by Ensign Bullivant of the 46th Regiment (as Attested by his Own subsequent Confession) in drawing or Painting on the Inner Wall of the Officers' Room in the Main Guard House at Sydney a certain *Caricature likeness* of the Governor in Chief and Commander of the Forces with Opprobrious Mottoes and Scurrilous Epithets, attached thereto, with the apparent View of bringing Contempt and Ridicule on the Governor and Commander of the Forces; the said Caricature having been allowed to remain on the Wall of the said Room for several Successive days with the knowledge of the several Officers of the 46th Regiment, who successively Mounted the Main Guard after Ensign Bullivant, as well as with the knowledge of other Officers of the Corps, who visited the Officers on Duty at the Main Guard, without attempting to remove the said Caricature, until the Circumstance happened to be reported by an Officer of the Corps to Colonel Molle, who then ordered it to be Erased from the Wall; Such Conduct in the Officers of the 46th Regiment being highly disrespectful to the Governor in Chief and Commander of the Forces, and Subversive of good Order and Military Discipline.

3d Charge.—For declining to Dine with the Governor in Chief and Commander of the Forces at Government House, when invited to do so in Writing, without assigning any reason for not Accepting the said invitations; such Conduct being highly disrespectful to Him as their Governor in Chief and Commander of the Forces.

4th Charge.—For highly insubordinate and disrespectful Conduct to their Governor in Chief and Commander of the Forces in having, in a late Address or Letter, presented to their Commanding Officer Colonel Molle, presumed to Censure (tho' in an

indirect Way) a Political Measure, long since adopted and Acted on by the Governor in Chief for the benefit and improvement of the great Bulk of the Inhabitants of this rising Colony, altho' Sanctioned by The Honorable The House of Commons and approved of by His Majesty's Ministers; Such Conduct in the Officers of the 46th Regiment tending to disturb the Tranquility of the Colony by Creating Invidious distinctions, divisions and Animosities in the Society thereof, and being also Subversive of good Order and Military Discipline.

1817.
25 July.

Charges preferred by Macquarie against the officers of the 46th regiment.

5th Charge.—For presuming to Anticipate in their Address to Colonel Molle, herein alluded to, *the perfect Approbation of His Royal Highness The Commander in Chief* of the "*Salutary Rule*" (as they term it) they had made, even prior to their Arrival in this Colony, of excluding from their Society and intercourse that Class of Persons, *Who had ever been Convicts*, thus plainly, tho' indirectly, Condemning the Conduct of their Governor in Chief and Commander of the Forces for having adopted a different line of Conduct.

6th Charge.—For presuming to Anticipate in their late Address to their Commanding Officer, Colonel Molle, that the Rule of Exclusion, adopted by them with regard to Persons who have ever had the Misfortune of being Convicts, will "*be as tenaciously Adhered to by every Regiment that may in Succession Compose this Garrison,*" thereby prescribing Laws and Rules of private Conduct for such Corps as may succeed the 46th Regiment in this Colony.

7th Charge.—For highly insubordinate Conduct in Arrogating to themselves the extraordinary Power and Right of Resolving and making it a Rule "*that the Mess Table of the 46th Regiment was Regarded as the Standard of Society in this Colony,*" thereby treating with insolence and Contempt their Governor in Chief and Commander of the Forces, and Virtually declaring his Table and Society to be not only inferior to their Own, but also improper and discreditable, Such Conduct and the expression of such insubordinate Sentiments being Subversive of all good Order and Military Discipline.

L. MACQUARIE.

Government House, Sydney, New South Wales, 4th July, 1817.

[Enclosure No. 8.]

COLONEL MOLLE TO GOVERNOR MACQUARIE.

Sir,

Sydney, 5th July, 1817.

I have the Honor to acknowledge the Receipt of Your Excellency's Letter of yesterday's date, transmitting Certain charges intended to be preferred by Your Excellency against the Officers of the 46th Regiment *generally*.

1817.
25 July.

Charges
communicated
to officers by
Molle.

I shall not presume to remark upon the Charges in Question to Your Excellency; but I deem it My Duty respectfully to transmit for Your Excellency's information a Copy of My Address to the Officers of the Corps, whom I Assembled this Morning for the purpose of Communicating to them the Charges intended to be preferred against them by Your Excellency.

I shall of course make the same Communication to the Officers, who Are Absent on Leave, the Moment they return to Head Quarters.

I have, &c.,

G. MOLLE,

Lieut. Col. Commanding 46th Regt. and Colonel.

[Enclosure No. 9.]

COLONEL MOLLE'S ADDRESS TO THE OFFICERS OF THE 46TH
REGIMENT.

Sydney, New South Wales, 5th July, 1817.

At a Meeting of the Officers of the Mess of the 46th Regiment, Assembled by Order of Colonel Molle, Commanding the Regiment, the Officers Were Addressed by him as follows:—

Gentlemen,

I have already Apprized you that it has been Signified to Me by His Excellency Governor Macquarie, Commander in Chief in this Colony, that it was his intention to prefer Certain Charges against the Officers of the 46th Regiment Generally.

Officers to copy
charges and
reply thereto.

I have now the Honor to acquaint you that I have received a Letter and a Copy of those Charges from His Excellency; and, as no particular Officer or Officers are exempted from those Charges, I am to desire that each Officer present will from My reading take a Copy of them for the Sole and Special purpose of making a Reply to Me, their Commanding Officer, either in extenuation or refutation of All or part of those said Charges, in as far as each Officer may feel himself Personally and Individually implicated.

Replies to be
transmitted to
the commander
in chief.

My Motive for thus acting, Gentlemen, is that I feel it an imperious Duty, both to You and Myself, to possess such Documents for the purpose of Humbly transmitting the same for the information and Gracious Consideration of His Royal Highness The Prince Regent through His Royal Highness The Commander in Chief. I do this principally as, from Our probable Short stay in this Colony, No *Public Investigation* before a proper Military Tribunal can possibly take place; And, should No explanation of or Reply to the Charges now in Question be sent Home, those Charges would of course carry with them their full Force. The hitherto Unblemished Character of the Corps

might be blasted, and the Hopes and Prospects, Gentlemen, of rising in Our Profession might eventually be for ever ruined and undone.

G. MOLLE,

Lieut. Colonel Commanding 46th Regt. and Colonel.

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25 July.

[Enclosure No. 10.]

GOVERNOR MACQUARIE TO COLONEL MOLLE.

Sir, Government House, Sydney, 6th July, 1817.

I have the Honor to acknowledge the Receipt of your Letter of yesterday's date, in Reply to Mine of the 4th Instant, and transmitting Me a Copy of Your Address, to the Officers of the 46th Regiment, whom you had Assembled yesterday for the purpose of Communicating to them the Charges I intend to Exhibit against them Generally.

I have, &c.,

L. MACQUARIE.

Acknowledgment of Molle's letter.

[Enclosure No. 11.]

GOVERNOR MACQUARIE TO COLONEL MOLLE.

Sir, Government House, Sydney, 14th July, 1817.

Having ever been Unwilling to resort to harsh Measures, except in extreme Cases where a Sense of Public Duty imperiously imposed such a necessity upon Me, and having no desire to injure even those who Manifest a Disposition to Counteract and Condemn My Public, Political Conduct and Measures (for I trust My Private Conduct and Principles are beyond the reach of even the most inveterate Malice), I should be extremely sorry, if I could possibly avoid it Consistently with the Duty I owe to My Sovereign and My Own Public Character, to adopt any Measure which might eventually injure the Promotion or future Prospects in Life of the Officers of the 46th Regiment, either Collectively or Individually.

Macquarie's offer of a compromise to the officers of 46th regiment.

I have therefore to Signify to you for their information that, however much I may feel Myself Aggrieved by their Conduct, and to Convince them that I am not Actuated by a spirit of Revenge or Malice, I am willing to withdraw the Charges, I lately preferred against them *Generally*, and to bury every thing that is past in Oblivion, On Condition that they shall forthwith recal All the Copies of their late Letter of Congratulation to You, which they have Circulated amongst their Friends and Acquaintances, expunge therefrom the Objectionable parts, which by implication reflect on and Censure indirectly My Public, Political Conduct and Measures, and then Address such Amended Letter to you, sending Me an Attested Copy thereof.

This Proposition being Just and Reasonable, as well as perfectly Compatible with their Honor as Officers and Gentlemen, I

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25 July.

Macquarie's
offer of a
compromise to
the officers of
46th regiment.

trust it will be readily and without hesitation Complied with; and, if so, I shall require no other explanation or Apology, and shall immediately withdraw the Charges I lately forwarded Officially to You.

But in the event of the Officers of the 46th Regiment declining to Comply with this Proposition, I shall be under the painful Necessity of prosecuting My Original intention of respectfully submitting their Conduct to the Gracious Consideration and Decision of His Royal Highness The Prince Regent.

I have to request you will, as soon as practicable, Assemble the Officers of the 46th Regt. and Communicate to them the Contents of this Letter, giving them Twenty four Hours to consider the Proposition, now made to You and through you to them, and inform Me of the Result as soon afterwards as you Conveniently can.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 12.]

COLONEL MOLLE TO GOVERNOR MACQUARIE.

Sir,

Sydney, 15th July, 1817.

I have the Honor to acknowledge the receipt of Your Excellency's Letter of Yesterday, and, agreeable to your desire, Communicated the same to the Officers of the 46th Regiment at present with Head Quarters, and beg leave to transmit their reply to me for Your Excellency's information and favorable Consideration.

As Commanding Officer of the 46th Regiment, I feel it My Duty to declare that I entirely agree in Opinion with the Declaration and Sentiments expressed by the Officers, And Most Humbly and Respectfully have to hope that Your Excellency will be Pleased to accept of this our Sincere and Unequivocal declaration, and that every thing that is past will be buried in Oblivion.

I have, &c.,

G. MOLLE, Col. Comm'g, 46th Regt.

[Enclosure No. 13.]

OFFICERS OF THE 46TH REGIMENT TO COLONEL MOLLE.

Sir,

Sydney, 15th July, 1817.

The Communication from His Excellency Major General Macquarie, Governor, Commander of the Forces, etc., etc., etc., of the 14th Inst., has in Conformity to Your desire (as expressed yesterday at a Meeting of the Officers) been Maturely Considered.

Conscious of the Integrity of that Address, which has unhappily caused His Excellency's displeasure, We deeply regret that We cannot embrace the Suggestions contained in his Letter in their fullest extent, however anxious We may be to meet the wishes or satisfy the Feelings of His Excellency.

Compromise
submitted
to officers.

Refusal
of officers to
withdraw
address to
Molle.

With great Deference for His Excellency's Opinion, We think the recal of Our Address or any Expunging therefrom Would be inconsistent and derogatory to Our Characters.

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Refusal
of officers to
withdraw
address to
Molle.

But Prompt to Comply with His Excellency's Proposition, as far as may be Compatible with Our Honor, We Most Respectfully Crave Permission to Make this Solemn and Unequivocal assurance, on the Words and Honor of Officers and Gentlemen, that Neither directly nor indirectly was it designed or intended in *that* Address to Animadvert on the Political Measures of His Excellency, nor was any Allusion therein Contemplated, nor purpose held, to Convey such Sentiments As We lament to think His Excellency has deemed Us Capable of entertaining towards His high Rank and Public Station.

We Most Unfeignedly declare that, in the whole of *that* Address, We were solely Actuated by Our Private Feelings of respect and Esteem towards you, as Our Commanding Officer, called forth by the Authors of a libel, the Odium of which had been *Cruelly* fastened on *Certain Officers of the Corps*.

And We Humbly presume to hope that His Excellency will be Pleased to Accept these Our Protestations, to which (if they may remove from his Mind those unfavorable Impressions) in Addition to the Satisfaction we shall *then* experience, it will be *equally* our Wish to give every possible Publicity.

We have, &c.,

J. MCKENZIE,	Major.	H. J. K. HEMSWORTH,	Lieut.
E. SANDERSON,	Captain.	D. L. COX,	Lieut.
T. FORSTER,	Surgeon.	JOHN H. FRENCH,	Lieut.
T. MILLER,	Captain.	G. W. REVELEY,	Lieut.
T. THOMPSON,	Captain.	J. MADIGAN,	Adj.
B. G. HUMFREY,	Captain.	C. B. ORANGE,	Ensign.
CHAS. HIGGINS,	Lieut.	H. McDONALD,	Qr. Mr.

Certified to be a true Copy:—G. MOLLE, etc., etc.

[Enclosure No. 14.]

CAPTAIN GILL TO COLONEL MOLLE.

Sir,

Sydney, 15th July, 1817.

Being Called on to state My reasons for not giving My Signature to a Letter to be addressed to you, and by you to His Excellency Governor Macquarie, Commander of the Forces, by the Officers of the 46th Regiment, in Reply to a Letter addressed to you of yesterday's date;

Reasons for
refusal of Gill
to sign letter.

In Consequence of the high Esteem and Friendship, I entertain for His Excellency Governor Macquarie, together with the Confidential Situation I have the Honor to hold under him, I deeply lament that Certain Passages in that Address should have

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given Offence, and am of Opinion that such extraneous Matter should have been expunged; at the same time, as the Address has been promulgated, I do not Conceive it Compatible to withdraw it.

I have, &c.,

JNO. GILL, Captn. 46th Regt.

[Enclosure No. 15.]

GOVERNOR MACQUARIE TO COLONEL MOLLE.

Sir, Government House, Sydney, 17th July, 1817.

I have the Honor to acknowledge the Receipt of your Letter of the 15th instant, transmitting to Me One of the same date, addressed to you by the Officers of the 46th Regiment, now present at Head Quarters, in reply to the Communication I made you under date the 14th instant.

Macquarie's
regrets at
decision of
officers.

I have to lament that, whilst the Officers of the 46th Regiment shew themselves extremely tenacious of every thing, which touches their Own Feelings, they appear totally regardless of Mine; and I cannot forbear expressing My surprize and extreme regret that they should have hesitated to embrace the Conciliatory Proposition, conveyed to them thro' you in My Communication above referred to, there being Nothing in that Proposition either inconsistent with or derogatory to their Honor or Feelings as Officers or Gentlemen; for I must ever remain Unalterably of Opinion that their Address to you, of date 13th Ultimo, Contained matter not only Irrelevant to the avowed Subject thereof, but of a Tenor indirectly Censuring My Conduct, and consequently that it was highly Unjustifiable in them, as a Military Body serving Under My Command, to give Publicity to such Sentiments; And I must Add that I feel greatly surprized at your Concurring in such Sentiments, and approving of their having declined to withdraw that Address and expunging from it those objectionable Parts, which I felt so justly offended at.

Declaration
to be accepted
when signed
by all officers.

Nevertheless, as I still feel the same Sentiments of Reluctance, which I have already avowed, to follow up a Measure that may eventually injure the Officers of the 46th Regiment, and at the same time sensibly alive to the General Interests of His Majesty's Service, I am willing to withdraw the Charges I lately preferred against them through you, as soon as *All* the Officers (with the exception of Captain Gill and Lieut. Watts), belonging to the Corps now stationed at Port Jackson, shall have signed the Declaration of date 15th Instant, transmitted to Me in your Letter of the same date, which declaration I now return you for this purpose, requesting you will send it back to Me after all the Officers now Absent shall have returned to Head Quarters and Signed it.

It is however proper to apprise you and the Officers of the 46th Regiment that I must reserve to Myself the right of sending Home the whole of this Correspondence, as originally intended, in the event of the Letter of Congratulation to you of date 13th of last month obtaining further Publicity here or elsewhere in Print, either in Newspapers or Hand Bills.

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In Concluding this Letter, I cannot forbear noticing the latter part of the 5th Paragraph of the Letter, addressed by the Officers of the 46th Regiment to you under date the 15th Inst. and transmitted to Me by you, Namely "The Odium of which had been Cruelly fastened on certain Officers of the Corps." I could wish to have an explanation of this Passage, as I am greatly at a loss to know its Allusion, or why it is introduced in that Declaration. If it be meant to insinuate that I *Personally* had Cruelly fastened the Charge upon them of having been the Authors of the Malicious Libel in Question, they do Me the utmost injustice indeed; for I utterly disclaim having done or attempted to do so, tho' I am indeed free to confess that, in Common with yourself who might be supposed to have obtained better information on that subject than I could have had, I did suppose, in Common with most other People, it had been Written, as suggested by yourself, by some Officer in the 46th Regiment, but certainly never considered the Matter of that importance to induce Me to take the Pains or Trouble of impressing such a Suspicion on your Mind, which appeared to Me to be Confirmed in the Belief that the Libel in Question was written by some Officer in your Own Corps. This must be evident from the very strong and extraordinary Step you thought proper to adopt in the early Stage of this Business by searching and examining the Escritoirs and Papers of all the Officers of the Corps, in hopes of finding this Libel in some of them; such a Suggestion could never have been made to you by any Reasonable Person and certainly never was made by Me.

Officers
suspected of
being authors
of lampoon.

The Officers in their Address of Congratulation to you having dwelt and laid much Stress on your being impressed by others with Suspicions of them, and as they may perhaps have intended to include Me in that Number, I felt it necessary to make the foregoing Observations in order to remove from their Minds any illiberal unfounded Suspicion they may yet entertain to that effect.

Requesting you will be Pleased to Communicate the Contents of the Letter to the Officers of the 46th Regiment.

I have, &c.,
L. MACQUARIE.

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[Enclosure No. 16.]

COLONEL MOLLE TO GOVERNOR MACQUARIE.

Sir, Sydney, 19th July, 1817.

I have the honor to acknowledge the Receipt of Your Excellency's Letter of the 17th Inst., transmitting the Letter from the Officers of the 46th Regiment (under date the 15th inst. and addressed to Me) for the purpose of having the Signatures of those Officers, who were Absent, Affixed to it.

Refusal of
officers to sign
declaration.

I now beg leave to return the Letter (under date the 15th instant) together with a Joint Letter addressed to Me by those Officers (excepting Mr. Pay Master Campbell, who is still Absent) in which they assign their reasons for declining to Sign the Letter in Question.

Your Excellency's Letter of the 17th Instant has also been Communicated by Me to the whole of the Officers (with the exception of Captain Gill and Lieut. Watts) *now present at Head Quarters*, and this Reply is Jointly in their Name and My Own.

I am therefore to express in the Most Respectful Manner to Your Excellency Our deep and unfeigned regret that the Sentiments and Solemn Protestations contained in those Letters (from Myself and the Officers under date the 15th instant) have not proved satisfactory, but on the contrary would appear to be *totally* discredited by Your Excellency.

Officers'
request for full
investigation
of charges.

Under this impression, I am in the *Name* of the Corps Most respectfully to state to Your Excellency that it is *now our Anxious wish and Request* that the whole of the Charges in Question should undergo *every Investigation* Your Excellency may deem proper.

I have, &c.,

G. MOLLE,

Lt. Col. Comm'g 46th Regt. and Colonel.

[Enclosure No. 17.]

OFFICERS OF THE 46TH REGIMENT TO COLONEL MOLLE.

Sir, Sydney, 19th July, 1817.

Reasons for
refusal of
officers to
sign letter.

In Compliance with your desire that We should state in Writing our Reasons for declining to Affix Our Signatures to the explanatory Letter, written by the Officers of the 46th Regiment to His Excellency Major General Macquarie, respecting certain parts of the address sent by the Regiment to yourself, and which His Excellency seemed to think alluded to Political Measures adopted by him, We here declare that every part of that Letter meets with our warmest Concurrence, and We should not have had the slightest Objection to sign it, had We been at

Head Quarters, when the Letter in question was Written; but, as you have since our return Communicated a Letter to Us from His Excellency, in which (although His Excellency accepts the explanation offered by the Officers) yet at the same time he declares that his opinion on certain parts of the Address is still the same and will remain Unalterably fixed, so this Declaration prevents our Complying with your Request; as, in our humble opinions, We cannot See the Utility or Necessity of Our signing a Paper, when His Excellency so decidedly declares his disbelief of certain parts which His Excellency conceived Alluded to himself, which parts were most positively disavowed by the Officers of the Corps. We trust, Sir, you will deem this reason sufficiently strong to Authorize our declining to Affix Our Signatures to that Letter, which, allow Us again to Assure You Sir, Meets with our entire Sanction and Approbation.

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Reasons for
refusal of
officers to
sign letter.

We have, &c.,

A. CAMPBELL, Lieut. 46th Regt.
GEO. C. GRANT, Lieut. 46th Regt.
T. PURCELL, Lieut. 46th Regt.
E. CAM McPHERSON, Lieut. 46th Regt.
G. BUSH, Asst. Surgeon 46th Regt.

Certified to be a True Copy:—G. MOLLE, etc., etc.

[Enclosure No. 18.]

GOVERNOR MACQUARIE TO COLONEL MOLLE.

Sir, Government House, Sydney, 21st July, 1817.

I have the Honor to acknowledge the receipt of Your Letter of the 19th Inst. with its Accompanying Documents.

All My Conciliatory Propositions, made through you to the Officers of the 46th Regiment to bring them to a just and proper Sense of the Respect and Obedience they Owe to Me, as the Representative of Majesty, Governor in Chief and Commander of the Forces in this Country, having proved ineffectual, it only remains for Me to lay the Original Charges, with the whole of the Correspondence that has taken place, at the Foot of the Throne, which I shall do with the less reluctance from the pressing Requisition made by you in the Name of the Officers of the 46th Regiment in your last Letter to Me.

Charges against
officers to be
transmitted
to England.

As the Papers, you have transmitted from the Officers of the 46th Regiment, neither Come up to the Terms of Accommodation proposed in My Letter of the 14th, or even to the more qualified Terms of My Letter of the 17th instant, I cannot consider it necessary to Retain them further, and therefore now Return them to you. I must however request to be favored with Copies

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of them, Attested by yourself, in order to complete the Series of the Correspondence that has taken place, and which I purpose sending Home.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 19.]

COLONEL MOLLE TO GOVERNOR MACQUARIE.

Sir,

Sydney, 22nd July, 1817.

I have the Honor to acknowledge the Receipt of Your Excellency's Letter of the 21st instant, and herewith transmit Attested Copies of the Documents required by Your Excellency.

Consideration
and explanation
of letters.

Upon a Mature Re-Perusal and Consideration of Your Excellency's Letter to Me of the 17th Inst., I remark that the 4th and 5th Paragraphs would appear to arise out of the *latter* part of the 5th Paragraph of the Letter from the *Officers* under date the 15th Instant.

In explanation therefore of the Expressions Alluded to by Your Excellency, I have desired that a Letter should be written by a Committee of Officers in the Name of the Corps, And Now beg leave to transmit it for Your Excellency's information.

The
examination of
officers' papers.

I have also to state that, upon further Mature Consideration of Your Excellency's Letter of the 17th Instant, I feel myself Compelled to observe that (in My Humble Opinion) it was *totally uncalled for* on the part of Your Excellency to touch upon an Occurrence (which Your Excellency *well knows I sincerely and deeply regretted*), the Recollection of which was Mutually Agreed upon between the Officers of the 46th Regt. and Myself (the *only* Persons I should presume *interested* in the Business) *to be for ever buried in Oblivion*.

As Your Excellency, however, has thought proper to revive this painful Subject, not altogether *Correctly*, as I neither "*Searched*" nor "*examined*" (in a *Manner* that Your Excellency's Letter would Convey) the "*Escritoirs* or writing *Desks*" of the Officers (for they were All most ready and Willing of themselves to Show that My *Suspensions* of *them* were ill founded); And, as Your Excellency has also been Pleased to entitle the Act in Question to have been *that*, which "*No Reasonable Man* would have Suggested" (in which I perfectly agree, as I am free to Confess My State of Mind at the Moment was almost *distracted*), And as the Circumstance will now meet the Observation of the August Personages, this Correspondence may be laid before (for which purpose I must say it would appear to have been introduced, or to *excite painful Recollections* by *reviving what was forgotten*), I shall feel it a Justice I owe to Myself and the Officers of the 46th Regiment to transmit a full Explanation of the Occurrence in

Question, In Order to do away the *very unfavorable Impressions*, which such an *Unprecedented Measure* would Otherwise Create in the Minds of the August Personages Alluded to.

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I have, &c.,

G. MOLLE,

Lt. Col. Comm'g 46th Regt. and Colonel.

[Enclosure No. 20.]

OFFICERS OF THE 46TH REGIMENT TO COLONEL MOLLE.

Sir,

Sydney, 22nd July, 1817.

In Conformity to your desire that We (as a Committee) should in the Name of the Corps give explanation on the expressions contained in our last Communication to You of the 15th inst. Vizt. "*The Odium of which had been Cruelly fastened on certain Officers of the Corps*," We have to Observe that the Allusion was *General*, There having been an apprehension that it had been impressed on your Mind by evil intentioned Persons; And We know that it was industriously Circulated throughout the Colony that the libel had been written within these Walls. But We are surprized His Excellency should have drawn the inference of *Personal Application*.

Officers' explanation of former letter.

We are disinclined to throw back our Recollections to that Gloomy Period, when Suspicion might have effected Our Ruin, And, but for that Discretion which prevailed in the Corps, would have caused a distraction that might have been fatal to many of Us.

The Officers, on whom the Odium had been fixed, were Captain Sanderson, Lieutenants Grant and Parker.

We take this Opportunity to lament at perceiving, in His Excellency's Letter of the 17th inst., a Recurrence to a Circumstance, which, with feelings of a Sympathetic Kind towards you (when, from the Cruelty of the Attack made on your Character, you had nearly lost the Government of yourself) had been by the Wish and Consent of all Consigned to Oblivion, We allude to the Paragraph of His Excellency's Letter relative to the "Escritoirs and Writing Desks." We have, &c.,

J. MCKENZIE, Major 46th Regt.

E. SANDERSON, Captn. 46th Regt.

T. FORSTER, Surgeon 46th Regt.

Certified to be a True Copy:—G. MOLLE, etc., etc.

[Enclosure No. 21.]

ENSIGN BULLIVANT TO COLONEL MOLLE.

Sir,

Barracks, 23rd July, 1817.

Whilst I acknowledge that I am the Author of a Caricature, which lately appeared and had been drawn by Me on the

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Ensign
Bullivant's
public apology
to governor for
his caricature.

Wall of a Room in the Main Guard House at Sydney, representing the Figure of His Excellency The Governor and Commander in Chief of this Territory, I solemnly and sincerely declare that I meant no insult or disrespect to nor Contempt of His Excellency, and that I only drew or Sketched the said Figure on the Wall for Amusement in a Moment of thoughtless Levity.

I also declare that I never did entertain any opinion prejudicial to the Public or Private Character of Governor Macquarie.

I Consequently have no hesitation in expressing thus Publicly My sincere Contrition and Sorrow for having been inadvertently betrayed into so unjustifiable and highly improper an Act, as the drawing or Sketching of the Caricature, herein alluded to, declaring at the same time that I am not Myself the Author of the Label written over the said Caricature, nor do I know who wrote the Label.

I have therefore to express my Humble and earnest hope that His Excellency the Governor will Accept this My Apology for the Offence, I have Committed, and which Apology I make with perfect Sincerity in the Presence of My Brother Officers, requesting that the same may be submitted and delivered to His Excellency by Col. Molle.

I have, &c.,

C. BULLIVANT.

Read by Ensign Bullivant before All the Officers of the Mess, Assembled by Me,

G. MOLLE, etc., etc.

Sydney, 23d July, 1817.

[Enclosure No. 22.]

THE DEPOSITION OF ENSIGN BULLIVANT.

Deposition of
ensign
Bullivant.

CHARLES JAMES BULLIVANT of Sydney in the Territory of New South Wales, Maketh Oath and Saith, that He this Deponent did of his own Motion, Volition and purpose, without any Communication, Interference, Persuasion or influence, directly or indirectly by, with, through, from or on Account of His Excellency Governor Macquarie, Write a certain Letter, bearing date the fifteenth day of July instant, and hereunto Annexed, Marked A, purporting to be addressed "To His Excellency Governor Macquarie, etc., etc., etc.," Sydney; And that He, this Deponent, did also write a certain Letter purporting to be the Copy of a certain Letter, dated the fourteenth day of July instant, and to be addressed to Captain Sanderson, 46th Regiment, and hereunto Annexed, Marked B; And this Deponent further Saith that He, this Deponent, caused the said Letters, as above Specified and Marked respectively A and B, to be transmitted and forwarded to His Excellency Governor Macquarie on the day the Letter,

Marked A, bears date. And this Deponent further Saith that All the several Statements, Allegations, Matters and Circumstances made, Related, Suggested or Alluded to in the said Letters, above Specified and Respectively Marked A and B, are founded in Truth, the Whole Truth, and Nothing but the truth, without any Equivocation, Mental Evasion, or Secret Reservation Whatever.

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Deposition of
ensign
Bullivant.

CHARLES JAMES BULLIVANT.

Sworn this Sixteenth day of July, 1817:—Before Me,
JNO. WYLDE, Judge-Advocate, N.S.W.

[A] ENSIGN BULLIVANT TO GOVERNOR MACQUARIE.

Sir, Sydney, New South Wales, 15th July, 1817.

The late kind Offer, made me by Mr. Watts, which I cannot but suppose has in some Measure proceeded from Your Excellency or Mrs. Macquarie, and as it could not fail to do, penetrated Me with Gratitude.

I have hitherto forborne to submit to Your Excellency a statement of the Circumstances, which unhappily drew upon Me Your Excellency's displeasure, preferring rather to bear Myself its whole weight than to involve those, who were the Real Authors and Actors of what I have so severely suffered for; some late Occurrences have however determined Me no longer to forbear. And I beg leave now, in the most Unreserved and most accurate Manner, to Submit to Your Excellency a Statement of every thing, which has occurred, Relative to Your Excellency, in which I have been concerned since I arrived in this Colony, trusting that Your Excellency's generosity will, in Consideration of My Youth and extreme inexperience, make some allowance for My imprudence in having unfortunately become the Instrument of the Malicious Views of others, who ought on the Contrary to have impressed very different Sentiments on My Mind.

Bullivant's
unreserved
statement.

Upon my joining the 46th Regiment here, I found that a very strong Party consisted therein in opposition to Your Excellency. What was the cause of that Opposition I never could distinctly learn; but, as far as I can understand, it arose, among other Circumstances, Your Excellency's Public Measures relative to the degree of Consideration, which should be bestowed upon Persons who had Arrived here Originally under Misfortune, but who, from subsequent good Conduct, from the operation of time, or from favorable Circumstances in the Original Case, might have become worthy of being again restored to Society, whilst in the Opinion of the 46th, such Restoration was utterly impossible. All those unfortunate Persons being doomed for the Period of their whole Lives to eternal Odium, Infamy and disgrace. Your

Opposition
of officers to
Macquarie's
emancipist
policy.

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Excellency's Measures, I believe, with regard to Mr. Bent, had also given very great Offence, and from the Moment the Revd. B. Vale became Offensive to Your Excellency, his Cause was warmly espoused by the Party I have alluded to.

Macquarie's
invitations
declined by
Bullivant.

It was Your Excellency's Pleasure to treat Me on My Arrival with infinite kindness. Your Invitations were bestowed in the most gracious manner, were received by Me with equal Gratitude and Satisfaction; but unfortunately I conceived My declining them would be pleasing to Captn. Sanderson, tho' I cannot directly accuse him of having Requested Me to discontinue them, but he took care in presence of a Third Person (Mr. Cox), when it was too late, to argue with Me on the impropriety of having done so.

Sanderson's
influence on
Bullivant.

That Captain Sanderson could not fail to influence My Conduct greatly may be inferred by the following Circumstances. On My Arrival here, he treated me with the greatest kindness, and, he supposing himself ill treated by Your Excellency, I certainly thought that Captain Sanderson would think it more friendly of me to discontinue My visits.

The caricature
drawn in the
guard-room.

It is a most painful Subject for Me even to allude to, but I have now to explain to Your Excellency the precise Circumstances of the Guard Room Affair. I have to assure Your Excellency that the Figures there were not executed by Myself alone, and instead of their exciting that Reprobation, which experienced Officers ought to have expressed on such an Occasion, I can safely say that Nothing of the kind was shewn towards me from any Quarter whatever; indeed on the Contrary, they remained on the Wall for several days, and had been seen by most of the Officers of the Regiment. But on one subject I am perfectly innocent; I most solemnly assure Your Excellency that, so far from my writing the inscription, I have not the least knowledge of the Person who Affixed them. Certainly I have my Suspicions on that point, and sufficient perhaps in My Mind to satisfy myself; but I repeat my most solemn assurance to Your Excellency that I had no Hand or part in them in any way whatever.

The inscriptions
under the
caricatures.

Method of
obtaining
Bullivant's
signature
to paper.

I think it right to state to Your Excellency that I was sent a few days ago to the House of Sir John Jamieson, where I was surprized to find Captains Sanderson and Miller, who produced to me a Paper for my signature; in which I Attested, as well as I can recollect, for from the sudden Manner in which I was Accosted I am not perfectly certain what were the precise terms of the Paper, that Captain Sanderson, to the best of my knowledge or belief, was not the Author of the inscriptions; taken by surprize as I was, I signed the Paper, but on reflection I wrote to Captain Sanderson a Note, of which I have the honor to enclose Your Excellency a Copy.

I have no view of Recrimination in the statement I am now making to Your Excellency. I have no wish to involve others; but, since Mr. Watts' Communication to Me, I must indeed be lost to All honorable Principle, did I not feel every anxiety not to be viewed more reprehensible than I really am.

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25 July.
Reasons for
making
explanations.

Should it be Your Excellency's Pleasure to honor me with an Audience, I can perhaps more fully extenuate Myself than by this manner.

I submit myself totally to Your Excellency's Consideration, in the anxious hope that Your Excellency may perhaps find some little excuses for my errors on account of my Youth, my total want of experience, and my peculiar Situation.

I have, &c.,
C. J. BULLIVANT.

[B] ENSIGN BULLIVANT TO CAPTAIN SANDERSON.

Sir,

14th July, 1817.

Having been rather taken by Surprize, when you sent for me on Friday last for the purpose of obtaining my Signature to a Paper you then produced, on more accurate recollection I beg leave to correct an expression, if my Memory serves me right was contained therein, Namely to the best of my knowledge and belief you were not the Author of the Labels written under the Caricatures in the Guard room; that you were not so to my knowledge is perfectly correct; but, as to my belief, I do not think you have a right to call upon me to give my opinion. I beg therefore that you will erase that expression from the Paper you had for my Signature, and which I lament you did not either favor me with a Copy of or give me sufficient time to consider the Nature and purport of its Contents. Lieut. Nepean has however, I understand, expressed his Opinion on the Subject, and to him therefore I beg leave to refer you for any information you may require.

Correction
of statement
re authorship
of labels under
caricature.

I Remain, &c.,

C. BULLIVANT.

Compared, True Copies, etc., etc.:—J. T. CAMPBELL, Secy.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 99, per ship David Shaw; acknowledged by Governor Macquarie, 3rd March, 1818.)

Sir,

Downing Street, 14th August, 1817.

14 Aug.

Having given permission to the Bearer, Mr. Thomas Scott, to proceed as a Free Settler to the Colony of New South Wales, I have to desire that you will give the necessary directions for

Recommendation of T. Scott as a settler.

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14 Aug.

making to him a Grant of Land in proportion to the means he may possess of bringing the same into Cultivation, and extend to him the Indulgences usually granted to Settlers of his Class.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 100, per ship David Shaw; acknowledged by Governor Macquarie, 3rd March, 1818.)

Sir, Downing Street, 14th August, 1817.

Commutation
of sentence on
J. Clark.

I have the Honor to transmit to You the Copy of a Letter from Mr. Hobhouse, dated Whitehall 28th Ulto., signifying that Joshua Clark, who had been convicted at Chelmsford in March, 1817, and Sentenced to 14 Years Transportation has lately received a Commutation of such Sentence by His Majesty's Pardon to the Term of 7 Years. I am therefore to desire that the Prisoner in question may receive the Benefit thereof.

I have, &c.,
BATHURST.

[Enclosure.]

MR. H. HOBHOUSE TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 28th July, 1817.

In reference to My Letter of the 19th Inst. transmitting the List and Assignment of the Convicts Embarked in the Ship Larkins, one of the Prisoners therein, Named Joshua Clark, who was convicted at Chelmsford in March, 1817, and whose Sentence is inserted in the Said Lists for the Term of 14 Years, has lately received a further Commutation of such Sentence of His Majesty's Pardon to Seven Years Transportation. I am therefore directed by Lord Sidmouth to desire that you will move Lord Bathurst to be pleased to make a Communication of the Same to the Governor of New South Wales, in order that the Prisoner in question may receive the Benefit thereof.

I have, &c.,
H. HOBHOUSE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Ocean; acknowledged by Governor Macquarie to Earl Bathurst, 3rd March, 1818.)

Sir, Downing Street, 15th August, 1817.

15 Aug.
Assignment
of convicts per
ship Ocean.

I am directed by Lord Bathurst to transmit to you here-with the Assignment of One Hundred and Eighty Male Convicts, shipped on board the Ocean for the Colony under your Government.

I am, &c.,
HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship David Shaw; acknowledged by Governor Macquarie to Earl Bathurst, 3rd March, 1818.)

1817.
21 Aug.

Sir, Downing Street, 21st August, 1817.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Mr. Robert Roberts, to proceed as a Settler to New South Wales, and I am to desire that you will make to him a Grant of Land in proportion to his means of bringing the same into Cultivation, with the Indulgences usually allowed to Settlers of his Class.

Recommendation of R. Roberts as a settler;

I am, &c.,

HENRY GOULBURN.

[*Similar letters, dated 21st, 23rd, and 29th August, were written granting permission to William French, Denis John Towell, and William Clark to become settlers and receive a land grant.*]

and of W. French, D. J. Towell, and W. Clark.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

Sir, Downing Street, 29th August, 1817.

29 Aug.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, Josh. Lewis, to return to the Colony of New South Wales.

Permissions to return or proceed to the colony.

I am, &c.,

HENRY GOULBURN.

[*Similar letters, dated 29th and 29th August, 5th and 5th September, were written, granting permission to Charles Windsor, William Clark, John Jeffs and John Bell "to return," and one dated 29th August to the Reverend Walter Lawry to proceed to the colony.*]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 28 of 1817," per ship Lloyds; acknowledged by Earl Bathurst, 19th August, 1818.)

Government House, Sydney, New South Wales,

My Lord, 5th September, 1817.

5 Sept.

It is with much Pleasure that I avail myself of the Sailing of a Ship for Madras to Make Your Lordship this early Communication on the Subject of the Expedition,† which in Obedience to Your Lordship's Instructions I sent out some Months ago on a Tour of Discovery into the Interior of this Country to the West-Ward of the Blue Mountains.

Report on explorations of John Oxley.

Having Confided the Chief Conduct and Management of this Expedition to John Oxley, Esqr., the Surveyor General, in whose Talents and Qualifications for such an Undertaking I Could repose More perfect Confidence than in any other Gentleman's, whose Services I could at that time Command, I have the Honor

* Note 22. † Note 85.

1817.
5 Sept.
Report on
explorations of
John Oxley.

to Inform Your Lordship that this Gentleman, with the Whole Party who Accompanied him, returned safe to Bathurst on the 30th Ulto. after an Absence of Four Months and two Days from that place; and I am most Happy in adding that they have All returned in good Health and without having met with any personal Accident worthy of Noticing, altho' from the Nature of the Country travelled over they Sustained Various and Considerable Privations and Hardships.

The Lachlan
river.

The Result of this Tour leaves me to lament that the River Lachlan, of which the most Sanguine Hopes had been Entertained that it would in its Course to the Sea have become of great and Important Magnitude for the purposes of Navigation and Commerce, loses itself altogether over a large Extent of Morasses, the Limits of which Mr. Oxley has not been enabled to make any probable Conjecture Concerning.

This Singular Circumstance of a River, after having attained Considerable Magnitude and ran (According to Mr. Oxley's Calculation) a Course of About 1,200 Miles, diffusing itself over an immense Tract of Morasses, so as to cease having any further Claim to the Character of a River, is Matter of great Disappointment and Mortification to me, having Entertained as I Conceived the best grounded Hopes that it would have Emptied itself, by the Accession of many Waters, in a Copious River into the Sea on the S.W. Coast of this Continent, and have Marked the Situation for a future Settlement, Combining Important Local Advantages for Internal Trade and the Foreign Inter-courses of Commerce both with Europe and India. I am enabled, however, to Add that this Disappointment is in some Degree Compensated by the Discovery Made by Mr. Oxley on his Return from the Morasses, Where the Lachlan lost itself.

The Macquarie
river.

In this Detour large Tracts of fertile Soil, Abounding with Lime Stone and good Timber, and well watered, have been passed over, and an Extensive River running in a Northerly Direction, which is Ascertained to be the Macquarie River, Much Enlarged, has been fallen in with. Its general Direction, in the Latitude of 32° 32' S. and Longitude 148° 58' E. Where Mr. Oxley ceased to pursue it in Consequence of his Provisions running Short, leads to the Conclusion that it will disembogue itself either to the N. or on the Eastern Coast in a Tropical Climate, possessing the Valuable Productions or Capabilities peculiar to Such Situations.

Since Mr. Oxley's Return, he has not been enabled to prepare the regular Journal of his Tour, with the Necessary Charts and Drawings to lay before Me, Whereby I am only enabled at this time to forward to Your Lordship a Copy of his Letter addressed to me from Bathurst on his Return thither on the 30th Ulto.

The very gratifying Account of the River Macquarie which Mr. Oxley terms "A Noble River of the first Magnitude" has determined me on Sending Another Expedition out in the Course of a few Months to Ascertain all the Circumstances of its Extent, Course, etca. to its Embouchure.

1817.
5 Sept.

Proposed
exploration of
the Macquarie
river.

I have learned from Mr. Oxley that, in the Course of his Tour, and nearly at the Termination of the Lachlan, He fell in with a few Natives, whose general Habits and Characters appear to Class them nearly as the Same people with the Natives on this Side the Blue Mountains. After the first Emotions of Surprize had Ceased on their part, they Seemed to have divested themselves of All Apprehensions, Continuing of their own Accord for Some time with our People, and eating with them freely, and offering Share of their own Provision of Opossums to the Men, After they had roasted them.

Intercourse
with natives
on the
Lachlan river.

All the Appearances of the Country Seem to Indicate a very weak Population in regard to Numbers, No Huts or Fires in almost any Direction Marking the Traces of Inhabitation.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir,

Bathurst, 30th August, 1817.

I have the honor to acquaint your Excellency with My Arrival at this place last Evening with the Persons composing the Expedition to the Westward, which your Excellency was pleased to place under my Direction.

Return of
expedition to
Bathurst.

Your Excellency is already informed of my proceedings up to the 30th April.* The limits of a Letter will not permit me to enter at large into the Occurrences of Nineteen Weeks, and, as I shall have the honour of waiting on your Excellency in a few days, I trust you will have the goodness to excuse the Summary Account I now respectfully offer to your Excellency.

I proceeded down the Lachlan in Company with the Boats until the 12th May, the Country rapidly descending, until the Waters of the River rose to a level with it, and, dividing into Numerous branches inundated the Country to the West and N.W., prevented any further progression in that Direction, the River itself being lost among marshes. Up to this Point it had received no Accession of Waters from either side, but on the Contrary was Constantly dissipating in Lagoons and Swamps.

Exploration of
the Lachlan
river.

The impossibility of proceeding further in Conjunction with the Boats being evident, I determined upon the Maturest deliberation to haul them up, and divesting ourselves of every thing that Could possibly be spared, proceed with the Horses, loaded with the

* Note 115.

1817.
5 Sept.

additional provisions from the Boats, on such a Course towards the Coast as would intersect any Stream that might arise from the divided Waters of the Lachlan.

Course changed
from following
the river.

In Pursuance of this Plan I quitted the River on the 17th May taking a S.W. Course towards Cape Northumberland, as the best One to answer my intended purpose. I will not here detail the difficulties and privations we experienced in passing through a Barren and desolate Country, without any Water but such Rain Water as was found remaining in Holes and the Crevices of Rocks; I continued this course until the 9th June, when having lost Two Horses through fatigue and Want, and the others in a deplorable Condition, I changed our Course to North along a Range of lofty Hills running in that direction, as they afforded the only means of procuring Water, until we should fall in with some running Stream. On this Course I continued until the 23d June, when we again fell in with a Stream, which we had at first some difficulty to Recognize as the Lachlan, it being little larger than One of the Branches of it, where it was quitted on the 17th May.

Further
examination
of the river.

I did not hesitate a Moment to pursue the Course of this Stream, Not that the Nature of the Country or its own Appearance in Any Manner indicated that it would become Navigable or was even permanent, but I was unwilling that the smallest doubt should remain of Any Navigable Waters falling Westward into the Sea between the limits pointed out in my Instructions.

I Continued along the Banks of the Stream until the 8th July, it having taken during this period a Westerly direction and passing through a perfectly level Country, barren in the Extreme, and being evidently at periods entirely under Water. To this point it had been gradually diminishing and spreading its Waters over Stagnant Lagoons and Morasses, without receiving any Stream that we know of during the whole extent of its Course. The Banks were not more than Three feet high, and the Marks of flood on the Shrubs and Bushes shewed that at times it rose between Two and Three feet higher, Causing the whole Country to become a Marsh and altogether uninhabitable.

Further progress Westward, had it been possible, was now useless, as there was neither Hill or rising Ground of any kind within the Compass of our View, which was only bounded by the Horizon in every quarter, entirely devoid of Timber except a few diminutive Gums on the very edge of the Stream might be so termed. The Water in the Bed of the Lagoon, as it might now properly be denominated, was stagnant, its Breadth about 20 feet and the Heads of Grass growing in it shewed it to be about 3 feet deep.

This originally unlooked for and truly singular termination of a River, which we had anxiously hoped and reasonably expected would have led to a far different conclusion, filled us with the most painful sensations. We were full 500 Miles West of Sydney and Nearly in its Latitude, and it had taken us Ten Weeks of Unremitted exertion to proceed so far; the Nearest part of the Coast about Cape Bernouilli, had it been accessible, was distant about 150 Miles. We had demonstrated, beyond the shadow of a doubt, that no River whatever could fall into the Sea between Cape Otway and Spencer Gulph, at least none deriving their Waters from the Eastern Coast, and that the Country South of the Parallel of 34° and west of the Meridian of $147^{\circ} 30' E$ was uninhabitable, and useless for all the purposes of Civilized Man.

1817.
5 Sept.

General
conclusions re
the exploration.

It now became my duty to make our remaining resources as extensively useful to the Colony as our Circumstances would allow; These were Much diminished; An Accident to one of the Boats in the outset of the Expedition had deprived us of one third of our dry provisions, of which we had originally but 18 Weeks, and we had been in consequence for some time on a reduced ration of Two Quarts of Flour per Man per Week. To return to the Depot by the Route we had come would have been useless as impossible, and seriously considering the Spirit of Your Excellency's Instructions I determined upon the most Mature deliberation to take such a route on our return, as would I hoped best Comport with Your Excellency's Views, had our present Situation ever been Contemplated.

Commencement
of the return
journey.

Returning down the Lachlan I recommenced the Survey of it from the Point on which it was made the 23rd June, intending to Continue up its Banks until its Connection with the Marshes, where we quitted it on the 17th May, was satisfactorily established, as also to ascertain if any Streams might have escaped our research. The Connection with all the points of the Survey, previously ascertained, was Completed between the 19th July and the 3rd August. In the Space passed over within that period, the River had divided into Various branches, and formed Three fine lakes, which, with one near the Termination of our Journey Westward, were the only Considerable pieces of Water we had Yet Seen, and I now estimate that the River from the Place when first made by Mr. Evans has run a Course, taking all its Windings, of upwards 1,200 Miles, a length of Course altogether unprecedented, when the *Single* Nature of the River is considered and that its *Original* is its only supply of Water during that distance.

Further
exploration of
the Lachlan
river.

Crossing at this Point, it was my intention to take a N.E. Course to intersect the Country, and if possible ascertain what

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5 Sept.

Journey from
the Lachlan
to Macquarie
river.

had become of the Macquarie River, which it was clear had never joined the Lachlan. This Course led us through a Country to the full as bad as any we had yet seen, and equally devoid of Water, the Want of which much again distressed us. On the 7th Augt., the Scene began to Change, and the Country to assume a very different Aspect; we were now quitting the Neighbourhood of the Lachlan and had passed to the N.E. of the high range of Hills, which on this Parrellel bounds the Low Country to the North of that River. To the N.W. and North, the Country was high and open with good Forest Land, and on the 10th we had the satisfaction to fall in with the *First* Stream running Northerly. This renewed our Hopes of soon falling in with the Macquarie, and we Continued upon the same Course, occasionally inclining to the Eastward until the 19th, passing through a fine Luxuriant Country, well Watered, Crossing in that Space of time Nine Streams having a Northerly Course through rich Valleys, the Country in every direction being Moderately high and Open and Generally as fine as can be imagined.

No doubt remained upon our Minds, that those Streams fell into the Macquarie, and to view it before it received an Accession was our first wish. On the 19th we were gratified by falling in with a River running through a most beautiful Country, and which I should have been well Contented to have believed the River we were in search of; Accident led us down this Stream about a Mile, when we were surprized by its Junction with a River Coming from the South of such Width and Magnitude as to dispel all doubts as to this last being the River we had so long anxiously looked for. Short as our resources were, we Could not resist the Temptation, this Beautiful Country offered us, to remain two days on the Junction of the Rivers for the purpose of examining the Vicinity to as great an extent as possible.

The Macquarie
river.

Our examination increased the Satisfaction we had previously felt; as far as the eye could reach in every direction, a Rich and picturesque Country extended, abounding in Limestone, Slate, Good Timber, and every other requisite, that Could render an Uncultivated Country desirable. The Soil cannot be excelled, whilst a Noble River of the first Magnitude afforded the Means of Conveying its productions from one Part to the other. Where I quitted it, its Course was Northerly and we were then North of the Parrellel of Port Stephens being in Lat. $32^{\circ} 32' 45''$ S. and $148^{\circ} 58'$ E. Longitude.

It appeared to me that the Macquarie had taken a N.N.W. course from Bathurst, and that it must have received immense accessions of Water in its Course from that Place. We Viewed it at a Period best calculated to enable us to form an accurate

Judgment of its importance when it was neither swelled by floods beyond its natural and usual height, or contracted within its proper limits by Summer Droughts. Of its Magnitude, when it should have received the Streams we had Crossed, independant of any it may receive from the East, which, from the Boldness and Height of the Country, I presume must be at least as many, some Idea may be formed, when at this Point, it exceeded in breadth and Apparent depth the Hawkesbury at Windsor; Many of the Reaches were of Grander and more extended proportion, than the admired one on the Nepean River from the Warragamba to Emu Plains.

1817.
5 Sept.

Description of
the Macquarie
river.

Resolving to keep as Near the River as possible during the remainder of our course to Bathurst and endeavour to ascertain at least on the West side what Waters fell into it, On the 22d we proceeded up the River and, between the Point quitted and Bathurst, Crossed the sources of Numberless Streams all running into the Macquarie, two of them were nearly as large as that River itself at Bathurst. The Country, from whence all these Streams derived their source, was Mountainous and Irregular, and appeared equally so on the East side of the Macquarie. This description of Country extended to the immediate Vicinity of Bathurst; but, to the West of those lofty Ranges, the Country was broken into low Grassy Hills and fine Valleys watered by Rivulets, rising on the West side of the Mountains which on their Eastern side pour their Waters directly into the Macquarie. These Westerly Streams appeared to me to join that, which at first sight I had taken for the Macquarie, and when united fall into it at the point on which it was first discovered on the 19th Inst.

The general
course of the
Macquarie
river.

We reached this place last evening without a single accident having occurred during the whole progress of the Expedition, which from this point has encircled within the Parrallels of 34° 30' S. and 32° S. and between the Meridians of 149° 43' E. and 143° 40' E. a space of Nearly One thousand Miles.

Return to
Bathurst.

I shall hasten to lay before your Excellency the Journals, Charts and Drawings, explanatory of the Various occurrences of our diversified Route, infinitely gratified if our exertions should appear to Your Excellency Commensurate with your expectations and the Ample Means which your Care and Liberality placed at My disposal.

Reports to be
submitted.

I feel the most particular pleasure in informing your Excellency of the Obligations I am under to Mr. Evans, the Deputy Surveyor, for his Able advice and Cordial Co-operation through-

Commendation
of G. W. Evans.

1817.
5 Sept.

out the Expedition, and, as far as His previous researches had extended, the Accuracy and Fidelity of his Narrative was fully exemplified.

Botanical
collections made
by Cunningham
and Frazer.

It would perhaps appear presuming in me to hazard an Opinion upon the Merits of Persons engaged in a Pursuit of which I have little knowledge. The extensive and Valuable Collections of Plants formed by Mr. A. Cunningham, the King's Botanist, and Mr. C. Frazer, the Colonial Botanist, will best evince to your Excellency the Unwearied Industry and Zeal bestowed in the Collection and Preservation of them. In every other respect they also Merit the highest praise.

Services of
T. Parr.

From the Nature of the greater part of the Country passed over, Our Mineralogical Collection is but small. Mr. T. Parr did as much as could be done in that Branch, and throughout he endeavoured to render himself as useful as possible.

Good conduct
of men
composing
expedition.

Of the Men, on whom the Chief Care of the Horses and Baggage devolved, it is impossible to speak in too high Terms; their Conduct in periods of Considerable privations was such as must redound to their Credit, and their Orderly, regular and Obedient behaviour could not be exceeded. It May be principally Attributed to their Care and Attention that We lost only Three Horses, and that, with the exception of the loss of the dry provisions already Mentioned, no other accident happened during the Course of it. I most respectfully beg leave to recommend them to your Excellency's favorable Notice and Consideration.

I trust your Excellency will have the Goodness to excuse any Omissions or Inaccuracies, that may appear in this letter, The Messenger setting out immediately will not allow Me Time to revise or Correct it.

I have, &c.,

J. OXLEY, Surveyor-General.

True Copy:—J. T. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 29 of 1817," per ship Lloyds; acknowledged by Earl Bathurst, 12th April, 1819.)

Government House,

Sydney, 12th September, 1817.

12 Sept.

My Lord,

I am under the painful Necessity of reporting to Your Lordship that on board the Male Convict Ship, Chapman, which arrived here from Ireland on the 27th July last, such a Series of Cruelty and Oppression* towards the Convicts took place during the Passage hither, as has Induced me to Appoint a Court of

Ill-treatment
of convicts
on the ship
Chapman.

* Note 116.

Enquiry to Investigate the Circumstances in Order to My adopting Such future Measures as the Nature of the Case will authorize and demand at My Hands.

1817.
12 Sept.

It may perhaps be premature in Me to brand the Conduct of the Surgeon Superintendent (Mr. Dewar), Captn. Drake, Commander of the Ship, his Officers, and Lieutenant Busted of His Majesty's 69th Regt., who had the Command of the Military Detachment on board, with wanton, indiscriminate and unprovoked Cruelty towards the Miserably unfortunate Men, who had been entrusted to their Charge, as the facts are now under Investigation; I shall not therefore trouble Your Lordship with entering further into the Detail Until the Result of that Investigation, which is now taking place before the Judge Advocate, My Secretary and the principal Magistrate of Police, shall enable Me to give Your Lordship a full and Circumstantial Report thereon. In the Mean time I do Myself the Honor to transmit Your Lordship a Copy of the Official Report made to Me by Mr. Secretary Campbell on the Occasion of his Mustering the Convicts on board the Chapman in the usual way, previous to their being disembarked, Whereon the present Investigation has been founded.

Charges withheld pending report of court of inquiry.

The killing of twelve of these Convicts and the wounding thirty others, together with the killing two of the Seamen, and nearly Starving and destroying wholly Two Hundred Men, have to be accounted for by those to whose Charges they have been Committed; and altho' a Plea of Mutiny with a purpose of Seizing the Ship by the Convicts has been Alledged in Justification of the Severities adopted, Yet it does not at all appear to me that any such Object was in View with them, or if it even had, that it would by any Means have warranted the extraordinary Cruelties and Punishments Inflicted.

Explanation necessary for killing and wounding of convicts and seamen.

Not having any Court in this Colony Competent to take final Cognizance of Crimes Committed on the High Seas, I will feel it my Duty to exercise so far the General Powers with which I am Invested for the Protection of His Majesty's Subjects in this Territory, as to send Home Prisoners those Persons, who shall be deemed Most Criminal (if Criminality be Attached to the Proceedings by the Court of Enquiry), for Your Lordship and His Majesty's Government to adopt Such Measures thereon as may appear due to the Circumstances of the Case.

Responsible persons to be sent prisoners to England.

I submit for Your Lordship's Consideration whether it may not be Expedient in the first Instance to Instruct the Transport Board to with-hold the Payment under the Charter Party for the Ship Chapman, until such time as a full Report shall be finally made from Hence.

Payment for charter of ship Chapman.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

COPY of Muster of 176 Convicts arrived in Sydney Cove on Saturday, the 26th day of July, 1817, On board the Transport Ship Chapman, John Drake, Master, from Ireland, and taken on board said Ship on Thursday, the 31st day of said July, and on Friday, the 1st day of August, By Command of His Excellency the Governor, By John Thomas Campbell, Esquire, His Excellency's Secretary, The Number Embarked in Ireland being 200 Men, whereof 12 were killed, and 2 Died of Dysentery, 5 Wounded, and 5 Sick sent to the Hospital.

[*This consisted of a detailed statement of the convicts' names, their descriptions, complaints, etc. Among the "complaints" there were one hundred and thirty-two complained of short provisions, and others of:—*

- Being stabbed and deprived of food even to fainting.
- Being wounded in heel.
- Losing 5 guineas by his hat being taken from him.
- Loss of Money and clothing.
- Short wine, and having been shot lying in bed.
- Being shot in his birth, and otherwise grossly abused.
- Being twice wounded in bed.
- Being flogged and chained.
- Loss of clothes and money.
- Being starved for 11 weeks.
- Being beat and abused by Ship's Officer.
- Being Stabbed by a Soldier.
- Having fainted from want of food; twice flogged undeserved; Mr. Baxter threatened to smother pris'rs with brimstone and charcoal.
- Mr. Baxter being very cruel.
- Being twice flogged for speaking Irish and making a noise.
- Being barbarously beat by Mr. Baxter with butt end of Bayonet.
- Being kicked and leaped upon by Mr Baxter, when chained on cable.
- Mr. Baxter hove lemon juice in his eyes.
- Being chained naked with 73 others for nearly 24 hours.
- Having got 2 dozen for coughing, beat with cutlasses.

GOVERNOR MACQUARIE TO MAJOR-GENERAL SIR HENRY TORRENS.
(Despatch per ship Lloyds.)

Government House, Sydney, N. S. Wales,

20 Sept.

Sir,

20 Sept., 1817.

I request you will be pleased to acquaint His Royal Highness The Commander in Chief that I had the honor of receiving

His Royal Highness's Dispatch of date 18th December, 1816, on the 31st of last Month per the male Convict Ship Almorah, signifying to me that His Royal Highness had received the Command of His Royal Highness The Prince Regent to order the 48th Regt. to relieve the 46th Regt. in this Colony, on account of the increasing strength of the latter Corps rendering it more effective than the Military Duties of this Colony requires; and that therefore it was to proceed to Madras in India on the same Transports, that should bring out the 48th Regt. to this Colony.

1817.
20 Sept.

The 46th
regiment to be
relieved by the
48th.

I have now to acquaint you, for the information of His Royal Highness The Commander in Chief, that the Head Quarter Division of the 48th Regt. under the command of Lieut. Colonel Erskine arrived here on the 3d of last Month on board the Matilda, Transport, and that the two remaining Divisions of that Corps arrived here on board Lloyds and Dick Transports in about a fortnight afterwards, all in good health, and with only a very few Casualties on the Voyage from Cork to this Country.

Arrival of the
48th regiment.

In pursuance of His Royal Highness's Commands, I ordered the 46th Regt. to be held in immediate readiness to embark for Madras on the same Transports, that brought the 48th Regt. to this Colony. Two of the Divisions of the former Corps have already embarked on board the Matilda and Lloyds Transports, and the 3d Division will Embark this day week on board the Dick Transport, Colonel Molle himself proceeding in the Command of the Head Quarters Division on board the Matilda.

Embarkation
of the 46th
regiment.

I beg you will be pleased to report to His Royal Highness the Commander in Chief that, some few days previous to the Embarkation of the first Division of the 46th Regt., I inspected the whole of that Corps in complete marching order. I found them remarkably clean, sober and steady under Arms, and it is only doing them justice to report to His Royal Highness that I never saw a more Soldierlike Body of men, nor any Corps apparently fitter for actual service. The number, that have already embarked and will embark of the 46th Regt. on the three Transports, Matilda, Lloyds and Dick, exceed 500 Rank and File. The remaining Divisions of the Corps are stationed in Van Diemen's Land and Newcastle, and amount to about 250 Rank and File.

Report of
inspection
of the 46th
regiment.

Numbers in
the regiment.

The 3 Ships, which brought the 48th Regt. hither from Cork, could not with any degree of comfort to the Troops convey more men, than they now do, of the 46th Regt. to Madras, even if the Detachments of the latter Corps at the subordinate Settlements could be relieved in time to Embark on those Ships. But, independent of there being no room for them in these three Transports, it would be quite impossible, consistently with the due tranquility and safety of the Colony, to relieve the Detachments

Reasons for
detention of
detachments
of the 46th
regiment.

1817.
20 Sept.

Reasons for
detention of
detachments
of the 46th
regiment.

of the 46th Regt. at the subordinate Settlements in the present very weak state of the 48th Regt., the whole strength of which is under 440 Rank and File, and out of that number only about 350 Rank and File really fit for duty, which are hardly equal to the Duties at Head Quarters, when necessarily several Guards mount daily.

Under these circumstances, I shall be under the necessity of retaining the several Detachments of the 46th Regt., now at the subordinate settlements, until the 48th Regt. is considerably reinforced, or until an additional Corps of a moderate strength is sent out to this Colony; which last measure would be most desirable in every point of view, and which I take the liberty of strongly recommending may be done on grounds of Public expediency and sound Policy.

Trusting that my conduct in detaining the several Detachments of the 46th Regt., now at the subordinate Settlements, will for the reasons assigned be approved of by H.R.H. The Commander in Chief.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per ship Lloyds.)

Government House, Sydney, N. S. Wales,

24 Sept.

Dear Sir,

24th Sept., 1817.

A Ship, which sails this day with one of the Divisions of the 46th Regt. for Madras, affords me an opportunity of acknowledging the receipt of your Private and Confidential Letter of date 4th Feby. last, and which I had the pleasure of receiving here per the Dick Transport on the 3d Instant. Lieutenant King, with his Family, including Messrs. Roe and Bedwell, arrived in the same Ship.

Despatch
acknowledged.

Arrival of
King, Roe,
and Bedwell.

Precautions
necessary to
prevent French
settlements in
Australia.

Proposed
explorations
by King.

I am perfectly sensible of the great importance, both in respect to the Mother Country and the future prosperity of this Colony, of preventing the French or any other European Nation from forming any Settlement in any part of this Continent, and I therefore Cordially and entirely concur in opinion with Lord Bathurst and yourself as to the expediency and necessity of using every possible means and precaution to frustrate the present intentions of the French Government in this instance. I shall accordingly give every possible facility to the fitting out of the very important and interesting Expedition under Lieut. King,* so as to admit of his commencing his Voyage of Discovery along the Coasts of *Australia*† with the least possible delay, and I trust he will be able to do so by the 1st of January next at farthest.

* Note 52. † Note 84.

There are but two Colonial Vessels now belonging to this Government namely, the New Brig "*Elizabeth Henrietta*"* and the *Lady Nelson Brig*. Lieut. King prefers the latter, as drawing less water, and fitter for the Surveying Service in other respects. The *Lady Nelson* has accordingly been hauled up in order to undergo a very thorough repair, to be new Coppered, &c., &c. A regular Survey is to be held this day upon her, and I trust, by this day three Months, she will be perfectly fit and ready to proceed to Sea; and you may rest assured I shall use every exertion, as far as the present means and resources of this Colony will enable me, to fit out this Expedition in an efficient Manner, so as to insure every probability of success and to answer the views of Government.

1817.
24 Sept.

The brig
Lady Nelson
selected for the
expedition.

As a Ship called the *Harriet*, belonging to this Colony, will sail *direct* for England about the middle of November next, I do not send any regular Dispatches to Earl Bathurst by the present circuitous Conveyance, and for which I hope I shall stand excused by His Lordship.

Despatches to
be transmitted
by the ship
Harriet.

I have, &c.,

L. MACQUARIE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship *Guildford*; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1818.)

Sir, Downing Street, 29th September, 1817.

29 Sept.

I am directed by Lord Bathurst to acquaint you that he has given permission to the Bearer, John Hy. Martin, to return to the Colony of New South Wales.

Permission for
J. H. Martin
to return to
the colony.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship *Guildford*; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1818.)

Sir, Downing Street, 18th October, 1817.

18 Oct.

The House of Commons having voted the Sum of £12,815 for the Civil Establishment of the Colony of New South Wales from the 1st January to the 31st December, 1817, I am directed by Lord Bathurst to enclose for your Information a Copy of the Estimate upon which the Grant is founded.

Parliamentary
vote for civil
establishment.

I am, &c.,

HENRY GOULBURN.

* Note 17.

1817.
18 Oct.

[Enclosure.]

ESTIMATES FOR THE CIVIL ESTABLISHMENT FOR 1817.

Civil estimates
for the year
1817.

[*Note.*—*The Estimate for 1817 is identical with that for 1816 with the following exceptions:—*]

Omission.—Allowance to Mr. Arndell £50 (Entered as Item, but amount omitted).

Additions.—Two *vice* one additional Clergyman at £182 10s. Allowance to Mrs. Bent, Widow of the late Judge Advocate in consideration of the long and able Services of her Husband, £200.

Allowance on account of Fees for receipt and Audit, £350 (as against £341 for the year 1816).

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Guildford; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1818.)

Sir, Downing Street, 18th October, 1817.

Permission for
Thomas Osborne
to return to
Ireland.

I herewith enclose to you, by the direction of Lord Bathurst, the Copy of a letter from the Rt. Honble. J. H. Addington relative to a person named Thomas Osborne, who was convicted by a Court Martial in Ireland in the Year 1798 of making Pikes, and was transported from thence to New South Wales but in whose behalf The Lord Lieutenant has applied to Lord Sidmouth that he might now be allowed to return. I am therefore to convey to you the directions of Earl Bathurst that, provided Thomas Osborne has conducted himself with propriety during his Stay in the Colony, he may be allowed to receive the Indulgence solicited for him.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

THE RIGHT HONOURABLE J. H. ADDINGTON TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 15th October, 1817.

His Excellency the Lord Lieutenant of Ireland having expressed to Lord Sidmouth a wish that a man, named Thomas Osborne, who was convicted in the year 1798 by a Court Martial of making Pikes, and transported to New South Wales, may be allowed to return from thence, I am to desire that you will move Lord Bathurst to be pleased to Signify to the Governor of New South Wales Lord Sidmouth's request that the Prisoner in question should receive permission to return to Ireland, provided his conduct, during the Time that he has resided at New South Wales, shall appear to have been orderly and becoming his Situation.

I am, &c.,

J. H. ADDINGTON.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

1817.
20 Oct.

(Despatch per ship Batavia; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1818.)

Sir, Downing Street, 20th Oct., 1817.

I am directed by Lord Bathurst to transmit to you here-
with the Assignment of Two hundred and Twenty Male Convicts, Assignment of
convicts per
ship Batavia.
Shipped on board the Batavia for the Settlement of New South
Wales.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch per ship Batavia; acknowledged by Governor Macquarie, 16th May, 1818.)

Sir, Downing Street, 6th November, 1817. 6 Nov.

It is with infinite concern that I communicate to you the
Intelligence of the Decease of Her Royal Highness The Princess Death of
H.R.H.
Princess
Charlotte.
Charlotte Augusta, Daughter of His Royal Highness The Prince
Regent, and Consort of His Serene Highness Prince Leopold of
Saxe Coburg, which melancholy Event took place this morning
at Claremont after Her Royal Highness had been delivered of a
still-born Male Child.

I have, &c.,

BATHURST.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 30 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 26th July, 1818.)

Government House, Sydney, New South Wales,

My Lord, 24th Novr., 1817. 24 Nov.

I have the honor to acknowledge the receipt of your Lord-
ship's Dispatch No. 86* of the present Year.

It grieves me to find that the line of conduct I had deemed Macquarie's
regret for
censure of his
actions re
schooner
Traveller.
necessary to pursue in regard to the Revd. Benjamin Vale, lately
one of the Colonial Assistant Chaplains, in consequence of his
seizure of the American Schooner *Traveller*, after I had given
her permission to enter and make sale of her Cargo at this Port,
should be considered by Your Lordship as Illegal, and conse-
quently meriting your Lordship's displeasure and Censure, con-
veyed to me in terms truly mortifying to My feelings.

But however much I esteem and respect Your Lordship's
Superior Judgment, good feelings, and High Station, and how-
ever much I may Consider myself bound to submit to Your Lord-
ship's Authority and Opinions, I trust that on a further review

1817.
24 Nov.
—
Macquarie's
justification
of his actions.

and Consideration of My Conduct in this instance, it will not be deemed presumption, in a Case where my Public Authority and Character and feelings as a Man are so deeply involved, if I take the liberty to dissent from the Conclusions Your Lordship has been pleased to draw from My Conduct in regard to Mr. Vale; for I cannot at all admit that it has been either Illegal or Unjust; whilst on the Contrary I feel the Consciousness of having treated him with much more Lenity than his Mutinous, seditious Conduct deserved.

If however it should appear hereafter that I have acted Illegally towards Mr. Vale, I am aware of the high Responsibility I have incurred thereby, as also of the *Personal Risk* such Illegal conduct exposes me to, as intimated by Your Lordship; and, with all deference to Your Lordship, I must add that I cannot possibly subscribe to the inference drawn from My Conduct towards Mr. Vale, that it has the effect of "*diminishing My Influence among the more respectable part of the Community in this Colony,*" for I believe there is not One respectable Person now in this Country who did not highly disapprove and execrate the Mutinous, seditious and insolent Conduct, pursued towards me by that depraved, hypocritical, Unprincipled Man.

With great Submission to Your Lordship's Superior Judgment, I cannot admit my having given Illegal or Irregular Charges against Mr. Vale, as a Colonial Assistant Chaplain, the terms of his Commission and the Articles of War fully warranting me, in my Construction of them, to prefer the Charges I did against him; for I consider his Conduct in seizing the American Vessel in the capacity of the meanest Excise Officer, not only insolent under the particular Circumstances to me, but also derogatory to the sacred Character "*with which he was invested as a Chaplain,*" and consequently "*Scandalous and Vicious.*" Therefore, according to my Construction of the Mutiny Act and the Articles of War founded thereon, which I have now studied upwards of Forty Years, the Charges I gave in against Mr. Vale were perfectly legal and consonant with the 6th Article of the 1st Section and the 2nd Article of the 24th Section of the Articles of War.

Your Lordship has mistaken my motives in supposing that, in My Conduct to Mr. Vale, I acted under the influence of Sentiments of irritation or passion, the very reverse being the Case both before and after his Trial. So very different was my Conduct towards that Worthless Man that I gave him, tho' without effect, every opportunity and reasonable delay to explain away or apologize for his Insolent, Insubordinate Conduct, before I proceeded to exhibit Charges against him at a General Court Martial, as the last Step for the Support of my own Public

Macquarie's
disclaimer of
feelings of
irritation.

Authority, and which, be the Consequence what it may, I shall never allow to be trampled upon or set at defiance by any Subordinate Officer under My Command.

1817.
24 Nov.

I have been bred in the School of Subordination too long, not to respect it; and Your Lordship must be fully aware, how necessary it is to support it in a distant Colony like this, and Composed of such discordant Materials; assured at the same time that Your Lordship would not wish to see me degraded by tamely submitting to the subversion of my Authority as Governor in Chief of this Colony either by Mr. Vale, or any other seditious, unprincipled person.

Macquarie's
determination
to maintain
his authority.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 31 of 1817." per ship Harriet; acknowledged by Earl Bathurst, 24th July, 1818.)

Government House, Sydney, New South Wales,

My Lord,

24 Novr., 1817.

I have the honor to acknowledge the receipt of Your Lordship's Dispatch No. 91, dated the 22 of April last, on the Subject of a letter addressed to Your Lordship by Mr. Solicitor Moore of this Colony, stating Certain grievances in respect of My Conduct towards him.

Despatch
acknowledged.

It is with sentiments of real concern that I feel myself Compelled, from a sense of Public Justice and the respect due to my own high Authority in this Colony, to decline being in any way instrumental to the reinstating Mr. Willm. Henry Moore in the appointment he held in this Colony as a Solicitor.

Refusal to
reinstale
W. H. Moore.

This Man has acted in a most daring and insulting Manner in direct opposition and open Violence to my authority in being one of those who seized the American Schooner Traveller, after she had obtained the sanction of this Government to land her Cargo.

Reasons for
refusal.

This Act is of too much importance (connected as it certainly was with a seditious and violent Cabal headed by Mr. Justice Bent, and some other disaffected persons then here) to the respectability of this Government, and stands in too prominent a point of view in regard to the future tranquillity of this Colony, to be passed over unpunished. At the distance at which Your Lordship is placed and the number of subjects which press on your Consideration, I cannot but think that this matter has not met with that attention, which its importance merited as it regarded Me or this Government, in whatever hands it may be placed.

My mind and time are exclusively bestowed here; I have no object but the upright fulfilment of My duty to my Sovereign, and I am not without hope that Your Lordship will approve of my

1817.
24 Nov.

acting according to what I consider my Duty, altho' in this instance I am thereby deprived of the pleasure of paying that implicit obedience to Your Lordship's Commands, which has at all times been my wish, and which but in this solitary case, I have always had the Satisfaction of doing.

Refusal
to confirm
Moore's land
grant.

In regard to the Grant of Land promised to Mr. Moore, I have very good and strong reasons for declining to confirm it. Subsequent to his first mutinous Conduct (which was a preconcerted plan of annoyance between him and some others as well as the Revd. Mr. Vale) he has set on foot a Petition* to the House of Commons, which he stood at the Door of his house to solicit Persons passing in the Streets to come in and sign, besides employing his brother and other Agents in different parts of the Colony for the same purpose; Mr. Moore even acknowledging that he had forged his own brother's name in his absence to the libellous Petition in question, and I have good reason to believe he has acted in the same manner as to Many other persons whose names were affixed to that paper, as many whose names are attached to it now declare that they never read or signed it. Men in a state of intoxication have even been sent for to Drinking houses, and conveyed in that state to Mr. Moore's to sign the Petition, purporting to be for the good of the Country, which they incautiously signed not knowing what it really contained, as some of them have since acknowledged.†

Preparation
of petition to
House of
Commons by
Moore.

Action
proposed
against
signatories
to petition.

I fully expected Your Lordship would have sent me a List of the Names of the persons who signed this false and Slandrous Petition, in order to enable me to prosecute them here for a Libel, which I could have easily proved it to be. All those persons whom I knew had signed it, I struck off the List of Names for whom Lands had been previously designed; Mr. Moore and his brother, Mr. T. Moore, being the most culpable of all those who signed the Petition, their Names were struck off the list as a matter of course.

Justification
of policy.

It would be a very different line of conduct from that I have pursued, from the period I had the honor to enter His Majesty's Service, were I not to restrain and put down Mutiny and disaffection whenever detected, and I should think I had neglected to do so, were I to be in any way instrumental in bestowing favours on Persons, who have set themselves up in open defiance of the legal authorities of this Colony, and who have exerted themselves so earnestly to contaminate the minds of others to the disturbance of the Public peace, and violation of all decency of Conduct.

Your Lordship I am sure entertains too high a respect for the Commission I have the honor to hold, to sanction any act that

* Note 77. † Note 118.

tends to lessen My Authority, or to degrade me in the Public Opinion of those over whom I rule; and I consequently entertain a confident hope that Your Lordship will, on a further Consideration of All the Circumstances of the Case, fully approve of the line of conduct I have pursued towards Mr. Wm. H. Moore and his brother.

I have, &c.,

L. MACQUARIE.

1817.
24 Nov.

Anticipated
approval of
policy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch per ship Harriet.)

Government House, Sydney, N. S. Wales,

My Lord,

28th Novr., 1817.

28 Nov.

This Letter will be delivered to Your Lordship by Mr. J. Bowman, late Surgeon and Superintendent of the Lord Eldon Male Convict Ship, and whom I take the liberty of recommending to your Lordship's Patronage and good offices, on account of his meritorious Services, and more particularly on account of the very severe disappointment he has experienced now in this Country in not being appointed to succeed to the Surgeony of the Settlement of Hobart Town in Van Diemen's Land, which, he states to me, he was promised at the Secretary of State's Office on his making application for it there; but, having unfortunately come out without any Official Document to that effect, to authorize my removing Acting Surgeon Luttrell to make room for Mr. Bowman, he is now Compelled to return to England for the purpose of laying his Case before your Lordship.

Recommend-
ation of
surgeon
Bowman.

As your Lordship had made no Provision for Mr. Luttrell by either allowing him Half-Pay, or a small Pension, I did not deem myself justified in removing him; tho' I am still decidedly of opinion that he is totally unfit for the proper discharge of the Duties of Surgeon, owing to his advanced age and infirmities; I beg leave therefore once more to recommend that he may be removed and placed on Half-Pay, and that Mr. Bowman may be appointed in his room as Surgeon at Hobart Town.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "Private and Confidential," per ship Harriet.)

Government House, Sydney, N. S. Wales,

My Lord,

1st Decr., 1817.

1 Dec.

My Public Letter* of this date will convey to your Lordship the tender of my Resignation of the Office of Governor in Chief of this Territory, which I have now had the honor to hold

Macquarie's
resignation.

* Note 119.

1817.
1 Dec.

Macquarie's
resignation.

within one month of Eight Years, and which it was my wish to have retained for two or three years longer in order to enjoy the happiness and satisfaction of seeing the Matured effects of that System of Government I had unceasingly and laboriously endeavoured to establish for the reformation of the Inhabitants, and improvement and prosperity of this young Colony; and to attain which, every exertion of my Mind and Body was exclusively directed and applied, to the no small prejudice of my Health and Fortune; for I can with truth assure your Lordship that the latter has, no more than the former, benefited by a residence of now nearly Eight Years in New South Wales.

All this, however, was fully Compensated by the real happiness I felt in observing this promising Country flourish so rapidly under the System of Government, I had introduced, and the Measures and Regulations I had established for its improvement. The sudden change in your Lordship's Sentiments towards me, I feel the more poignantly, as I am not conscious of having in any degree merited it, having ever made it my study and the rule of my Conduct to discharge every part of my Public Duty conscientiously and with unremitting Zeal, honor and integrity; And here I may boldly and Confidently Challenge the most Malignant and Vindictive of those hostile to my Government, either here or at Home, to Contradict or disprove this assertion of my Principles of action. So fully aware am I, my Lord, of the truth of what I have herein asserted, that I should be most happy to be summoned to appear before any Competent Tribunal to answer for my Public Conduct whilst Governor of New South Wales, feeling well assured, as I confidently do, that I should be more honorably acquitted of every charge that could possibly be brought forward by the most inveterate of my Enemies to the prejudice of my Character and fair Fame; And which, has as yet remained unsullied *after upwards of Forty Years* spent in Honorable Pursuits in the Public Service of my King and Country in every Quarter of the Globe.

In justice to myself, I must now Call your Lordship's attention to the description of Persons with whom I have had to deal since I came to this Colony; I mean the Servants of Government, who generally speaking are Men who have at all times attempted a most indecent and insubordinate interference with the Governors of this Colony by opposing their Measures here, and writing Home false and Malignant representations, with the sole view of creating Mischief and dissatisfaction in the Minds of His Majesty's Ministers. Those Persons have invariably succeeded hitherto in effecting a change in the Chief Magistrate* of

Censure
unmerited.

Character and
conduct of
government
officials.

* Note 120.

this Colony. I think I do them but justice in assigning the Motives I have done to their underhand and Mischievous representations; because, if the good of the Colony or His Majesty's Service was their object, they would be more occupied in the upright and respectable fulfilment of their own respective Employments, and less addicted to interfere where no duty calls for their interference. I believe I may venture to say that every Person, who acted in the Arrest of Governor Bligh, has been permitted to return to this Colony. We cannot suppose that the dispositions and favorite pursuits of those Persons were to Change with the removal of the Governor. I have certainly considered this an impolitic Measure, in so far as the happiness and tranquility of this Colony are concerned; but, as it was your Lordship's pleasure, as well as that of your Predecessors in Office, I did not think it proper or respectful to trouble you with my sentiments on the Subject. Men have also been sent out here (as I have formerly stated to Your Lordship) totally unworthy to be employed in the several Situations to which their *interest*, unhappily *not their* merits, had promoted them. These Men soon Coalesce with the old and experienced evil Minded Persons:—for nowhere is the justice of the old saying, that Birds of a Feather flock together, more certainly proved than in this Place. Much allowance must be made for the pressure of Public Business at Home, and the difficulty of ascertaining the real Characters of Persons who bring your Lordship's respectable recommendations; and I must here state with what satisfaction I have observed the degree of attention which it appears to me your Lordship has bestowed on the representations, I formerly made to you on this Subject, from the great Change for the better which has lately taken place in the Characters and Capacities of those Persons selected for Servants of the Crown in this Colony, particularly in the Choice of Colonel Sorell, than whom a fitter Person could not—in my opinion—have been found. He has got, like myself, a most turbulent set of discontented troublesome People about him in Van Diemen's Land, but, I think, if any Man can keep them in Order, he will.

The only man, to whom I feel obliged for the assistance and candid information I received in taking charge of this Government, is Major General Foveaux. He told me what to expect from the Revd. Mr. Marsden and many other deep designing Men, whose delight it is to sow the Seeds of discord and insubordination. I have never found General Foveaux wrong in his representations of those Persons; but I was so far from acting on the information which he gave me, that it has been my Principle

1817.
1 Dec.

Return to
the colony of
persons involved
in the arrest of
governor
Bligh.

Unsuitable
appointments
made in
England.

Improvement
in the selection
of officials.

Acknowledg-
ment of advice
received from
Foveaux.

1817.
1 Dec.

Maintenance
of friendly
intercourse
with officials.

Earl Bathurst's
alleged loss of
confidence in
Macquarie.

on all occasions to treat Men according to their Merits while under my Command without any retrospect to times past. I have also invariably preserved and kept up an amicable intercourse with the Officers of Government (however ill disposed I knew they were towards me), while their Conduct in their different Offices was such as enabled me to comport myself towards them in an amicable Manner. But, whatever will or Can be the consequence, I never shall overlook or sanction a flagrant breach of Duty or an insubordinate encroachment or insult on the Authority, which has been delegated and entrusted to me by my Sovereign. I have all along known the never failing exertions of those evil Minded Men to vilify my Conduct and administration of the Government of this Colony; but, as long as your Lordship did not notice these Matters to me, I thought it unnecessary to make any effort to counteract them. It cannot be a matter of surprize to any reasonable Person that they have by dint of perseverance lessened, if not entirely destroyed that degree of confidence in me which I felt you possessed and which I have ever felt to deserve; And, although it has been a subject of satisfaction in one respect that your Lordship has been so long in noticing these Misrepresentations, it would have been perhaps more beneficial had they been sooner entered on; as, I am well convinced the more the motives and objects of my Conduct are exposed to view, the greater will be the approbation of those I serve under.

It has hitherto been a gratification to me to act under your Lordship's administration, from the Mild and reasonable as also perspicuous tenor of your Orders. That so great a reverse should so suddenly occur in our intercourse, I must consider as one of those Mortifying *Trials* to which Human Nature is liable. I did look forward to a Period of repose at the termination of, perhaps, one of the most arduous, troublesome Commands under the British Crown. Even this hope has been done away by the harsh tenor of your Lordship's late Letters. On this subject, therefore, I have only one source of comfort left me, which no Man can take from me, namely that they are unmerited on my part.

Every honest Man in a Public Station, who studies the interests of His Sovereign and his Country in preference to gaining Popularity at the expence of his conscience and integrity, will have many Enemies and Slanderers, and this I have experienced in this Colony in an eminent degree; the very People on whom I have heaped many favors, having become my greatest Enemies and Calumniators, merely because I declined from a sense of Justice to gratify their further demands for unreasonable favors

and indulgencies. I consider it an act of justice, I owe to my own character, to make your Lordship acquainted with the Names of those Persons, *in the rank of Gentlemen*, in this Colony, whom I look upon as my *secret* tho' not avowed *Enemies*, and from whom I have always experienced every opposition, they could give with safety to themselves either Publicly or Privately, to the Various Measures and Regulations I had deemed it necessary to frame and establish for the improvement and Prosperity of the Colony over which I preside. In order therefore to guard your Lordship against giving too easy Credit to the Misrepresentations of those Persons, I now do myself the honor of transmitting your Lordship herewith a List of their Names and designation, annexing to their respective Names some few remarks, so as to give your Lordship some little insight into their Characters. At the Head of this List of Malcontents stands the Revd. Mr. Marsden, the Principal Chaplain of the Colony, to whom personally, as well as to his Family, I have always shewn every Civility, kindness and attention, and have conferred considerable favors on himself and them. His Enmity is therefore the more unaccountable, and I can only ascribe it to a deep rooted Malevolence and to his avidity for Power and Consequence, being extremely desirous of giving his advice on all occasions, and having the Merit of every good Measure ascribed to himself. He had been the Principal adviser of some of my Predecessors as Governors; and, I believe, his first ill will to me arose from my not consulting him on every occasion as they had done. Be that as it may, Mr. Marsden set out systematically, from the Commencement of my Government of the Colony, to oppose, both Publicly and Privately, every Measure and Regulation of mine however beneficial they may have been for the best interests of the Colony. I am grieved to be compelled to say so of any Man of his sacred Profession, but I do firmly believe that there is not a more malicious or a more vindictive unfeeling character in existence than the Revd. Mr. Marsden.

With this impression on my Mind, your Lordship cannot wonder at my deprecating your giving too easy credit to the artful and insidious representations, Clothed in the Garb of Humanity and Hypocritical Religious Cant of this Malevolent Man, the effects of whose Case Misrepresentations I have already, with deep Mortification, experienced and felt in your Lordship's recent Official Communications. But had your Lordship reposed the same degree of Confidence in my administration and integrity, that you appear to have done in his representations* respecting the Affairs of this Colony, I should not now have to lament the sudden change in your Lordship's sentiments towards me;

1817.
1 Dec.
Names of
Macquarie's
secret opponents
transmitted.

Opposition
of the Rev.
S. Marsden.

* Note 121.

1817.
1 Dec.

Expectations of
approbation
instead of
censure.

and the consequent necessity I feel of tendering my Resignation as Governor of this Country, which I could not, on any Principle of Honor and justice, reconcile to myself to hold any longer after forfeiting your Lordship's Confidence. I must confess that, instead of censure, I looked forward with a confident hope for Praise and approbation on the termination of my Government of this Country; for, I can safely venture to affirm that no Governor of any of His Majesty's Colonies has ever laboured harder in the discharge of his various, arduous, Public Duties, or has discharged those Duties with more inflexible integrity than I have done; And certainly the most gratifying reward I could possibly receive, or look for, was the approbation of my Sovereign and his Ministers on the termination of my Government of this Colony.

Having lost this, I lose all I have been so long labouring for with so much anxiety, fatigue of Body, and distress of Mind, for I have certainly *not added to either my Rank or Fortune* by my eight years of hard Service in New South Wales; Consequently all that is now left to console me is an approving Conscience!

Month preferred
for leaving
the colony.

If I could with propriety, and without any inconvenience or injury to the Public Service, be indulged *with a Choice* as to the *time* of my taking my departure hence for England, I should prefer *the Month of January* for sailing from this Port, so as to have a *Summer Passage* round Cape Horn, and also for arriving in England in Summer; and consequently could wish my Successor to arrive here *in the month of December*. But as His Majesty's Government may not have time to select and send out a fit Person as Governor in Chief of this Territory, *so as to arrive here in December next*, I would beg leave respectfully to suggest that my Successor should leave England so as to arrive here in December 1819, to which period I shall be happy to remain in Charge of this Government unless your Lordship should wish to relieve me sooner.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

List of persons
in opposition
to Macquarie's
government.

LIST of the Names,* Designations, &c., of Persons residing at present in the Colony of New South Wales, who have always manifested an Opposition to the Measures and Administration of Governor Macquarie.

1. Revd. Sam'l Marsden	Prin'l Chaplain	Discontent. intriguing and Vindictive.
2. Doctor Townson	.... Settler	Discontented.
3. Mr. Nicholas Bayly	.. Do.	Do.
4. Mr. John Blaxland	.. Do.	Do.
5. Mr. Gregory Blaxland	Do.	Do.
6. Doctor Throsbey	.... Do.	Do.
7. Mr. John Horseley	.. Do.	Do.

LIST of the Names, Designations, &c., of Persons residing at present in the Colony of New South Wales, &c.—*continued.*

1817.
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8. Sir John Jamieson ..	Settler	Intriguing & discontented.			List of persons in opposition to Macquarie's government.
9. Mr. David Allan	Dy. Comy. Gen'l	Do.	Do.		
10. Mr. John Oxley	Surveyor Gen'l	Do.	Do.		
11. Mr. W. H. Moore ...	Solicitor	Seditious, intriguing and discontented.			
12. Mr. Thomas M. Moore	Clerk to Solicitor Moore.	Do.	Do.	Do.	

N.B.—All the above mentioned Persons have all along been in the habit of writing Home the most gross Misrepresentations.

N. S. Wales, 1 Decr., 1817.

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch per ship Harriet.)

Government House, Sydney, N. S. Wales,

My Lord,

1st Decr., 1817.

Finding with deep regret that certain Measures of mine alluded to in Your Lordship's Public Dispatches bearing Dates 24th January, 6th February, 22d April, and 15th July last, have been disapproved and incurred your Lordship's displeasure, and that, from the tone and Manner of conveying your Sentiments of disapprobation and Censure, I have had the Misfortune to lose that Confidence which your Lordship has hitherto been kindly pleased to repose in me; I could not with any satisfaction to myself, nor consistently with my own propriety and sense of Public Duty, any longer wish to retain the high and important Office I have so long had the honor to hold as Governor in Chief of this Colony, the Arduous Duties of which I had every reason to hope and believe I had discharged with Credit to myself and advantage to the Public Service.

Consequence of Earl Bathurst's alleged loss of confidence in Macquarie.

I therefore most respectfully request your Lordship will do me the favor to tender my Resignation of the Office of Governor in Chief of New South Wales for the gracious acceptance of His Royal Highness The Prince Regent, humbly and dutifully submitting to His Royal Highness, that He may be graciously pleased to nominate another Governor to relieve me, And that I shall remain here until the arrival of my Successor, or at least until I am honored with Your Lordship's Commands after the receipt of this Letter.

Resignation of Macquarie.

I trust, however, that it will not be deemed any presumption in me to express my hope that, even after the arrival of my Successor in the Colony, I may still be allowed to retain and exercise all the Functions of Governor until the Day of my Embarkation here for England.

Request for permission to retain administration until day of embarkation.

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Request to be provided with a ship to sail direct for England.

I also most respectfully take the liberty to Solicit and to express my hope, that, in consideration of my Rank and long Services, Your Lordship will so far indulge me as to be pleased to direct either the same Ship that brings out my Successor, or some other Suitable Vessel, to be sent out from England to convey myself and Family *direct* to that Country from hence, so as not to subject me to the Mortification and Serious expence of a protracted and Circuitous Voyage by way of India or China, few or none of the Convicts or Store Ships, sent out hither on the part of Government, ever returning from hence direct to England.

Preference for the storeship Dromedary.

If it were not inconsistent with the good of the Public Service and the other arrangements of Government, I should esteem it a particular favor if I could be indulged with the Naval Storeship Dromedary being sent to carry me Home, that Ship having brought me out to this Country, and being a safe and Commodious One.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 32 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

4 Dec.

My Lord,

4th December, 1817.

Despatch acknowledged.

1. I have the Honor to acknowledge the Receipt of Your Lordship's Dispatch, dated the 24th January last, Enclosing an Extract of a Representation,* which had been made to You, with Respect to the present State of the Colony under My Government.

2. I feel thankful to Your Lordship for sending me the Anonymous Extract Alluded to, in order to give me an Opportunity of refuting the false and Malicious Accusations therein Contained, or Explaining Such parts thereof as are founded in Facts in any degree relating to My Administration of this Colony.

Rev. S. Marsden suspected of making misrepresentations.

3. It would however have been Still more gratifying to me if Your Lordship had Condensed to favor Me with the Name of the person who sent Your Lordship this Representation, so as to have enabled me to Call on him to Substantiate the Accusations Contained in his Report. But Altho' the Name of the Author of these gross Calumnies is withheld, I have good Reason to suppose it proceeded from the Pen of the Revd. Samuel Marsden, as I firmly believe he is the only person, in *the Character of a Gentleman* in the Whole Colony, Capable of writing and making such unfounded and Malicious Representations with a View to Injure Me in the Opinion of His Majesty's Ministers.

* Note 44.

4. In Obedience to Your Lordship's Commands, I will be happy to render every Explanation in My Power relative to the Various Representations made in the Extract alluded to. But previous to My doing so, I must in Justice to Myself beg leave to remark on that passage in Your Lordship's Dispatch, which goes on to say that *there are two points affecting, as they do to a great Degree, My Character and Conduct in the Administration of the Colony*, Namely First, the State of Prostitution, in which it is stated that the Female Convicts, during their Voyage to the Colony, are permitted to live with the Officers and Seamen of the Ships, in which they are Embarked; and Secondly, the State of the Jails and Severity of the Sentences Inflicted on Offenders tried by the Criminal Courts in this Colony.

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Explanations
required by
Earl Bathurst.

5. In Whatever Shape Censure or Blame Can justly be Attached to Me in the Discharge of My Public Functions, I am most willing to acknowledge any Error of Judgment; But in the present Instance, in as far as relates to the two particular points above Stated, I most respectfully Deny the Truth of the Charges, as they Can be possibly imputable to me, and hence Also the Inference that my Character is affected in the two Instances, particularly adverted to in Your Lordship's Dispatch, Namely the Prostitution of the Female Convicts on the passage hither, and the Severity of the Sentences passed on Criminals by the Criminal Courts of this Colony. Both the one and the other being Alike beyond My Control or Power of Prevention. In regard to the first, I need only in Explanation Appeal to Your Lordship's Candour with the Question, How is it possible that I, dwelling in New South Wales, Can prevent or be answerable for the Prostitution of the Female Convicts antecedent to their Arrival within my Government. And I would beg to Appeal to the Same Candour, When I assert that it is equally impossible for me to prevent severe Sentences being passed by Criminal Courts, unless I should Interpose what would be justly termed an Illegal and Tyrannical Exercise of the Powers vested in me. All therefore, that remains for Me to remark further on these two points, is that I have never for an Instant, directly or by Connivance, Sanctioned or Allowed any Prostitution of Female Convicts After their Arrival in this Colony. Nor have I on any Occasion Sanctioned or Allowed Sanguinary or Cruel Punishments to be Inflicted on any Criminals. Altho' I have frequently Interposed my Authority, either in Mitigation or total Suspension of Sentences, when I conceived I could with Propriety do so, and that the Circumstances of the Case merited Humane Consideration and the Mingling of Mercy with Justice.

Responsibility
disclaimed for
prostitution of
female convicts
on transports
and for
sentences of
criminal courts.

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Treatment of
female convicts
after their
arrival in the
colony.

6. In respect to the Prostitution of the Female Convicts on the Voyage out to this Country, the Reporter may possibly be Correct in his Statement, but no Remonstrance, Complaint or Charge of this Sort has ever been made or reported to me either by the Women themselves, or the Officers or Passengers of the Ships they Came out in, or by any person in the Country. Under such Circumstances I have not deemed it Necessary to Institute Enquiries on the Subject, 'till now that I have received Your Lordship's Instructions to that Effect. When the female Convicts Arrive, they are regularly Mustered by My Secretary on board Ship, and the Usual Questions are put to them in regard to their good or bad Treatment during the Voyage; and, if they appear healthy and do not Complain of ill Usage, they are either Assigned to such Married persons as require them for Servants, or Sent to work at the Government Factory at Parramatta. It is very true that there are no Suitable Buildings for them to lodge and reside in, provided by Government, excepting the Factory at Parramatta, which is only Sufficient to Contain about Sixty Women, whilst there are Sometimes Not fewer than Two hundred employed there. These are therefore, in Common with the Male Convicts, obliged to find Lodgings for themselves; but in Order the better to enable them to do so, they are Allowed half of the Day to work for themselves; it therefore Often happens that they are exposed to form bad Connections, which lead to Vicious and profligate Conduct. This Evil is as old as the original Establishment of the Colony, and Certainly should be obviated or Totally removed on every ground of Moral or political Expediency; and, Viewing it thus, it has long been my Most Sincere wish to remedy the Evil, as far as practicable, by Erecting a large Factory and Commodious House at Parramatta, within a high Enclosure, for the Employment and Residence of the Female Convicts, and within a large Space of Ground for Recreation, so as to keep them always within it and prevent their having any Intercourse with the People of the Town, until such time as they should either be Married or Assigned as domestic Servants to Married persons. The Variety of other Public Buildings required in the Colony, and the Inadequacy of the Colonial Funds to defray the Expences of Erecting them all at once, have hitherto precluded the possibility of My realising my wishes to have a Factory and Dwelling House on a large Scale Erected at Parramatta for the above purpose. I expect, however, to be now very soon enabled to have these very necessary works Commenced upon, and to defray the entire Expence from the Colonial Funds. I take the Liberty of here Calling to Your Lordship's Recollection that I

suggested in One of My Dispatches* some Years ago the Expediency of Erecting a Factory and Dwelling House for the female Convicts at Parramatta.

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Whilst I cannot but regret that so foul and Slanderous an Imputation should have been deemed worthy of Enquiry, I can Assure Your Lordship that the Assertion, in respect to female Convicts being left on board After the Arrival of the Ships here, either for the purpose of Prostitution or for any other is totally unfounded, and Consequently a premeditated and Malicious Falsehood. It is by no Means improbable that Some of those women, who are Assigned as Servants to Families living in the Town of Sydney, may have Intercourse with the Officers and Seamen of the Ships they Come out in, while those ships remain in the Harbour; but these are Evils, which Your Lordship will admit are quite out of my Power to prevent. And I have no Hesitation in asserting that I have uniformly since the Commencement of my Government done every thing in my power to prevent the Evil Complained of in regard to the Female Convicts. In Obedience to Your Lordship's Commands, I shall however not fail in future, on the Arrival of Female Convict Ships, to Institute a More strict Enquiry into the Circumstances of the Conduct and Characters of the Women during the Voyage, and whether they have been permitted to hold Improper Intercourse with the Officers and Seamen, and I submit to Your Lordship that the most effectual Mode to be adopted for preventing these indecent Connections would be to make the Surgeon-Superintendent answerable for Suffering the Female Convicts to be so Prostituted during the Voyage.

Denial of statement *re* prostitution on ships in harbour.

Endeavours to prevent prostitution of female convicts.

Inquiries to be made on arrival of female transport ships.

In Consequence of Your Lordship's Desire, I have made particular Enquiry relative to the Conduct of the Female Convicts, who Arrived in the two last Ships, namely The Lord Melville and Canada, and have now the Honor to transmit Your Lordship the Replies made to my Queries on the Subject by Mr. Justice Field, who Came a Passenger in the Lord Melville, and by Surgeon Superintendant Allan, who came in Charge of the female Convicts on board the Canada. The former will shew how extremely difficult it is to prevent the Female Convicts from having Intercourse with the Officers and Sailors during Such a Voyage.

Inquiry *re* prostitution on ships Lord Melville and Canada.

7. The Next Material points, Your Lordship desires to be Informed upon, are the State of the Jails, and particularly the Sentences Inflicted on the four men, who were tried at the January Sessions of 1816, and especially relative to the first of these four Prisoners, namely *Michael Hoare*. In respect to the Jails in this Colony, Your Lordship may rest Assured that no

Report on condition of the gaols.

* Note 123.

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Cruelty is practised or Allowed in any of them, and that the Prisoners, who are Confined in them, are treated with as much Humanity and Kindness as their Unhappy Conditions and Situations Can possibly admit. I frequently Visit and Inspect All the Jails in the Colony personally, and I add with much Satisfaction that I never Once received a Complaint of bad or Cruel Treatment from any of the Prisoners Confined in them. The Statement, as to the Sentences passed on *Michael Hoare*, *James Gilchrist*, *Edward Doyle*, and *John White*, is in Conformity with the Fact in those Cases; but the Additional Remark that Cruelty was practised in Carrying these Sentences into Execution is false, and evidently proceeding from a Mind fraught with Malice towards Me, Unrestrained by any Regard to Truth or Justice. The Sentences will probably be Considered by Your Lordship, as they were by me, *Severe*; and I have in this Consideration of them only Suffered their being partially and very leniently executed, the greater part having been Mitigated or Entirely remitted by My Authority. As to Michael Hoare, in particular, whose sufferings have been so earnestly dwelt upon by the Reporter, I am proud to assure Your Lordship that No Cruelty or Severity whatever was exercised towards him, either in the Cell, in which he was but for a very short time Confined, or when he was afterwards more at large in the Jail of Parramatta.

Punishment of
four named
prisoners.

Remission of
sentences.

Confinement
of Hoare.

Removal
of Hoare to
lunatic asylum.

Depositions *re*
Michael Hoare.

Judge-
advocate's
report on
sentences.

And Your Lordship will be glad to Learn that this Man was only Confined in a Cell for *Thirteen* days, instead of Twelve Calendar Months agreeably to his Sentence. It has since been proved, and the Man himself has Actually acknowledged, that he practised a gross Imposition on the Revd. Mr. Marsden, one of the Magistrates at Parramatta, *by pretending to be Insane*, in Consequence of which Mr. Marsden had him removed to the Lunatic Asylum at Castle Hill before he had been full thirteen days Confined in one of the Cells of the Parramatta Jail. For Your Lordship's further Information relative to the particular Case of *Michael Hoare*, I herewith transmit the Depositions of Mr. Francis Oakes, the Chief Constable at Parramatta, and Mr. George Sutter, Superintendent of the Lunatic Asylum at Castle Hill, and also the Voluntary Declaration of Michael Hoare himself, taken by Mr. Hannibal McArthur, the Second Magistrate at Parramatta on the 22d of October last.

In Obedience to Your Lordship's Commands, I have also Called on Mr. Garling, who Acted as Judge Advocate and Presided at the Criminal Court when *Michael Hoare* and his associates were tried at the January Sessions of 1816, desiring him to give me in a Specification of the Offense, which appeared to him to Authorize the Sentence passed upon them. Mr. Garling has

accordingly addressed an Explanatory Letter to me on this Subject, a Copy of which I have now the Honor to transmit herewith for Your Lordship's Information.

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8. The Representation in respect to my giving Emancipations to Convicts, *Shortly after their Arrival here*, is likewise a gross Calumny and an Utterly Unfounded Assertion, No such practice having ever been admitted to Contaminate the Rules and Principles of my Government. It may not be altogether Amiss to remark that, in pursuance of Special Instructions from Your Lordship's Department, some Conditional and Some Free Pardons have been granted under Circumstances with which I had Nothing to do. From my own Motion, a very few Convicts, who had been bred up and Educated as Gentlemen or who were of Learned Professions, have Obtained the Indulgence of Conditional Pardons After they had been *Two Years in the Colony*, and had proved themselves not altogether Undeserving of Such Clemency by good Conduct and Reformation of Manners. This I Considered fair and humane Exercise of my Authority, as it placed those unfortunate persons in more respectable Situations and enabled them to practise with more beneficial Effects their respective Professions; and I have never found any Inconvenience to result from having granted these Indulgences to the few persons who have received them.

Macquarie's
policy in
granting
pardons.

The Reporter is Correct in Stating that I have granted Emancipations to different Convicts for performing a Certain Quantity of Work for Government; but he has not had the Candour to explain my Motives or Reasons for granting such Indulgences, and draws a Most Malicious Unjust Inference from this Act, which I have no doubt will appear in a Very different Light to your Lordship on my Explanation.

Emancipations
granted for
work performed.

At the time the New Discoveries were made to the Westward of the Blue Mountains, I was extremely anxious to get a good practicable Cart Road made with the least practicable Delay from the Town of Parramatta (whither a good Turnpike Road had long before been Constructed) to *Bathurst Plains*, a distance of 126 Miles over, generally, a rugged Mountainous Country. For this purpose I ordered between Fifty and Sixty Convicts to be Selected, who had been a Certain time in the Colony and who were also Considered well-behaved Men, and entitled, as Such at any Rate, to some Indulgence. They were Accordingly Selected and Employed in Constructing this Road under the Direction of Mr. William Cox, Magistrate at Windsor, and they Completed it within the Space of Six Months entirely to my Satisfaction; and, agreeably to the Promises made to them, they received Conditional Pardons as the Rewards held out for their Arduous

Pardons
granted to
convicts
employed on
western road.

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Labours. The Road in Question, if made by Contract, or by employing the Convicts in the Usual Way for half a day at Work, would have taken at least three Years to Complete, instead of Six Months. The Illiberal Conclusion and Inference, drawn by the Reporter from this Act, is that it Created Envy and Jealousy in the other Convicts whose Conduct had been equally good, but who had not Interest or Means of Obtaining their Emancipations in this Manner; that it made them Careless, and drove them to a State of Despondency, etc., etc., so as to preclude All Hopes of Reformation. This Assertion is totally void of Foundation and in it, like many other of his Representations, the Reporter has indulged his Malevolence at the Expence of his Veracity. The Men, who received their Emancipations for Constructing the Road alluded to, worked hard for and certainly well Earned the Reward they received, which I believe every Just person in the Colony will readily allow, nor did I ever hear any Jealousy expressed by other Convicts of those Road Makers having received Emancipations as the Rewards of their extraordinary Fatigues and Privations. The Reporter must also be well aware that the Circumstance of these Men having thus received Emancipations never in the smallest Degree Interfered with other good Meritorious Convicts receiving Emancipations, when properly and regularly recommended for such Indulgences.

9. The only remaining Accusation now Unexplained, Stated by the Reporter, is that which relates to the Government Orders* for Mustering the Convicts on the Sabbath Day in the Several remote Districts in the Interior. I can only say, in reply to his Uncandid, Illiberal and downright false Remarks on this Head, that it was Not till After the Most Mature Deliberation and Consultation with the Chaplains and Magistrates of the Interior, and after frequently witnessing myself the disgraceful Profanation of the Sabbath permitted and even Encouraged by Many of the Settlers in every part of the Colony, that I framed and Published the Government and General Regulations and Orders in Question, and which I venture to Affirm have been productive of the most beneficial Effects on the Morals and general Conduct of the Convicts throughout the Colony, particularly in those Districts where they have been Strictly Enforced. I am sorry to say they have not been Enforced in the Districts within the Limits of the Magistracy of the Revd. Mr. Marsden, and the Consequence is that much more Profligacy and Depravity exists among the Convicts there than in any other of the Districts. With the View of ascertaining with the greater Accuracy what Ground there was for the Charge on this particular Head, I wrote a Circular Letter to the Clergymen and Magistrates in the Interior Calling

Unjust inferences drawn from Macquarie's action.

Justification for pardons granted.

Orders *re* mustering of convicts on the Sabbath day.

Rev. S. Marsden's neglect to enforce orders.

* Note 124.

upon them, freely and Candidly, to report to me their Opinions and Sentiments, not only respecting the Muster of the Convicts of the Sabbath Day, but also on the Subject of Punishments and the Treatment of Delinquents within their respective Jurisdictions, and, having lately received these Reports, I now do Myself the Honor of transmitting Copies of them, and of My Circular Letter Alluded to for Your Lordship's Information and Notice.

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Chaplains' and magistrates' reports.

10. Your Lordship will Observe from these Reports that the Revd. Mr. Marsden and Mr. Hannibal McArthur, who are the Magistrates in the District of Parramatta, are the only ones who Start any Objection to the Muster of the Convicts in the Interior. Calling in Support of their opinion Messrs. John and Gregory Blaxland and Nicholas Bayley, three Gentlemen Settlers who are Notorious throughout the Colony for being Very Severe Arbitrary Masters and embroiled Constantly in Quarrels with their Servants, whom they are frequently dismissing on the Most frivolous Pretences. All the other Magistrates and the Chaplains highly approve of the Sunday Musters of the Convicts, and do not point out or dwell on any Objection, Inconvenience or bad Effect attending them; They declare also that no Severe or Cruel Punishments have been Inflicted in any of the Districts within the Limits of their respective Magistracies, which I know myself to be perfectly Correct.

Objections of Marsden and H. MacArthur to muster of convicts.

Approval of Sunday musters.

Some Years ago, for the express purpose of preventing severe punishments from being Inflicted in the Interior Districts by the Magistrates, I directed them to Send me Quarterly Returns of all Persons Confined, tried, and punished by their Authority. These Returns are now regularly made, and on Comparing one with the other, in those received from the Revd. Mr. Marsden, as Senior Magistrate at Parramatta, I have invariably found that the punishments inflicted by his Authority are much more Severe than those of any other Magistrate in the Colony. In proof of this extraordinary Severity, I take the Liberty of transmitting herewith for Your Lordship's Notice an Extract from his Return for the last Quarter.

Magisterial reports of punishments.

Severity of sentences ordered by Rev. S. Marsden.

Under All these Circumstances, and duly weighing the Information and Explanations afforded and Contained in the accompanying Documents, I am free to Indulge the Hope that Your Lordship will readily admit that my Character and Conduct, as Governor in Chief of this Colony, have been Most Malignantly, because most falsely aspersed in the Assassin-like Attacks, so Covertly made on my Administration of this Government by the anonymous Libeller in Question. And I am proud to be enabled, in Concluding this Letter, to add that, so far as Precept and Example go, I can defy the Most envenomed Malice to Tax Me

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justly with omitting any Opportunity or Means within my power to restrain and repress Vice and Immorality thro' all the Classes of this Community, or of Neglecting to Encourage Virtue and Religion conformably to the high Sentiments I entertain of their Importance, both in my Public Station and private Capacity.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

MR. JUSTICE FIELD TO GOVERNOR MACQUARIE.

Sir,

Sydney, 1st Decr., 1817.

In answer to the letter, with which your Excellency has honoured me, desiring me to state the conduct of the female Convicts on Board the Lord Melville Transport, Thackray Wetherell, Master, in which I came hither as a Passenger, and whether they were permitted to live with the Officers and Seamen during the voyage,

I have to say that the women were treated very well and behaved as well as could be expected from their habits and character; they were certainly permitted to cohabit with the Officers and Seamen; but it is but justice to Mr. McNamara, the Surgeon Superintendent of the Ship, to say that this practice was permitted before he joined the Ship, which he did not do, till some time after the women had all embarked, upon the Supersession of another Surgeon. He certainly might have reformed this practice; but to prevent connexion between the women and the seamen would (I am convinced) be quite impossible, even if the hatches had been battened down every night. I cannot speak of what passed on board in harbour, as immediately upon the vessel's coming to Anchor, both at Rio de Janeiro and here, I quitted the Ship.

Upon the whole, however, I believe there was as little immorality on board the Lord Melville, as it is possible should prevail among such a Ship's company of different sexes, so brought into contact. Of this I am sure, that a decent exterior was preserved; and, though I bore the relation of only a fellow passenger towards the convicts, yet I flatter myself that the high Office I was destined to fill here operated as some moral check upon them; and I read prayers to them on every Sunday, when the weather permitted, after which I always took occasion to give them some Moral or religious exhortation adapted to their circumstances and the occasion as it rose.

I have, &c.,

BARRON FIELD, Judge of the Supreme Court.

True Copy:—J. T. CAMPBELL, Secy.

Report on the
prostitution of
female convicts
on the ship
Lord Melville.

[Enclosure No. 2.]

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SURGEON ALLAN TO SECRETARY CAMPBELL.

Sir, Canada, 12th Sepr., 1817.

I beg to acquaint you for the information of His Excellency the Governor, that every precaution was taken to prevent the prostitution of any Female convict during the time they were embarked in the Canada, and to the best of my knowledge no one of them lived with any Officer or Seaman during the voyage.

Precautions
taken to prevent
prostitution on
the ship Canada.

Sir, I have, &c.,

JAMES ALLAN, Surgeon, &c.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 3.]

THE DEPOSITIONS OF FRANCIS OAKES, GEORGE SUTTON AND
MICHAEL HOARE.

Depositions
relating to the
punishment and
confinement of
Michael Hoare.

CUMBERLAND TO WIT.

A STATEMENT and particulars respecting the Confinement and Violent Conduct of Michael Hoare in the Gaol at Parramatta, pursuant to the Sentence passed upon him by the Court of Criminal Judicature held in Sydney on Tuesday, the sixteenth day of January, One Thousand, eight hundred and sixteen, Frederick Garling, Esquire, acting Judge Advocate, taken before Hannibal McArthur, Esquire, One of His Majesty's Justices of the Peace.

MR. FRANCIS OAKES, Chief Constable at Parramatta, being duly sworn, deposes that the Prisoner, Michael Hoare, was delivered into his Custody by Warrant in pursuance of a Sentence passed on him by the Court of Criminal Jurisdiction on Tuesday, the 16th day of January, 1816, by which the Prisoner was Sentenced to Three Years Imprisonment in His Majesty's Gaol at Parramatta, the first Twelve Months thereof to be kept in a Solitary Cell on Bread and Water, the remaining Two Years to be kept at hard Labor in the Gaol Gang there, and at the Expiration of the said Three Years to be Transported to Newcastle for Life. Deponent further states that he was, in consequence, lodged in the Gaol and confined in a Cell, agreeably to his sentence; a short time after he had been in the Cell, he became troublesome by making several attempts to get out, and one time in particular he pulled down part of the Stone work of his Cell. He was then removed out of the Cell, and put in the Long Room of the Gaol with the other Prisoners. His extreme Violence led some people to suppose he was Insane; but Deponent considers he did it for the purpose of obtaining a release from the Cell, as he never observed any Symptoms of Insanity about him upon any occasion

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Depositions
relating to the
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confinement of
Michael Hoare.

except such Violence, when he has been occasionally close confined. During the time, he was supposed to be Insane, the Sentence of the Court was set aside, and the Prisoner was removed to the Asylum for Lunatics at Castle Hill. A short time after being sent, he Absconded from the Asylum, and was soon after apprehended and lodged again in Custody of the Deponent. Since which time, he was merely confined in the Gaol and the yard belonging to it up to the expiration of the first Twelve Months of the Sentence. Since that time, he has been appointed to get Fire wood for the Gaol, and is and has been as much at liberty as any Convict in the Employment of Government; and Deponent has constantly Employed him as a Labourer on his Premises in the Town, after he has performed his Government Labour; and Deponent is fully of opinion that he is not Insane, nor never was.

FRANCIS OAKES.

MR. GEORGE SUTOR, Superintendent of the Public Lunatic Asylum* at Castle Hill, being duly Sworn, deposes, that he received Michael Hoare into the Lunatic Asylum *on the 29th of January, 1816*; that he was brought out to Castle Hill by one of the Keepers, by the name of John Howard, who reported to Deponent that he had been very Violent in the Gaol at Parramatta, but was supposed to be an Imposter. Deponent received him into the Asylum, and he was treated with all the Indulgence and care that the Lunatics received. He was ordered to be watched very closely at first; but, not shewing any Symptoms of Insanity, he was indulged with perfect Liberty to go about the Place, and Deponent thought he was an Impostor and made a report to that effect to the Reverend Samuel Marsden, Magistrate of Parramatta. The Prisoner Still remained there until the second day of April, 1816, when he Absconded, taking with him his own Bedding and a considerable quantity of Cloathing belonging to Roger McGuire, one of the Lunatics. Deponent reported his Elopement to Mr. Oakes, Chief Constable of Parramatta, and stated the Robbery. Deponent heard that he was taken and lodged in the Gaol again, but none of the Property has been recovered.

GEORGE SUTOR.

MICHAEL HOARE, a Convict from India, formerly of the 87th Regt., comes forward willingly and of his own accord, and states to me, Hannibal McArthur, Esquire, that he pretended Insanity in the Gaol at Parramatta for the purpose of getting out of the Cell to which the sentence of the Criminal Court had sent him. He further states that he ran away from the Asylum at Castle Hill, because Carpenter, one of the keepers, told him that he would be sent back to the Cell. Further states that he gave the Cloathes he took away from Castle Hill to one Ryan on

* Note 125.

Mr. G. Blaxland's Farm. Further states that his Sentence has been remitted, with that of other Prisoners sentenced at the same time, by order of His Excellency the Governor, and that he has been for some Months as much at liberty as any other Convict in the Colony.

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Depositions
relating to the
punishment and
confinement of
Michael Hoare.

his
MICHAEL X HOARE.
mark

Taken before me at the Court House, Parramatta, the
Twenty Second Day of October, 1817.

H. McARTHUR, J.P.

True Copies:—J. T. CAMPBELL, Secy.

[Enclosure No. 4.]

MR. FREDERICK GARLING TO GOVERNOR MACQUARIE.

Sir, Sydney, 2nd December, 1817.

I have the honor to acknowledge your Excellency's Letter, containing an Extract of a public Dispatch from the Right Honorable Earl Bathurst, principal Secretary of State for the Colonies, under date the 24th of January, 1817, wherein His Lordship desires to have reported to him the Sentence inflicted upon Michael Hoare, James Gilchrist, Edward Doyle, and John White, who were tried before the Criminal Court at Sydney in the Month of January, 1816, when I had the honor to exercise the Functions of Judge Advocate in this Colony, and particularly the Sentence passed upon Michael Hoare, the Crime of which he was found Guilty, and the length of time during which he had been in Confinement, with a specification of the Offence, which appeared to me, as Acting Judge Advocate, to authorize the Sentence passed upon Michael Hoare and his associates.

Acting judge-
advocate's
report on the
trial and
conviction of
Hoare, Gilchrist,
Doyle, and
White.

In reply to your Excellency's communication, I beg leave to acquaint you for the Information of his Lordship that Michael Hoare and James Gilchrist were Convicts in this Country, the latter for the period of his natural Life, but for what duration the former was transported I have not accurate Information, as there are no Indents, but I believe for Life also. It appears by the Depositions taken before the Magistrate, that these men were united with a Banditti, who marauded about in the woods, and are designated in this Colony Bush Rangers, Men of the most alarming and dangerous description, who, lost to all sense of moral or social Duties, live by plundering the honest Settler of the Property he may have acquired by his Industry. These Men were fully committed on the 5th of October, 1815, to take their Trial for a Capital offence in committing a Burglary and Robbery under circumstances of great Aggravation in the School House at

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Acting judge-
advocate's
report on the
trial and
conviction of
Hoare, Gilchrist,
Doyle, and
White.

Kissing Point, inhabited by James Cooper, whom they plundered of all the money and Property they could collect, and, armed with Clubs, threatened his Life, if he used any Efforts to apprehend them. These Men were brought to Trial at the next ensuing Criminal Court in January, 1816; when, on being arraigned upon the Capital charge, they pleaded Guilty, whereupon the Court, which on this Conviction might have doomed them to Death, mitigated the Sentence, as under the Authorities of the Patent it has power to do, and adjudged "That they, the said Michael Hoare and James Gilchrist and each of them, be confined in His Majesty's Gaol at Parramatta for the Term of Three Years; and that, during the first Twelve Calendar Months thereof, they and each of them be kept in Solitary Cells there, upon bread and Water; and, during the remaining Two Years, that they and each of them be kept to hard Labor in the Gaol Gang at Parramatta aforesaid; and, at the Expiration of the said Three Years, Then that they and each of them be sent to His Majesty's Settlement at Newcastle, there to remain during the Term of their respective Natural lives."

I feel every Confidence that, when His Majesty's Government is apprized of the particulars I have before detailed and considers that towards Men, who are already Convicts for Life and, persisting in their evil habits, become convicted of an offence for which they are amenable to a Capital Punishment, they will not entertain an opinion that this Mitigated Sentence is marked with more Severity than the Circumstances of the Case warranted; indeed it is difficult to inflict any additional Punishment on Men, situated as these Prisoners were; and in coming to the decision in this Instance, the Court indulged a hope that the solitary Confinement, they awarded, would, by giving the Prisoners Leisure for Contemplation, awaken them to a due sense of their evil and depraved habits and induce a resolution to reform their Lives; when, if such an Effect was happily produced, it would always be in the power of the executive Authority in this Colony to mitigate further their Sentence; and the Court could have no apprehension that there would not be due attention paid to the health of the Prisoners during their close Confinement, when it is known the Prisons are regularly and properly attended by the Colonial Surgeons; and, in the Event of such Confinement proving injurious to their Health, Your Excellency would never hesitate to extend that Mercy to them, which it is in your prerogative to exercise, and which your Excellency is always forward to shew towards objects who have a proper claim to it.

The Prisoners, Edward Doyle and John White, both of whom were transported to this Country, and the Latter was a Convict

for Life, were fully committed on the 16th of October, 1815, to take their Trial for a Capital offence in breaking and entering a Dwelling House (nobody being therein), and stealing therefrom nearly all the Contents of the House, which they conveyed away in a Cart; these Men were also arraigned in the January following; when, after a long and patient Trial, in which they had professional Assistance, they were found Guilty, and the Court in this Case, as in the last, mitigated the Sentence of Death which the prisoners were amenable to, and awarded the same Punishment as in Hoare and Gilchrist's case.

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Acting judge-advocate's report on the trial and conviction of Hoare, Gilchrist, Doyle, and White.

I trust it will be considered that Men, whose liberty was already forfeited to the Laws of their Country, and who bereft of all Feeling would invade the Dwelling House of the industrious Husbandman and plunder him of that Property, which he was compelled to leave at home unprotected, while toiling in the Field, have little cause to complain of a Sentence, which, while it preserved their Lives at once forfeited by their Crimes, afforded them the most seasonable opportunities to relent and become useful to Society.

These Explanations, I hope will prove satisfactory to His Majesty's Government, and justify me in not protesting against Verdicts, that had for their object the extension of Mercy instead of the Infliction of the most awful Sentence known to the English Law, and which the Crimes of these Delinquents subjected them to.

In closing this Letter, I request your Excellency will do me the honor to bring to Earl Bathurst's consideration that the Judge Advocate of this Colony possesses no Powers or Authorities, beyond any other individual Member of the Criminal Courts, in coming to the conclusion on the Guilt of a Culprit or determining on the Nature or Severity of his Sentence, but is bound to pass such Sentence (if legal), as the Majority of the Court may award, except in Judgments of Death, when it is necessary that Five out of Seven should concur; and I beg to add that it is not unusual for the Judge Advocate to be in the Minority.

Restricted powers of the judge-advocate.

I have, &c.,

FREDERICK GARLING.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 5.]

GOVERNMENT AND GENERAL ORDERS.

Government House, Sydney, Saturday, 10th Septem'r, 1814.

HIS EXCELLENCY the Governor, viewing with the greatest Regret and abhorrence the frequent commission of Robberies and

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General orders
re the control
and weekly
muster of
assigned
servants and
ticket-of-leave
men.

Murders, which for some time past have rendered the Situation of the well disposed and industrious Settlers of the Country truly distressing, feels it his Duty to adopt such Regulations, as appear to him best suited, in Co-operation with the ordinary course of the Laws, either to repress the further Commission of such Crimes or to bring the Perpetrators to more speedy and effectual Punishment.

With a view to this desirable object, and in the Hope at the same time to ameliorate the Condition and improve the Morals of the Male Convicts, who are now or may hereafter be assigned as Government Men to the Free Settlers or Land holders, whether on or off the Stores, and of those Convicts also, who have the Indulgence of Tickets of Leave, His Excellency has framed the following Regulations for the mutual Guidance and Government of the Persons possessed of Government Servants and of those Servants themselves, the Magistrates and other Peace Officers within the several Districts of the Colony being hereby strictly enjoined to enforce, according to their Authority, the fullest Compliance with them.

It having come to the knowledge of the Governor that the Practice of remunerating Government Men for their extra Time and Labour, either by permitting them to employ certain Portions of their Time for their own Benefit, wherever they may chuse to engage themselves, or to cultivate Grain and rear Pigs and other Animals in lieu of giving them the Wages, prescribed by the established Regulations* of the Colony, His Excellency cannot avoid calling the Attention of the Public to the Consideration of the ill Consequences necessarily resulting from either the one Commutation or the other. Those Persons, who have been in the Habit of giving up Portions of their Time to their Government Men in lieu of their Wages, must be aware that they thereby enable idle and disorderly Persons, in the Class of Assigned Convicts, to pass into Parts of the Country, where their Persons are not known; whilst the latter, availing themselves of that Circumstance, commit the most flagrant and atrocious Acts under the idea that they will thus avoid Detection. That Robberies very frequently escape Punishment by the sudden Retreat of the Perpetrators from that part of the Country, where they committed their Depredations, is too notorious to be controverted. This fact fully evinces the necessity for doing away the Practice.

Those Government Men, who have the Indulgence of cultivating Ground and rearing Stock instead of receiving their prescribed Wages, frequently become the Receivers of stolen

* Note 126.

Grain and Provisions, which, being blended with that of their own Rearing, baffles Detection and Justice is thereby often defeated.

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General orders
re the control
and weekly
muster of
assigned
servants and
ticket-of-leave
men.

1st. Under the Consideration of these Evils, it is now His Excellency the Governor's order and Command that, from and after the 30th Inst., all Settlers and others having the Services of Government Men of any Denomination, whether on or off the Stores, shall retain them altogether in their own Service, and pay them agreeably to the Government Regulations, established in the Year 1804, and in no other Way whatever.

2nd. Settlers or others, who do not require the entire Services of the Men assigned to them, or who cannot afford to pay them for their extra Labour, are required to return them forthwith to the Principal Superintendent of Convicts at Sydney, or to the Magistrates of the Districts to which they respectively belong.

3rd. All Complaints, either of Neglect of Duty or of ill Treatment on the Part of the Government Men or their Employers, are to be made to the District Magistrate, whose Duty it will be to punish and redress mutually the ill-behaved and injured Party.

4th. All the Male Convicts, whether assigned to Settlers or on Tickets of Leave in each District (with the Exception of Stockmen and such other Persons as the Magistrates under particular Circumstances may see fit to exempt), are to assemble and be mustered by the District Constable every Sunday Morning at Ten O'Clock in such Central Part of the District, as shall be pointed out by the Magistrate; and to proceed from thence under the Direction of the Constable to the nearest Church or place of Divine Service, in case there shall be one within Three Miles of the Place of Muster. On these Occasions, it will be expected that the assigned Servants and Persons on Tickets of Leave shall be not only punctual in their Attendance, but also clean and decent in their appearance; and any of them, who shall attend, either unshaved or intoxicated, or absent themselves, except in Cases of Sickness or other unavoidable Cause, are to be reported by the Constable to the Magistrate of the District, who is to reprimand for the first Offence, and punish every subsequent one by placing the Offender in the Stocks for One Hour.

5th. Ticket of Leave Men are to muster on the Right of the assigned Government Men; and, if there should be no Place of Worship within three Miles of the Place where they assemble, they are to be dismissed there, after answering to their Names and to such Questions as the Constable shall find necessary to put to them. Settlers or others, deriving the Advantage of Assigned

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re the control
and weekly
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assigned
servants and
ticket-of-leave
men.

Servants, are particularly called upon to render every assistance in their power to the due execution of this Order, whereby they will shew themselves worthy of further Indulgence; whilst on the Contrary, if it should appear that they throw any Difficulty in the way of it, such conduct will be punished by the withdrawing altogether from their Service those Convicts already assigned to them.

6th. The District Constables are to keep Books, in which they are to enroll the Names of all the Government Men, within their respective Districts, and the Names of the Persons, in whose Employment they are, whether as assigned Government Men or Persons on Tickets of Leave. The form of this Muster Roll will be furnished forthwith to the Magistrates of the Colony, and they are to give them to the District Constables. Each Sunday's Muster, with the List of Absentees and of those appearing in any way neglectful of the enjoined Form either as to Dress Cleanliness or Sobriety, is to be submitted on the Monday following to the Magistrate of the District, whose orders thereon are to be carried strictly into effect by the Constables. It is expected that the Magistrates will from Time to Time attend these Musters personally, in order to their being held according to the true intent of this Order.

7th. For the Purpose of avoiding as much as possible the necessity for resorting to Corporal Punishments, His Excellency has deemed it advisable to establish Government Gaol Gangs at the three principal Townships in the Interior, namely, Parramatta, Windsor and Liverpool, and to these places of Punishment Convicts found guilty of serious Offences are to be sent to be employed at hard Labour for a limited Period of Weeks or Months according to the Measure of their Offences, instead of undergoing Corporal Chastisement; and, in order to brand their ill conduct with a Public mark of Disgrace and to distinguish them from the better behaved, they are to be clothed in a party coloured Dress, half Black and half White, which they are to wear at all Times during the Time they are sentenced for. For this purpose, the respective Goalers will be furnished with the prescribed Dresses; and they are to take Charge of the Clothes, which the Convicts shall bring with them, until such Time as they shall be discharged, when they are to be returned to them, and the Gaol Dresses received back into their Stores. The Gaol Gang at Parramatta is not to consist of more than Ten, that at Windsor of more than Eight, and that at Liverpool of more than Six Convicts, all of whom are to be lodged in their respective Gaols every Night, and to be daily employed (Sundays excepted) under

Government Overseers in the Repair of the Roads leading into the Towns and in the Improvements of their Streets, or in such other public Work as the Magistrates may consider more necessary.

8th. The foregoing Gaol Gangs, as also that already established at Sydney, are to receive and commence wearing their party coloured Dress on Sunday, the 2nd Day of October next ensuing, and are never to be permitted to appear in any other during the Term of their respective Sentences, unless a Remission of their Sentences, in Consequence of good Conduct, should be extended to them.

9th. It being a Matter of great Importance, as well for the sake of encouraging and rewarding the Meritorious as for restraining and punishing the idle and ill behaved, that the Governor should be made fully acquainted with the Characters of the Inhabitants at large, and more especially with those of the Convicts of both Sexes, in whatever manner they may be employed, His Excellency directs that the several Magistrates shall transmit him (through the Office of the Secretary to this Government) Quarterly Returns of all Fines and Punishments, ordered by them on Delinquents of every Description residing in their respective Districts. These reports are to specify the Names and Situations in life of the Offenders, and their usual Places of residence, with the Offences committed by them and the Sentences passed on them. All Remissions of Punishments are also to be reported. For the Town and District of Sydney, it will be the Duty of the Superintendant Magistrate of the Police to make these Reports. The first Return of these Quarterly Reports is to be made in the first Week in January next, comprehending all the Magisterial Proceedings for the Quarter, which will commence on the 1st of October next; and the Governor recommends in the strongest Manner to the Magistrates to inflict Corporal Punishment as seldom as possible, but to substitute in its stead Confinement in the Stock for petty Crimes, and either solitary Confinement or hard Labour in the Gaol Gang according to their Judgment of the Degrees of Offence, still keeping in View the general conduct and character of the Delinquents.

10th. It is His Excellency the Governor's Desire that these Government and General Orders shall be read during the Time of Divine Service by the Chaplains, at their respective Churches or places of Public Worship, on Sunday, the 18th, and on Sunday, the 25th of the present Month of September.

By Command of His Excellency The Governor,

J. T. CAMPBELL, Secretary.

True Copy:—J. T. CAMPBELL, Secy.

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General orders
re the control
and weekly
muster of
assigned
servants and
ticket-of-leave
men.

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[Enclosure No. 6.]

CIRCULAR LETTER FROM SECRETARY CAMPBELL TO THE MAGISTRATES
OF NEW SOUTH WALES.*

Sir, Secretary's Office, Sydney, 20th Nov'r, 1817.

His Excellency the Governor having been informed that a Communication has been made to His Majesty's Principal Secretary of State by a Person in this Colony, complaining of and censuring His Excellency's Administration of this Government in regard to the two following particulars, namely,

- 1st. That part of the Govt. and General Orders of the 10th Sept'r, 1814, which refers to the due observance of the Sabbath;
- 2nd. The punishment of Offenders by Solitary Confinement on Bread and Water;

His Excellency is particularly anxious to ascertain the precise state of the facts in question, and therefore desires to receive your Information and report thereon.

The Object of that part of the Govt. and General Order, above referred to, being to prevent the convict Servants of the Settlers from wandering at large on Sundays through the Country and committing Depredations (which had been found a very serious Evil and much complained of), and at the same time to enforce the decent and religious observance of the Sabbath by those persons, His Excellency had never conceived, until the time of His being informed of such a Representation having been made, but that this order had been generally productive of the desired Effect.

I have therefore to request that you will favor me, for the Information of His Excellency, with the result of your Experience in regard to the operation of that order, and that you will also be pleased to state whether you consider the enforcement of it has or has not been attended with good Effects on the moral conduct of those persons, to whom it immediately applied; as one Criterion whereon to form a just opinion on this subject, independent of your own personal observation, you will please to report whether any and what Complaints have been made to you in respect thereof, as a Magistrate, and by whom, and the measures you have on such occasions resorted to with a view of remedying the evil complained of, and generally to give your Opinion on the Efficacy of the Order in Question.

* This letter was forwarded to Revd. Samuel Marsden, J.P., Parramatta; Hannibal McArthur, Esqre., J.P., Parramatta; James Mileham, Esqre., J.P., Windsor; Revd. Robt. Cartwright, J.P., Windsor; William Cox, Esqre., J.P., Windsor; Revd. Henry Fulton, J.P., Castlereagh; Thos. Moore, Esqre., J.P., Liverpool; Robert Lowe, Esqre., J.P., Bringelly; Revd. John Youll, Ass't Chaplain, Liverpool; Revd. Wm. Cowper, Ass't Chaplain, Sydney.

Magistrates to
submit reports

on the effects of
general order *re*
due observance
of Sabbath;

In adverting to the second subject, namely, the punishment of Offenders by Solitary Confinement, I have to inform you that it has been stated, in the same Communication made to His Majesty's Secretary of State, that one prisoner had nearly lost the use of his Limbs and his Faculties, and that another had been seen chained in a Cell to the Wall of a Gaol in a state of perfect madness, occasioned by the severity of his Confinement, and being allowed only Bread and water to subsist on.

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and on the punishment of prisoners by solitary confinement on bread and water.

As these circumstances were never reported to His Excellency, who consequently could not have been in possession of them, and if true would have reflected highly on the Magistrates, in whose District such an Event had taken place,

It is His Excellency's wish that you will be pleased to state whether you know or recollect of any cases of that kind in any of the Prisons under your inspection and Superintendance, together with such particulars, as you may be enabled to collect, that bear upon the facts in question.

His Excellency desires to be favored with your free and candid sentiments with the least possible delay, in order to his making a Communication thereon to His Majesty's Secretary of State in reply to the attack, which has been malignantly and in so clandestine a manner made against a Measure of His Excellency's Government, and in order to rescue the Magistracy and police of the Colony from such unfounded and malicious Aspersions.

I have, &c.,

J. T. CAMPBELL, Secy.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 7.]

SECRETARY CAMPBELL TO THE REVEREND WILLIAM COWPER.

[A similar letter was sent to the Reverend John Youll, Chaplain, Liverpool.]

Revd. Sir,

Secretary's Office, 20th Nov'r, 1817.

As in the performance of the sacred Duties of your Office as one of the Chaplains of the Colony, you will most probably have had frequent Opportunities of becoming acquainted with, and forming a just Judgment of, the operation of that part of a Govt. and Gen'l Order, issued here under Date the 10th of Sept'r, 1814, requiring the assembling of the convict servants and Ticket of leave Men on the Mornings of Sundays at such places, as the District Magistrates should direct, in order to their being conducted thence by the Constable of the District to the next place, where Divine service is celebrated; I now do myself the Honor to transmit you herewith an extract of the 4th and 5th Sections of the said G. and G. order for your perusal, and have to request

Chaplains to report on operation of Sunday muster of assigned servants and ticket-of-leave men.

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you will favor me with an early Communication of your Sentiments hereon, for the reasons assigned in my Circular of this Date to the Magistrates of the Colony residing in the Interior, a copy of which I also do myself the honor to transmit you herewith.

I have, &c.,

J. T. CAMPBELL, Secy.

[Enclosure No. 8.]

THE REVEREND HENRY FULTON TO SECRETARY CAMPBELL.

Sir, Castlereagh House, 21st November, 1817.

In answer to your letter, I have to inform you that I know that some individuals were Punished by Solitary Confinement and Bread and Water in Parramatta Jail, during a limited time, by Sentence of a Criminal Court; but I never heard that any inhumanity was practised in carrying such Sentences into execution. I never heard that any of them was deranged by their punishment, or continued to a degree, which the Culprits were not able to bear, both in Mind and body; and I am sure, if it had, it would not have been kept Secret; nor could it, but would have afforded conversation, and would have been reported to all Sorts of people in the Colony. I do not know that any such punishment was inflicted in any other Jail; in some instances, they have been restrained to Jail allowance for a Short time. Indeed the Punishments, inflicted on Convicts in general in a summary way, were, since General Macquarie assumed the reins of Government, considered too lenient.

As to the effect of the General Orders of the 10th September, 1814, I have to say that it has been productive of much good; it kept from thieving, drinking and lewdness, the Convict servants, which they would have contrived and carried into execution during the hours of divine Service, and in Such pursuits were some of them detected, who contrived Sometimes to absent themselves. The Churches, where I have performed divine Service, have been well attended by Convicts in general, and it has caused their Masters to be more careful in providing them with Cloths, and themselves more attentive to keep them; it has made them more attentive to the Cleanliness of their persons on Sundays, as they did not like to make a Shabby appearance; and I trust some of them have been convinced that it is their duty and interest in this world, as well as the next, to conduct themselves according to the Divine Laws.

I have heard no complaints about the effect of that Order relative to the Due Observation of the Sabbath, except, in some

Rev. H. Fulton's
report *re*
solitary
confinement
of prisoners;

and *re* operation
of orders for
due observance
of Sabbath.

instances, penury or fraud made some complain that they were compelled to provide their Government Men with better Cloths to appear in at Church than they otherwise would have done.

1817.
4 Dec.

I have, &c.,
HENRY FULTON.

True Copy :—J. T. CAMPBELL, Secy.

[Enclosure No. 9.]

MR. ROBERT LOWE TO SECRETARY CAMPBELL.

Sir, Bringelly, 22d November, 1817.

I have the honor to acknowledge the receipt of your Letter of the 20th Inst., This Morning, conveying a Circular communication from His Excellency the Governor to the Magistrates of this Colony on the Subject of a representation, which has been made to His Majesty's Principal Secretary of State by a person in this Colony, relating to His Excellency's administration of the Government in regard to the following particulars, Vizt:—

Robert Lowe's
report.

- 1st. That Part of the Govt. and General Order of the 10th Sept'r, 1814, which refers to the due Observance of the Sabbath.
- 2d. The Punishment of Offenders by Solitary Confinement on Bread and Water.

In Obedience to His Excellency's desire that an early Report should be made to him on the State of the facts in question, I have immediately given the Same the most attentive Consideration.

The Colonial Regulations of Mustering the Convict Servants to attend Divine Service on the Sabbath Day I have always considered a most Salutary Measure, and that much benefit doubtless has annexed to them by the Operation of this Order, as religious instructions must tend to their reformation and cause them once more to become good members of Society. I must express my astonishment that a regulation, Springing from the best and purest Motives of an enlightened Mind, Should be so misrepresented, as to its operation and effects, by any Person that professes Christianity, and which instead of reflecting on His Excellency's Administration of the Govt. must recoil assuredly upon its Author.

Effect of
orders for due
observance of
Sabbath.

In regard to the effects of the Order in remote parts of this Settlement, where the Prisoner Servants cannot under the present State of the Church Establishment attend Public Worship, I think the anxious wishes of His Excellency have not on that account been so fully realized. In those Districts, wherein I

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Effect of
Sunday musters
in remote
districts.

preside as a Magistrate, I cause the Convict Servants within the Distance of 3 Miles to be Mustered on the Morning of the Lord's Day by the District Constable under my Inspection, when every attention is paid to their decent appearance. It has indeed been reported to me That, after such Musters, Some of them, instead of returning to their Masters, wander about the Countries in company, and lay Plans to Rob their Employers. But, as I have never found any Serious evil to follow Such Muster, and being of Opinion that, if their inclinations led them to irregularities, they would continually find Opportunities to consult together even if they did not attend Muster on the Sabbath Day, such reports therefore cannot Operate against the General benefit arising to the Convict Servants in the Several Townships from religious Instructions by the enforcement of this General Order; and I ardently hope that equal benefit will be extended at Some early Period to these misguided Men, as well as the rising generation, in these Districts, who are in a lamentable State for want of it.

No knowledge
of punishment
by solitary
confinement.

In reply to the Second Subject of your Letter, Namely, the punishment of Offenders by Solitary confinement on Bread and Water, and particularly the case of Two Prisoners, who have been represented to have been treated with extreme rigour, I must assure you that such a Circumstance is totally unknown to me; nor do I think that any Magistrate of this Colony would Venture so far to Overstep the Strait Path of his Duty by a Sentence, which must necessarily incur such heavy responsibility. I can certainly answer for myself that I never did, nor for a moment should, think myself justified as a Magistrate in ordering Such Punishment.

Commendation
of Macquarie's
administration.

I must in conclusion express my regret that any Individual in this Colony should, by Malicious Misrepresentation to His Majesty's Secretary of State, reflect on His Excellency's general Administration of Government; but which I have no doubt will fail in its intention, and tend on the contrary to expand still further his known Character, as a Governor, who, as far as I am able to judge, manifests in the discharge of his important trust every anxiety for the public good, and, instead of Sanctioning the Severities complained of, does on the contrary evince the greatest Moderation and philanthropy towards the Misguided part of our Society. It is the fate of all Government to have its Calumniators, and it would indeed be surprizing, when the nature of Our Population is Contemplated, that Our Governor should escape Calumny.

I have, &c.,

ROBERT LOWE, J.P.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 10.]

1817.
4 Dec.

THE REVEREND WILLIAM COWPER TO SECRETARY CAMPBELL.

Sir,

Sydney, 24th Novr., 1817.

In answer to your Letter of the 20th Inst. requesting my Report and Opinion on the effect of that part of the Government and General Order of the 10th Septem'r, 1814, which refers to the due Observance of the Sabbath, for the information of His Excellency the Governor, I beg leave to State that the duties of My Official Situation have led me to visit the *General Hospital* and the *County Gaol*, and also to hold conversations with *various Persons*, more particularly with the *Sick*, the *afflicted*, the *Wretched* and the unfortunate, who have Often times been very open and candid in their communications on the *cause* or *Occasion* of their Misery, distress, etca.; but never, either directly or indirectly, *never* did I hear or learn *any complaint against the above mentioned Order* respecting the Sunday's Muster of the persons therein described for divine Service, either from or by themselves. On the contrary, I have heard some Convicts *rejoice at the Measure*; and there are those, who now most thankfully record the *happy period*, which by His Excellency's *gracious Order* brought them to the Church to hear and receive instruction, and thereby *produced a thorough peaceful and lasting change and reformation in their principles and conduct*.

Rev.
W. Cowper's
report on the
operation of
general orders re
due observance
of the Sabbath.

Many I believe have been morally affected and improved by their attendance at Public Worship; and others have been greatly restrained from their vile habits and criminal purposes; and it is my decided Opinion, formed upon Observation and experience, that the more Strictly the Order in question is regarded, the more *comfort* and *Satisfaction* it will afford to the individuals themselves, and the *greater benefit* it will confer on the *whole Community*. So much, I have frequently heard from both the most moral and the most licentious in their Serious Moments.

I have indeed heard I am Sorry to Say a Complaint of another kind and that from Several which complaint I fear is not altogether unfounded Viz. that *Many* who have assigned Government Servants *will not allow them to attend the Sunday's Muster* but will contrive some business of *professed* importance or plead some *pretended* Special engagements on that Sacred day as an *Ostensible cause* for depriving the poor Convict of the *highest privilege which he can on earth enjoy* the only means which can effectually improve his understanding and his Morals and which might

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make his heart better and reclaim the wandering Prodigal, qualify him for every Duty both to God and Man, lead him to the Almighty Saviour to happiness and to heaven!

I have, &c.,

WILLIAM COWPER, Ass't Chaplain.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 11.]

MR. WILLIAM COX TO GOVERNOR MACQUARIE.

Sir, Clarendon, Hawkesbury, 24th November, 1817.

I have the honor to acknowledge the Receipt of Mr. Secretary Campbell's letter of the 20th Inst., requesting my Opinion and report as to the Operation of a Government and General Order of the 10th Sept., 1814, which refer to the due Observance of the Sabbath, and as also to the punishment of Offenders by Solitary confinement on Bread and Water, chaining to the walls of Cells, etc., in the Prison in the District, in which I preside as a Magistrate.

In answer to the first Question, I beg leave to State to your Excellency that Mustering the Convict Servants of Settlers by the District Constables in their Several Parishes on Sunday Mornings has in my humble Opinion various good Effects, Viz.

First.—It is the means of the Convict being better Cloathed, and kept cleaner, both in his person and wearing apparel.

Second.—It has the good Effect of their regular attendance to hear Divine Service on the Sabbath.

Thirdly.—It gives the Convict the opportunity of Stating their Complaints to the District Constable, and from him to the Magistrate of the District, if they have any just Ones against their Masters.

Fourthly.—It prevents their running about the Country on the Sabbath, when no One has Controul over their Conduct, or can know what atrocities they may Commit.

These are the leading objects, in favour of the Convicts being assembled together on Sundays; and from the personal knowledge The Constables get of the Prisoners by these means, they become acquainted with their Characters and Vices, and are better enabled to guard against the Vicious, as well as to recommend the More deserving.

Prior to these regulations being made in September, 1814, it was a general Complaint, through the several Districts of the Hawkesbury, where I have the honor of presiding as the Senior Magistrate, that numbers of the Convicts, after leaving their Work on Saturdays, left their Master's Farms to commit depre-dations in various parts of the Colony, and were seldom seen

Report by
William Cox.

Good effects
of the Sunday
muster of
convict servants.

again until the Monday morning following; and, from your Excellency's observations to me at that period, this Order was grounded in part to Counteract such existing abuses.

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System of
enforcing the
orders in the
Hawkesbury
districts.

It is requisite I should state to Your Excellency that at the Issuing of this Order I took considerable pains to make the District Constables perfectly understand their duty; in the first Place, I sent the Constables to each House in the Several Districts of the Hawkesbury (two of which come under my own Inspection, Windsor and Richmond), to ascertain the Name of each Convict, and to whom he was assigned, in his own District, marking those who were Shepherds or Stock Keepers, as well as those who were Cooks, Grooms and house Servants in the respective families, who would be allowed to remain at Home, but that he Should take the names of these, as well as others, that no deception or Collusion might Exist between Master and Servant; these regulations being made, the remainder were Mustered in their Several Parishes; and at those of Windsor and Richmond, I often attended; at the first Muster, I found many Men not Sufficiently Cloathed or Clean, and I had various Complaints to rectify between Master and Servant, before these were fit to attend Divine Service, or associate with the Clean and well disposed Convict; numbers among the Convicts are Idle, and evince great depravity of mind; others, who feel their Situation as Convicts and wish to be again restored to society and their Friends, act very differently, they appear at the Musters, Clean and Orderly, and wish to be noticed by the Magistrates and those placed in authority under them.

At these Musters where I attended, after examining the Men and receiving the written report from the District Constable of any absentees and the cause of it, I explained to them My Interpretation of your Excellency's Order in all its points, and gave them to understand that I would not in any case recommend One of them for Mitigation of Sentence, but what attended Divine Service regularly, was Clean, Sober and Orderly, and without a just Complaint from his Master; and to Convince them of this my determination and as an encouragement to the well disposed, I soon after noticed several among them, who I recommended to your Excellency for Emancipations or Tickets of Leave for setting so good an Example to the Idle and Profligate; this System I am firmly persuaded, if persevered in and Carried into *complete effect*, must have beneficial results; it is scarcely possible to expect a Man can be reclaimed to the Paths of Honesty, Sobriety and Industry, without having some sense of Religion impressed on his mind to awaken his Conscience, and Most

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assuredly a place of Worship is most of all calculated to produce that great and good change in the Mind of Many, who are *Convicts*, but still are Men.

Complaints
against the
system.

I also beg leave to state to your Excellency that I never heard of any Complaints against the Order in question but from a few, whom I obliged as a Magistrate to Cloath their Men better (instead of allowing them to fritter away their wages in useless things), so as to make them Clean and fit to attend Divine Service, with the exception of One Farmer at Richmond (Jonathan Griffiths), who said bringing the Men together would be the means of their combining to raise their Wages; this I considered to be futile, as the Wages of the Convict are Clearly and distinctly laid down by General Orders,* both as to the yearly Wages and Task work, and it rests with the Magistrates to decide on and determine such disputes when any arise.

Advantages
to the convict
servants.

It certainly has the Effect of giving the Convict, who is well disposed, the Opportunity of getting what he justly earns better than he could have done prior to this Order, as he can see the Constable to make his complaint to, if he has any just Ones against his Master, and, if He make frivolous or unjust Complaints, he is liable to be punished for such Conduct; taking it altogether, the Convict is better protected, better Clothed, and stands a much better chance of being reclaimed by the General Order of September, 1814, than he was prior to it.

Punishments
by solitary
confinement on
bread and water.

In answer to the Second Question or Subject, I beg leave to state to Your Excellency That there never have been a Solitary Instance to my Knowledge of a person being Confined in the Cells of Windsor Jail by the Magistrate for a longer Period than One Month on Bread and Water, Nor by any Court to our Jail with the Exception of *two*, who were Committed by a Criminal Court of Judicature, at which the late Ellis Bent, Esquire, presided as Judge Advocate, Vizt. Richard Langford and Dennis McCarty, the former for 12 Months, the latter for 6 Months; the former of these I frequently went to see in his Cell during the period of the Sentence. No harshness whatever was used towards him, more than what arose from his confinement, and he was discharged in perfect health at the Expiration of the Sentence; the Sentence of McCarty being so much Shorter, he experienced but little ill convenience from it, and was discharged in perfect health also.

I am at a loss to know to what such Circumstance can possibly allude to, as insane persons being Confined at all in the Jail; there is a Lunatic Asylum established at Castle Hill, where the Magistrates have Authority to Send any unfortunate persons to, who are so Affected, and where a Superintendent and Surgeon reside and have the Charge of them.

* Note 126.

I beg leave most decidedly to add that nothing of the Kind ever Occurred in the Jail, where the Magistrates of the Hawkesbury Act and have Authority; and that, had any such Circumstances of Cruelty Existed, I should have conceived myself guilty of gross Neglect of Duty, as well as want of humanity, in not reporting the same to your Excellency to Obtain relief for the unfortunate Person or Persons, so said to be Suffering.

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I have, &c.,

True Copy:—J. T. CAMPBELL, Secy.

WM. COX, J.P.

[Enclosure No. 12.]

MR. JAMES MILEHAM TO SECRETARY CAMPBELL.

Sir,

Windsor, 24th Novr., 1817.

I have the honor to acknowledge the receipt of your Circular Letter of the 20th Inst., and, in compliance to His Excellency's Commands therein communicated to me, I beg leave to state the result of my Experience as a Magistrate in regard to the operation of His Excellency the Governor's Order of the 10th of Sept'r, 1814, which refers to the due observance of the Sabbath.

James Mileham's report on operation of general orders re due observance of Sabbath.

I have great pleasure in saying that the order in question was one of the most salutary, that could possibly exist; previous to which, it was a Day, that the Convict servants claimed as their own, and spent it in Idleness and Debauchery; often assembled themselves and formed plans to perpetrate every species of mischief that such characters can readily invent. It also prevented those Characters from carrying their Machinations into effect on that Day. It likewise enabled those persons, who had the inspection of the Prisoners, to make their report as to the cleanliness of such Prisoners, who generally are very neglectful of themselves in that particular.

The benefits arising from this order are very obvious; That it compelled the Master to furnish the Servant with proper cloathing, and prevented that servant from spending that Day in an improper manner.

The only punishment, that has been inflicted by me for a breach of this Order, was a reprimand in the 1st Instance, and placed in the Stocks one hour for a repetition of the same without a proper excuse being assigned. I can also add with pleasure that no representation or Complaint was ever made to me on this subject.

In regard to the 2nd particular, namely, the punishment of offenders by Solitary Confinement on Bread and Water, I have made every enquiry relative thereto, and in only one instance has that punishment been inflicted for a longer period than one Month; that was in the case of Longford, who with others was committed from this Bench to Sydney for attempting to take a Sydney Boat in Broken Bay to enable them to make their escape

Punishments by solitary confinement on bread and water.

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Punishments
by solitary
confinement on
bread and water.

from the Colony, and for other Depredations preceeding that charge, and who was, by a full Bench there at which the late Ellis Bent, Esqr., Judge Advocate, presided, sentenced to twelve Months solitary Confinement in the Gaol at this place; he accordingly was returned, and for some time confined by himself according to his sentence; but, often in consequence of the number of Prisoners occasionally and the smallness of the Gaol, he was imprisoned in the same room with others, during which Indulgence, he broke out and enticed several others with him; he was again apprehended and then only confined in the same room with other Prisoners on the Gaol Allowance.

This unfortunate Man, after the expiration of his Sentence, was assigned to an Inhabitant of this place as a Government Servant; he soon absconded, and was guilty of several Depredations, among which were Highway robberies, and for one of which he was Executed.

I can vouch that the punishment of Solitary Confinement in any instance whatever had not the effect, that has been represented by the base Calumniator, and can further assert from my own knowledge that no person was ever chained to the Walls or floor of the Gaol, except such persons as have attempted to break out, or Murderers, or other characters whose Crimes were of that nature, which made the Gaoler confine them that way for his own Security, first obtaining the Sanction of a Magistrate. I also assert that this severity was only used for a short period, and by no means so as to injure their health, as those Characters are always forwarded to Sydney Gaol for their further safeguard.

I also beg leave to say that my professionable Duty obliges me to visit the Sick, and those in the Gaol comes immediately under my inspection; so that, if any occurrence of the kind had happened, I must have been acquainted with it. I also beg to observe that the Prisoners always have it in their power to lay before the Magistrates any grievance they labor under; they are always treated with Humanity, unless from their own bad conduct it was found necessary to use any harsh Measures.

I have also the satisfaction to add that, in upwards of eight Years residence in this district, not one ever died in Gaol or in the Hospital from the same.

I have, &c.,

JAM'S MILEHAM, J.P.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 13.]

THE REVEREND JOHN YOULL TO SECRETARY CAMPBELL.

Sir,

Liverpool, 25th November, 1817.

Your important communication was received on Saturday Evening, and I feel happy in the Opportunity of bearing my

humble Declaration as to the usefulness of the General Order given by His Excellency Governor Macquarie, Sept. 10th, 1814, for the due observance of the Sabbath, etc., and I cannot help quoting what an excellent Writer observes, Vizt: "If Christianity be properly promoted the State will not suffer, but be benefited by it." Surely no Man will say that the Governor's order, above referred to, has not benefited the State; if we would restrain the vicious, prevent depredations, and give some remembrance of the Lord's Day, the collecting those persons together, intended by the Order, must have been and will be accomplished. I do not only give my decided Opinion, as to the good that must be the result by such an order, but observe that I have never known of one instance of any evil having attended the mustering the Prisoners at Liverpool, they having always retired in the most decent and orderly manner after Divine Service to their respective Masters. The same conduct, as far as I have seen, has been manifest at the various places I have occasionally performed the Duties of my Office in the District of Airds, etc., one Instance excepted, that arising by an improper person filling the Office of District Constable, but the moment the business was represented to the Magistrate, an investigation took place, and McCudden, the Offender, was dismissed.

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Rev. John
Youll's report
on operation
of orders *re*
due observance
of Sabbath.

This leads one to remark on that part of the Order for mustering the Prisoners in the remote parts of the Colony, where they have not the means of attending Divine Worship; the alledged evil arises from the defection of the Constables, McCudden's conduct being one proof of my Statement.

I had directed him to assemble the Prisoners on the Sabbath Afternoon at an appointed part of the District of Airds; but, instead of assembling them where directed, he got them to his own house, where he had a quantity of Spirits, which he distributed to the people present, and in consequence thereof a riot ensued; many Government Men were in a state of Intoxication the following Day, etc.

This occurrence brings no blame on the Order, but upon those who were appointed to carry into Effect one of the wisest regulations, evidently made for the Interest of this particular Colony; and I hope the remark will give encouragement to His Excellency to add to the plan, that its benefits may be universal.

If we consider Idleness the Cause of every Vice, this order in no small degree prevents its influence, as it directs they attend decently, orderly and clean; and I further approve the order generally, as it gives an opportunity of discovering the actual Disposition of the Prisoners, and whether any reform is likely more particularly, where they can attend Divine Worship. I

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cannot conclude these plain facts without declaring that I do not recollect any General Order, given by His Excellency Governor Macquarie, that I could not most cheerfully obey; and the one in Question have always considered one of the best connected with the interest of the Colony, and that generations to come will derive important benefits from the watchful care of Governor Macquarie over his people.

I have, &c.,

JNO. YOULL.

N.B.—The 2nd Subject, relative to the punishment of Offenders, I consider I am not required to make any remarks upon, having nothing to do with the Judicial Department.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 14.]

THE REVEREND ROBERT CARTWRIGHT TO SECRETARY CAMPBELL.

Sir,

Windsor, 25th Novr., 1817.

I have to acknowledge the receipt of your Letter of the 20th Inst., communicating to me His Excellency the Governor's desire that I would state my free and candid sentiments, respecting that part of the Govt. and Gen'l orders of the 10th Sept'r, 1814, which refers to the due observance of the Sabbath, And also to inform him whether there has been, at any time in the Prison under my inspection, any Offender so punished by solitary confinement as to deprive him in any measure of the use of his Limbs and faculties.

In reply to the 1st subject of enquiry, I beg leave to state for His Excellency's Information that, previous to such public regulation taking place, I had often observed with much concern the general disregard paid to the Sabbath by the Convict Servants of Settlers in the District of the Hawkesbury, and was convinced that, unless some regulation were made to enforce a strict observance of the Sabbath, it would be in vain to expect success from any means, which could be used for the Moral and religious improvement of this Colony. With such impression upon my mind, I felt unspeakable pleasure in reading His Excellency's Order of Sept'r 10th, 1814, than which in my opinion nothing could have been devised more likely to produce the desired effect. And I beg leave to state that this opinion has now been confirmed by more than three Years experience, during which time I have generally attended two or three musters every Sunday, and oftener whenever my health would permit me to perform a third service in these populous and extensive districts. I am happy therefore in being able to state, from my own personal Observation, that the enforcement of this Order has been attended with good effects on the moral conduct of those persons, to whom it immediately applied, and that it has also contributed to their personal

Rev. R.
Cartwright's
report on
operation of
orders *re* due
observance of
Sabbath, and
on punishment
by solitary
confinement.

relief and comfort by affording me an Opportunity of hearing the Complaints of many persons, which I should not otherwise have known: As to the objection, which has been made to this measure, I must observe that I have never heard of any, but such as appeared to me to be grounded on irreligious principles and evidently made from interested motives. The very common Objection, which was at first made to the Sunday Musters on the score of public Danger has been sufficiently answered by the experience of past years, as I am sure that fewer depredations have been committed in these districts on Sunday, since the convicts have been mustered, than formerly when they were allowed to leave their Masters' farms on the Saturday Evening and wander at large through the Colony till the Monday following, which was frequently the case, to the great terror of the Inhabitants in the distant Settlements. I do think, therefore, that their being required to attend the Constable's Muster, even when they have not an Opportunity of going to Church, has a good effect, and I have observed seldom meets with an Objection except when the Master wishes to employ his Servant on the Sabbath, or will not provide suitable Cloathes for him. It may perhaps be proper to observe that, whenever I have seen the necessity of dispensing with the attendance of any convict servant, I have invariably done it at the request of their Master, endeavouring to remove every reasonable objection to such an excellent measure. With respect to the other subject of Inquiry, I have to observe that, during the six years I have acted as Magistrate at Windsor, I do not recollect more than one person that has been put in Solitary confinement in this Gaol for any length of time, and this Offender was sentenced by the Criminal Court to be kept in close confinement in this Gaol for the space of one Year; during which time I frequently visited him, and at the expiration of his Sentence took him into my service with the hope of reclaiming him from his vicious courses. He however soon left me, and has since been executed at Sydney. I can however state that he received no such injury from his confinement, as that complained of, nor did his health appear to be at all injured by it.

I have, &c.,

ROBT. CARTWRIGHT, Ass't Chaplain and J.P.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 15.]

MR. THOMAS MOORE TO SECRETARY CAMPBELL.

Sir,

Liverpool, 25 November, 1817.

In reply to your letter of the 20th Instant, wherein you state His Excellency the Governor had been informed that a

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Rev. R. Cartwright's report on operation of orders *re* due observance of Sabbath, and on punishment by solitary confinement.

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Thomas
Moore's report

communication had been made to His Majesty's Principal Secretary of State by a person in this Colony, complaining of and censuring His Excellency's Administration of this Government in regard to two particulars, therein set forth, and desiring my information and report thereupon;

"To the 1st Particular (that is), That part of the Government and General Order of 10th Sept'r, 1814, which refers to the due observance of the Sabbath."

I have the Honor to report to you, for the information of His Excellency the Governor, that, shortly after the promulgation of that Order, Orders were given by me to the various Constables, in the several Districts under my Jurisdiction, to pay strict Attention to the fulfillment thereof; and, upon enquiring of them after some time had elapsed what Effect it produced upon the Minds of the Settlers, as well as of their Servants, I received for answer the General Satisfaction of the Settlers, by means whereof their Servants assembled in a decent orderly Manner to attend Divine Service or Muster, and it had been productive of much good as well in their Morals, as their external appearance; notwithstanding which, I have received repeated complaints from the Constables of the trouble the Servants occasioned them by compelling them to attend the General Muster; but I had never occasion to resort to any Measures to enforce the Order, above alluded to, considering the Orders on that head perfectly satisfactory, and further from my own personal knowledge in the primitive state of the Colony, the Sabbath Day was paid little or no more attention to than any other in the interior of the Colony. The effect, produced by a Measure so highly desirable, has, from my own inspection at the Town of Liverpool, been conducive to Morality and good Order, and tended to the reformation of many bad Characters.

"To the 2nd Particular alluded to by you (that is), The Punishment of Offenders by Solitary Confinement on Bread and Water."

I have also to state, that as a Magistrate for several Years, I never ordered Punishment of this kind for any time exceeding One Week. One occurrence has taken place at Liverpool in the Case of John Monday, a Native of the Colony, who was sentenced to three Years Solitary Confinement by the Criminal Court on Bread and Water in the Gaol at Liverpool; and, upon my personal representation to His Excellency of the Sentence referred to, he was pleased to order his enlargement; and upon the whole I am of firm opinion that the Sentences, awarded by the Magistrates here, are not adequate to the enormity of the Crimes

on the operation
of general
orders *re* due
observance of
Sabbath;

and on
punishments
by solitary
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bread and water.

committed, nor to my personal knowledge are the punishments inflicted in the Colony by any means equal to those enforced either in His Majesty's Army or Navy.

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With respect to the representation, also made in Your Letter, as to the treatment of Two Prisoners therein particularized, I have further to state that, within the last 20 Years, I have neither seen or heard of any transaction of that Nature.

I have, &c.,

THOS. MOORE, J.P.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 16.]

THE REVEREND SAMUEL MARSDEN TO SECRETARY CAMPBELL.

Sir,

Parramatta, 28th Novemr., 1817.

I have to acknowledge receiving through you, by your Circular Letter to the Magistrates of New South Wales of Date 20th Novr. instant, His Excellency the Governor's desire to receive my Information and report in respect of the two following particulars, Namely:—1st. That part of the Government and General Orders of the 10th Septr., 1814, which refers to the due observance of the Sabbath. 2nd. The Punishment of Offenders by Solitary Confinement on Bread and Water.

Report by Rev.
S. Marsden.

In the first particular, I am requested to favour you, for the information of His Excellency the Governor, with the result of my Experience with regard to the operation of that Order, and to state whether I consider the enforcement of it has been attended with good effects upon the Moral Conduct of those Persons to whom it immediately applied; As One criterion whereon to form a just opinion on this Subject, independent of my own personal observation, I am required to state whether any and what complaints have been made to me in respect thereof as a Magistrate, and by whom, and the Measures I have on such occasions resorted to with a view of remedying the evil Complained of, and generally to give my opinion on the efficacy of the Order in general.

The operation of
general orders re
due observance
of Sabbath.

In reply to which, I would observe that when the Government and General Orders were issued relative to the due observance of the Sabbath, requiring the Convict Servants of the Settlers to be mustered at the houses of the respective Constables of the districts, wherein they resided, I was of opinion that the Order would be attended with general good effects, and prevent many public Crimes from being Committed by the Convicts being brought under the eye of the Constables on that day; it was not possible at that time to foresee how many ways the depravity of these Servants, aided by the Connivance of many of their bad masters, would, or could invent to defeat the general good that these orders were intended to promote. It was soon found, in those districts

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Complaints
re conduct of
convicts after
attending
muster.

where there was no public worship on the Sabbath day, that the Convicts after muster were accustomed to resort to such houses of ill fame as were in their Districts, and to such as sold Spirits or Cider without a Licence, where they spend the remainder of the day in scenes of vice; and some of them did not return to their Masters' Farms till night or the following day. Complaints were made by some of the most respectable Settlers of the misconduct of their Servants when they attended this muster, Vizt. by Mr. John and Gregory Blaxland, by Mr. Nicholas Bayley, and others; And I recollect that Mr. N. Bayley, at the general muster in the Year 1815, mentioned to His Excellency the Governor the misconduct of His Servants, when they attended the Muster above alluded to, agreeable to the Order of 10th Septr. relating thereto. The Magistrates Could not suggest any remedy to meet those evils in the remote districts, farther than to recommend to the Masters to use their authority and influence with their Servants to carry the general orders into effect, at the same time promising them all the support in their power. I remember no instance wherein any Prisoner was brought forward on the charge of having neglected his Muster, or of misconduct, who was not admonished or punished agreeable to the general Orders.

In time the Servants wearied the patience of their Masters by their perverseness and insubordination, which induced them to cease preferring any Complaints against them. The Magistrates clearly saw, from repeated statements made by the respectable Settlers, that when a number of depraved Convicts met together, and no Person in authority to check them, As the District Constables were said to have been frequently absent from home on the Sabbath, That the general evils Complained of were such as no common means could counteract. The respectable and industrious Settlers found that the attempt to enforce the practical application of the general orders, increased the evils in the respective districts, which those orders would, in a great measure, have removed, could they have been carried into effect; hence they have not for a long time preferred any charges against their Servants in this respect. Upon the whole, from what hath come under my own immediate observation and the Complaints that have been made before me as a Magistrate, I am decidedly of opinion that the mustering of the Convicts on the Sabbath day, where divine Worship can be performed, has a tendency to promote the best effects upon their Morals, and is attended with the greatest good; but where it is not possible to have divine Service performed, The Licentious and immoral principles of most of the convicts will defeat the best and wisest regulations that human

Failure of
orders to effect
reforms in
outlying
districts.

wisdom can form for the general good, whenever they are collected together in any numbers and have an opportunity of indulging their evil propensities. I therefore feel no hesitation in saying that it has not been for want of wisdom in the general Orders, Nor for want of inclination in the respectable and industrious Settlers to enforce them, nor for want of Anxiety in the Magistrates to support the executive authority in carrying these general orders into effect, but that the good design of Orders have been defeated by the invincible depravity of so many of the Convicts, which no power on earth can cure.

In regard to the second particular, namely, the punishment of offenders by solitary confinement on Bread and Water, I beg to observe that, when I first read in the *Sydney Gazette** the sentences passed upon several Prisoners ordered to be confined in Solitary cells in the Gaol at Parramatta, I was very much shocked at this Severity. Some time after the confinement of the Prisoners agreeable to their Sentence, I took an opportunity to speak to His Excellency the Governor upon the Severity of their Sentence, and gave it as my opinion that such Sentences, from their Severity, would be no example to the public, As they could not be carried into execution. His Excellency expressed his regret that the Court had passed such Severe Sentences, observing at the same time that he *wished to avoid* as much as possible any interference with the decisions of the Courts of Justice, or words to that effect. I was aware that I had no Authority whatever to interfere with the Sentences of the Criminal Court, whatever my opinion of them might be. Some time after the Prisoners had been confined in the Cells, the Jailer (Richard Jones) reported to me that Michael Hoare (one of those under the Sentence above referred to) was mad, that he had had the Surgeon of the Lunatic Asylum at Castle Hill to see him several times, who said he was mad, and observed that the cell was a place wherein it was highly improper that he should be Kept, and that he ought to be removed to the Lunatic Asylum at Castle Hill; Jones also stated to me that the said Prisoner, having become exceedingly violent and dangerous, he was obliged to solicit the Assistance of Several Men who aided him in handcuffing and securing him. It was the opinion of the Gaoler, head Constable and others at that time that his Insanity was occasioned by the Severity of his Sentence. I went to the Gaol to see him; he appeared to me to be in a state of Insanity; I gave directions to the Jailer that he should be removed to the Lunatic Asylum at Castle Hill agreeable to the opinion of the Surgeon of that Asylum.

The Keeper of the Lunatic Asylum (Howard) came for him, and He was carried out in a Cart.

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Failure of orders to effect reforms in outlying districts.

Marsden's surprise at severity of sentences of criminal court.

Michael Hoare reported to be insane.

Removal of Hoare to lunatic asylum.

* Note 127.

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Re-committal
of Hoare to
Parramatta
gaol.

Hoare chained
to wall of cell.

Release of
Hoare from
solitary
confinement.

Confinement of
Williams on
bread and water.

Illness of
Williams.

About five or six Weeks after the said Hoare was removed to Castle Hill, he robbed the Asylum and ran off into the Woods; When apprehended he was brought to Parramatta Gaol, and returned to his former Confinement, as it was then said that he had feigned Insanity. He had not been long in his Cell before he again became outrageous, and the Jailer, in order to Secure him, put on Him heavy Irons, and locked him to a chain made fast in the Wall of the cell, wherein he was confined. The people in the Jail, and those residing near it, were greatly disturbed by his violent noise Night and Day, but particularly in the Nights; at length he wrenched an Iron Bar out of the Window of his Cell, by the aid of which he broke down a great part of the Cell. The head Constable, together with John Nicholson (then Jailer) came and reported this to me, and at the same time intimated that if something were not done with Hoare, the said Prisoner, that he would pull down the end of the Gaol; I went over to the Gaol and found it and the Prisoner alluded to in the state in which it was reported to me; And I at this time believed the Prisoner to be raving mad, and that He ought to be returned to the Lunatic Asylum. He was removed by my orders from his Cell into the Lodge, wherein he remained I believe about two days; during which a little extra attention was paid him, and he was supplied with such provisions, &c., as were supposed best calculated for his support under such a situation. In this time, he became more rational, and I ordered him into the body of the Gaol, And to have liberty to walk in the Jail Yard through the day; under this treatment he recovered from his *real* or *apparent* Insanity, And I heard nothing more particular of Him till his Sentence was remitted by His Excellency the Governor in August last.

There was another Prisoner also, named Thos. Williams, who had been sentenced to be Confined on bread and Water by a former criminal Court. This Man was very reduced by his long confinement. I was informed by himself that he had subsisted eleven Months upon Bread and Water only, being part of the time Confined in Sydney Gaol and part in that of Parramatta. A Ship arrived with male Prisoners from England, a number of whom had been sent for distribution to Paramatta. They were sent over to the Gaol in order to lodge them there for the night. Several of the Settlers wanted Servants, and I went over to the Gaol in order to select some for them, when the Gaoler Twinkey and some Prisoners said that the aforesaid Williams was very ill from want of Support, and that he had nearly lost the use of his limbs and faculties. The Jailer said He feared, if He were not removed from the place in which he was Confined, he would die. I examined the said Williams and found him to be extremely

weak both in body and mind; I spoke to Mr. West, the Assistant Surgeon, respecting him, and he was conveyed to the Hospital where he still remains. I have since been informed by himself that he had been in a very bad state of health previous to his Trial, and that he had been in the Hospital at Sydney.

There were also two other Prisoners, Peter Allen and John Hall, who had been sentenced to three Years confinement in Solitary Cells on Bread and Water, one of whom Peter Allen was taken ill in his Cell. I had him examined by Mr. West, the Assistant Surgeon, who said that He was afflicted with an Affection of the Lungs, and that it was necessary for him to be removed to the Hospital. He was accordingly sent there on the 14th of Novr., 1816, and remained till the 25th March following, when he was discharged from the Hospital and returned to the Gaol, where he continued till his Sentence was also remitted by his Excellency the Governor in August last.

1817.
4 Dec.
Confinement
on bread and
water of
Peter Allen ;

John Hall was also taken ill under his Confinement with an affection of the Liver, And by the recommendation of Mr. West was removed to the Hospital on the 19th Decr., 1816, where he continued till the 25th March following, when he was discharged and returned to the Gaol. He (The said Hall) was a second time taken ill and removed to the Hospital again on the 10th of May, where he remained till the 8th of June when he eloped from the Hospital and was not apprehended till after his Excellency the Govr. had remitted the Sentences of several Prisoners, confined in Gaol under those Sentences, on the 12th of August; but he has been since apprehended and is now in Gaol under his first Sentence.

and of
John Hall.

During the time that Hall was in the Hospital, he saw Mr. Garling, who had acted as Judge Advocate when he was tried; some time after which I was informed by Mr. Oakes, the head Constable, that it had been reported to His Excellency the Governor that the Sentences passed upon the Prisoners by the Criminal Court was not carried into execution in the Gaol at Parramatta, as the Prisoners were at large. I was aware (as I before observed) that I had no authority to interfere with the decisions of the Court, and conceived that, if I should not be able to assign just reasons to his Excellency for having permitted Hoare aforesaid to be removed to the Lunatic Asylum, and the others abovementioned to the Hospital, that some blame might be attached to me. I therefore waited upon his Honor Mr. Judge Advocate Wylde to speak to him of the Severity of the Sentences of the said Prisoners, how they had been affected, and what measures I had adopted. His Honor expressed his highest disapprobation of the Sentences, observing that it had been

Sentences on
prisoners in
Parramatta
gaol.

1817.
4 Dec.

mentioned to Him before, and that it was his most sincere wish that something might be done whereby they should be mitigated; and though he had heard that the Sentences had not been carried into effect, Yet he did not conceive that any blame could attach to me as a Magistrate under all the circumstances.

I have now stated all that has come to my Knowledge respecting the particulars of your enquiries for the information of His Excellency the Governor; If I erred by taking upon me a great responsibility, I think His Excellency will do me the justice to believe that it was on the side of humanity I acted from the circumstances of the moment and to the best of my Judgment to promote the ends of public Justice, and under all the existing circumstances I felt Conscious that his Excellency the Governor would not disapprove of any measures I had adopted as it respected the unhappy Sufferers.

I have, &c.,

SAM'L MARSDEN.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 17.]

MR. HANNIBAL MCARTHUR TO SECRETARY CAMPBELL.

Sir, Parramatta, 30th November, 1817.

I have to acknowledge the receipt of your Circular Letter, Dated the 20th Inst., requesting my Information and report in regard to the two following Particulars, Namely,

- 1st. That part of the Government and General Orders of the 10th Septr., 1814, which refers to the Due Observance of the Sabbath.
- 2nd. Upon the Punishment of Offenders by Solitary Confinement on Bread and Water.

In reply I have to state that, as far as the effect, produced by enforcing the General Order referred to in the 1st Particular, has come under my observation, both as a Magistrate and Master, it has been productive of No visible benefit; as a Magistrate I have had no Complaint against it; but as a Master I have felt, in common with most others, the Serious Evils arising from My Servants mixing with other dissolute Characters at the Muster, and have heard it universally complained of by those respectable Settlers, who wish to keep their Servants from forming improper Connexions with their Fellow Prisoners and free from temptations to Vice; and these Evils are more particularly felt, where Servants are too distant from a Church to attend the Service and are Merely Mustered by the Constable of the District at his Own House.

With respect to the Second Particular, it never came within my knowledge that either a Prisoner had lost the use of his

Reasons for
Marsden's
actions.

Hannibal
Macarthur's
report on
operation of
orders *re* due
observance of
Sabbath.

Limbs and Faculties, or that another had been Chained to a Wall in a state of perfect Madness. I find on enquiry that a Man, Named Williams, who was confined in the Gaol of this Town, pursuant to the Sentence of a Court of Criminal Jurisdiction, was removed from Solitary confinement on Bread and Water (in Consequence of Debility and Sickness) to the Hospital, where he now is, labouring under a Chronic disease with which he was affected long before his Trial, and for which he had been received into the General Hospital at Sydney, Eighteen Months previous to the Committal of his Crime. It also comes within my Knowledge that a Prisoner (Patrick Hore), who was sentenced by a Court of Criminal Judicature to Solitary Confinement on Bread and Water for Two Years, pretended Madness, and so far succeeded in deceiving the Magistrates and Surgeon, as to Obtain a removal to the Lunatic Asylum, from which he soon effected his escape. Having since Obtained a Pardon, he has acknowledged his adoption of this Trick, which immediately procured him all the attention that was necessary for a Person in his apparently Melancholy State of Mind. I have therefore no hesitation in saying that the Complaint alluded to, as Made against the Government, is totally unfounded. I have thus given you My Candid Opinion for the Information of His Excellency the Governor, and I trust he will excuse My Observations on the first Particular which, called for by himself, are made with all due deference and respect.

I have, &c.,

H. McARTHUR, J.P.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 18.]

EXTRACT from the Report made of Proceedings at the Court house in Parramatta for the Quarter ending the 30th September, 1817.

By Revd. Samuel Marsden, J.P.

Extract from report of proceedings at Parramatta court-house.

1817.

July 5th..	Elizabeth Bayley ..	Convict, charged with refusing to Work. Sentence to be Confined on Bread and Water for Two Months. No Mitigation.
..	.. William Dixon	Convict, Charged with Stealing a Duck. Sentenced to receive 25 Lashes and Confined 3 Months in Jail. No Mitigation.
..	.. Robert Scott	Convict, charged with Absence from his Master's farm, this being the 2nd Time. Sentenced to receive 50 Lashes and to work 6 Months in Jail Gang. No Mitigation.

1817.
4 Dec.

Solitary confinement of prisoners on bread and water.

1817.
4 Dec.EXTRACT from the Report made of Proceedings at the Court
house in Parramatta, &c.—*continued.*Extract from
report of
proceedings at
Parramatta
court-house.

1817.
July 5th.. Ann Keenan Convict, brought forward for refusing to go to Service, when ordered. Sentenced to be Transported to Newcastle to hard Labour for Two Years. Sentence suspended.
- July 26th.. Sarah May and Bridget Conway Convicts, Charged with running away from the Factory and going to Sydney. The former to be confined in the Factory until further Orders. The latter to be Confined for 3 Months and to sleep in the Factory. No Mitigation.
- Robert Scott Convict, Charged with an Assault on his Master's Daughter. Sentenced to be Transported to Newcastle to hard Labour for 2 Years. No Mitigation.
- Edward Price Convict, Brot. forward as a Most Notorious Bush Ranger. Sentenced to be transported to Newcastle to hard Labour for 2 Years. No Mitigation.
- Augt. 6th.. William Chilton ... Convict, Brought forward for repeated Misconduct in his Master's Service and insolent Mutinous Conduct to his Overseer. Sentenced to be Transported to Newcastle, there to be kept at hard Labour for 2 Years. No Mitigation.
- Sept. 10th.. Charlotte Connolly.. Convict, Charged with Stealing from a Shop. Sentenced to be confined in the Factory for 6 Months. No Mitigation.
- .. 15th.. Richard Webb Convict, Charged with being in Parramatta without a Pass. Sentenced to be confined in a Cell on Bread and Water for One Week. No Mitigation.
- .. 16th.. Ezekiel Rodgers ... Convict, the same Charge as the foregoing; admonished and returned to his Master.

The foregoing 12 Sentences were passed by the Revd. Sam'l Marsden alone.

True Extracts:—J. T. CAMPBELL, Secy.

True Copy:—J. T. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
9 Dec.

(Despatch marked "No. 33 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

My Lord, Government House, Sydney, 9th December, 1817.

In Compliance with Your Lordship's Instructions, I have the Honor to transmit herewith a List of 22 Convicts, who have Applied to get their Wives and Families sent out to them to this Country, and who are Considered Capable of Supporting them on their Arrival here, free of Expence to the Crown. Simon McGuigan, whose Name Stands at the Head of this List, has been Many Years in this Colony, and by Care and Industry has realized Sufficient Property to Support his Family decently, were they here, Altho' he could not bear the Expence of their Passage; and his good Conduct gives him the fairest Claim to the liberal Indulgence held out in Your Lordship's Dispatch* to People of that Description.

Applications from convicts for free passages for their wives.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 34 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

10th December, 1817.

10 Dec.

I have been Honored with Your Lordship's Dispatch No. 87, dated the 8th of February last, handed me by Lieut. King of the Royal Navy, who Arrived here by the Transport Dick on the third of September last.

Despatch acknowledged.

In Obedience to Your Lordship's Instructions, I lost not a Moment in Commencing Preparations for Lieut. King's Voyage of Discovery round the Coasts of this Vast Territory, and in Completion of that Survey,† which Captn. Flinders had already so ably and Accurately proceeded in.

Preparations for King's voyage.

The only two Vessels, that belonged to Government, were in Sydney Cove when Lieut. King arrived; they are The Lady Nelson, which had been Originally sent to this Country for a similar purpose to that now required, and was in her Construction Considered Singularly well adapted for Such Service. And the Brig Elizabeth Henrietta,‡ which is quite new and Very Useful in the Service between this and Newcastle, for which She was principally built; And I directed Mr. King to take his Choice of them.

Vessels available for the service.

He had also My Authority to Hire any other Vessel in the Harbor, which he might Conceive would be better suited to the Service, he was about to Undertake, than those already mentioned, if he should not entirely approve of one of them. He was however much pleased with the Lady Nelson, and in Consequence

* Note 128.

† Note 51.

‡ Note 17.

1817.
10 Dec.

Purchase
of the cutter
Mermaid.

She was immediately taken into Dock to undergo the Necessary Repairs and Such Alterations as Mr. King might Consider Necessary. In a few days after these Repairs were Commenced, a very Strong Teak built Cutter Arrived from Bengal, which Mr. King represented in every point of View, so much better adapted to the Service proposed than the Lady Nelson, that, on his urgent Request to obtain her and on the further Consideration that She was reported perfectly ready for Sea without any Delay, I acceded to his Request, and purchased her at the price of Two thousand Pounds, which He and other Competent Judges deemed a very Moderate Valuation.

Alterations
to the cutter
Mermaid.

In purchasing the Mermaid Cutter,* I was in the first Instance Actuated by the Desire of Complying with Mr. King's Demands, agreeably to Your Lordship's Instructions and the Importance of the Occasion, and further by the Hope I entertained that by her Means there would be No Impediment in the way of his proceeding immediately on the Survey entrusted to him. Without any purpose of reflecting on Mr. King for unnecessary Delay, I am obliged to add that various Alterations and Improvements have been deemed Absolutely Necessary by him, and the Mermaid has been in Consequence receiving them under his Orders whereby her Stay has been protracted to the present time in Sydney Cove.

It was My Hope that I should, by this Opportunity, have been enabled to report that Lieut. King had proceeded on the Expedition; and I have not failed to impress frequently on his Mind the Necessity for Promptitude and Expedition on his part, Not only as Essential to the Main Object of the Service entrusted to him, but also as Expected by Your Lordship.

Expected
departure of
the Mermaid.

I have now every Reason to hope and believe that the Departure of the Mermaid will take place in the Course of a week from the present date.

Outfit and
complement
of the cutter.

Your Lordship's Instructions, in regard to the out fit and Manning of this Vessel of Discovery, have obtained my Most Serious and Attentive Consideration, and I have been particularly Careful to Comply with the greatest Promptitude and to the fullest Extent with Lieut. King's numerous and various Requisitions and Demands; Whence I am Enabled to State that no Vessel has ever had a More Complete Out fit, in every particular, for the Service than the Mermaid; and I am induced to Entertain the Sanguine Hope that the great Object of the Voyage will be Speedily Effected to Your Lordship's Satisfaction and with Honor to Lieut. King.

I have, &c.,
L. MACQUARIE.

* Note 129.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
11 Dec.

(Despatch marked "No. 35 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

11th December, 1817.

I have been Honored with Your Lordship's Dispatch No. 96, dated 24th of May, 1817, accompanied by the Copy of a Letter from Lieut. Col. Gordon to Henry Goulburn Esqr., both on the Subject of a Mr. McHugo, who Arrived in this Country some Years ago from India.

Despatch
acknowledged.

The Circumstances of this Unfortunate Man's Case were Nearly as described by Lieut. Col. Gordon, only with this Difference that his State of Derangement did not deceive any one here as it had done Lieut. Col. Gordon, then a Major in the 73d Regt., and Commandant at Port Dalrymple, and who Suffered himself to be So far Imposed on by the wild and extravagant Nonsense of Mr. McHugo as to Imagine him to be one of the Royal Family Incog., and possessed of Authority at pleasure to supersede All Governors Commanders, etca., etca., Wherever he pleased to Visit.

Gordon
deceived by
J. B. Hugo.

In this Belief, Lieut. Col. Gordon had Actually Surrendered his Command to Mr. McHugo, who was likely to have made a Very Alarming Use of the Power so Yielded to him, had not the Other Officers found it Necessary, to their personal Safety and to the Duty they owed their Sovereign, to remonstrate with Col. Gordon, whereby they at length Effected the Measure of sending Mr. McHugo hither under a Military Guard.

Command
surrendered
by Gordon.

I immediately Ordered a Medical Board to examine Mr. McHugo and to report thereon. The Result of their Consultation was such as to render it Necessary that some Measures should be adopted for the Care of the unfortunate man, who was in a State of Outrageous Insanity, and for the protection of the Property he had in his Charge, Consisting of Various Articles of Indian Merchandize and of a Small Brig, Called the Active, on which he and they were embarked.

Examination
of Hugo by
medical board.

For this purpose and by the legal Advice of Mr. Bent, then Judge Advocate, I appointed two Curators for the Care of Mr. McHugo's Person and Property.

Curators
appointed for
care of Hugo
and his property.

Mr. Campbell, the Secretary of My Government, and Mr. Richard Jones, a Merchant of Sydney, were Appointed by Me as Mr. McHugo's Curators; and I have every Reason to Suppose that they have performed their Duties therein Most faithfully.

Mr. Campbell has addressed a Letter to Me on this Subject and Also put into My hands the Copy of a Correspondence, he has had with Mr. Jones, in Consequence of Your Lordship's Enquiry, which I do myself the Honor to transmit herewith for Your

1817.
11 Dec.
—
Disposal of
Hugo's property.

Lordship's Information; these Letters will shew Your Lordship that the entire Amount of the Property belonging to Mr. McHugo after his visit to Port Dalrymple has been long since remitted to the House of Alexander and Co. of Calcutta, and that there is No part of it remaining Unsettled for, except such as Mr. McHugo had madly disposed of at Port Dalrymple among a Set of people, who had not had the Honesty or the Means to account for it, and against whom no Claim Could be legally established.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 1.]

SECRETARY CAMPBELL TO GOVERNOR MACQUARIE.

Sir, Macquarie Place, Sydney, 11 Decr., 1817.

Correspondence
re the realisation
of Hugo's
property.

In Compliance with Your Excellency's Commands to be Informed respecting the Management of Mr. McHugo's Affairs by Mr. Jones and myself, as his Curators under your Excellency's authority, when he was ascertained to be in a State of Mental Derangement, I Do myself the Honor to Hand Your Excellency herewith Copy of a Letter, I addressed Yesterday to Mr. Jones, and also of that Gentleman's answer, whereby you will perceive that all the Property, which passed through our Hands belonging to Mr. McHugo, amounting to the Sum of £7,015 17s. 2d., has been remitted to the House of Alexander and Co. of Calcutta.

I have, &c.,
J. T. CAMPBELL.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 2.]

SECRETARY CAMPBELL TO MR. RICHARD JONES.

Sir, Macquarie Place, 10th December, 1817.

I transmit you herewith Copy of a Letter, some time since addressed in London to Henry Goulburn Esqr., Under Secretary, by Lieut. Colonel Gordon (formerly Major Commandant at Port Dalrymple) respecting the affairs of the unfortunate Mr. McHugo, which were intrusted to your charge, in conjunction with me, by the Authority vested in us as his Curators, when He was proved to be in a State of Insanity incapable of managing them himself. I also send you the Copy of a Dispatch from Lord Bathurst to His Ex'y the Governor, requiring to be informed, "whether there are any funds belonging to Mr. McHugo, now remaining in the hands of the Agent at Sydney, or whether the sum in question was remitted to the house of Messrs. Alexander at Calcutta."

As you were so good, in our joint Capacity of Curators, to take the management of Mr. McHugo's Money and business concerns.

on yourself, I request you to favour me with such explanation and answer, as the accompanying Letters require, in order to my reporting thereon to His Excellency to enable Him to make the necessary Communication, by the Harriet, to the Right Honble. Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies.

I have, &c.,

J. T. CAMPBELL.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 3.]

MR. RICHARD JONES TO SECRETARY CAMPBELL.

Sir,

Sydney, 11th December, 1817.

I am favoured with your letter of yesterday's date inclosing me Copy of a letter from Lieut. Col'l Gordon (formerly Major Commandant at Port Dalrymple) to Henry Goulburn, Esqr., Under Secretary, as also Copy of a dispatch from Earl Bathurst to His Excellency Governor Macquarie, respecting the affairs of the unfortunate Jonathan Burke McHugo, who arrived at this Settlement on the Brig Active from Calcutta in a State of mental derangement on or about the Month of February, 1812, and continued in that unhappy condition during the time he remained here nine weeks, when he was sent to Calcutta, and I have been informed that Malady continued with him during the time he afterwards remained in India. The Statement of Lieut. Col'l Gordon is correct as to his transactions at Port Dalrymple, and had not the precaution been adopted of sending him and the vessel to Sydney under Military Guard, no doubt much of his Cargo would have been plundered at that Settlement. Lieut. Col'l Gordon had three Cases of Wine as he States; Capt'n. Kenny had also a considerable quantity of Goods, as well as Lieut. Rose, the whole of which were subsequently paid for by those Gentlemen. Doctor Smith and Peter Mills had also Goods (at Sale price of that place) to the amount of about Six hundred and Sixty Seven Pounds; I have only received from them Two hundred and fourteen Pounds, twelve Shillings, and one penny; the balance I fear will never be forthcoming as Mills has absconded from the Island and Smith is unable to pay. It is here proper to state the Master of the vessel took receipts from all persons at Port Dalrymple to whom Goods were delivered; and, on discharging the remainder of the Cargo at this Port, they perfectly agreed with the Bill of Lading and other Documents of the Cargo. I cannot however agree with Colonël Gordon's opinion that, had McHugo been in a state to have managed his own affairs at Sydney, he would have done better than was done for him; but, the contrary, as his want of local Knowledge of the

1817.
11 Dec.

Correspondence
re the realisation
of Hugo's
property.

1817.
11 Dec.
Correspondence
re the realisation
of Hugo's
property.

Country must have prevented him, independent of the very bad Market at that time for India Goods, Scarcely any article bringing then, from the great overstock of Goods, little more than Bengal Cost.

The Vessel and Cargo cost at Calcutta, as near as I can estimate from the Invoice and other Documents about Five Thousand, Five Hundred Pounds (£5,500) and Messrs. Alexander and Co. of that place were the Agents, who advanced McHugo Cash for the Speculation. I from time to time furnished that House with a Statement of Accounts of the transaction, and remitted them at different periods Seven Thousand and fifteen Pounds, Seventeen Shillings, and two pence (£7,015 17s. 2d.), for which I hold their acknowledgements, as well as their entire approbation at what I did in behalf of that unfortunate Man.

I also paid for Medical Attendance, as well as Mr. McHugo's expenses during his stay here, together with the balance of wages due to the Crew, with Import Duties, Store Rent, and every other charge incumbent on the Cargo.

My last remittance, which closed the transaction, was in 1815, and placed in Messrs. Alexander and Co.'s possession the whole net proceeds of that adventure.

I am, &c.,

RICHARD JONES.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 4.]

SECRETARY CAMPBELL TO MR. RICHARD JONES.

Sir,

Macquarie Place, 11th December, 1817.

I beg to return you my thanks for the circumstantial and Clear reports, you have made me, respecting the Conduct of McHugo's affairs here, etca., etca. Two points, however, I request you to favor me with information on, Vizt. The Amount of your last remittance to the House of Alexander and Co. of Calcutta, and also what Agency (if any) You charged for the very considerable trouble imposed on you by McHugo's affairs.

I am, &c.,

J. T. CAMPBELL.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 5.]

MR. RICHARD JONES TO SECRETARY CAMPBELL.

Sir,

Sydney, 11th Decr., 1817.

I have this moment received your favor of this date, and, in the Absence of the Books I kept the accounts of Mr. McHugo's Affairs in (which are at my private house), I believe the last

remittance made to Messrs. Alexander and Co. was One Hundred and fifty One pounds, seven Shillings and Sixpence (£151 7s. 6d.); the sum charged by me for Commission was at the usual rate of Agency at this place, Viz. five Per Cent. on Sale of Merchandize, and One Per Cent. on effecting Remittances; in these Charges we guarantee against loss to the parties on Sales made by ourselves.

I am, &c.,

RICHD. JONES.

True Copy:—J. T. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 36 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

11th Decr., 1817.

1. Having found it indispensably necessary, for the benefit of the Public Service, to bring Deputy Ass't Commissary General P. G. Hogan to a General Court Martial for fraudulent conduct and gross neglect of Duty, whilst in charge of the Commissariat Department at Hobart Town in Van Diemen's Land, and having been accordingly Tried here lately by a General Court Martial, which closed its Proceedings only a few days ago, I now do myself the honor of transmitting herewith, for your Lordship's Information and notice, a Copy of the Charges, on which Deputy Ass't Commissary General Hogan was tried, together with a Copy of the Sentence passed upon him by the General Court Martial, by which last your Lordship will Observe that he has been Cashiered.

Trial of
P. G. Hogan by
court martial.

2. I am however apprehensive that Government will lose a considerable Sum of Money by this Man's delinquency, as he is still indebted to Individuals the Sum. specified in the Sentence, for Provisions and Stores he Purchased from them on account of the Crown. The People, he is due this money to (and which he had drawn for and received long since from the Deputy Commissary General here), are very pressing and clamourous for their money, on the ground of Government being answerable to them for their respective Debts against Mr. Hogan. I shall not pay them, however, without making a reference Home to your Lordship on the subject; and, previous to my doing so, I shall have their Claims strictly investigated by a Competent Board of Inquiry here.

Probable loss to
government
due to Hogan's
fraudulent
conduct.

3. It was certainly a very great oversight, in framing the Regulations and Instructions for the Commissariat Department, not introducing, as one of the first articles, that every Officer, on being appointed to that Department, should find Security, for the honest and faithful discharge of his Duty, to a certain amount

Fidelity bond
required for
commissariat
officers.

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and in proportion to his Rank, by which means the Crown would be Secured from very great eventual losses in this important Department.

Incompetency
of Allan in his
department.

4. I am sorry to be compelled to take this opportunity of giving it, as my sincere opinion to your Lordship, that Mr. Allan, now at the Head of the Commissariat Department in this Colony, is a very unfit Person to remain any longer in so important a situation.

He shows no desire and takes no trouble to detect or discover any frauds or Delinquencies in his Department and subordinate Officers, and therefore this very disagreeable task has hitherto fallen to my lot.

Mr. Allan, himself carrying on Trade *Clandestinely*, is afraid to bring forward to Public view and Punishment his subordinate Officers, who carry on similar bad Practices; and thus many Delinquents in this Department escape the Punishment due to their Offences.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

CHARGES preferred by His Excellency Major General Lachlan Macquarie, Governor in Chief and Commander of the Forces in the Territory of New South Wales and its dependencies, on the part of Government, against Deputy Assistant Commissary General P. G. Hogan.

First Charge.—Of Embezzling and fraudulently misapplying the public money, whilst doing the duty of Assistant Commissary General during the years 1814, 1815 and 1816, at Hobart Town in Van Diemen's land, in having drawn Bills, in respect of that duty, on Deputy Commissary General Allan at Port Jackson, New South Wales, as for the purpose of covering disbursements made by him, the said P. G. Hogan, on account of and chargeable to the public service at that station; and of satisfying and discharging certain orders, receipts or Promissary notes, from time to time during the above period, given by him, the said P. G. Hogan, as such Deputy Assistant Commissary General, and outstanding on the public credit, for certain provisions and supplies, taken into the Government Stores at that place on the public account; and in appropriating and applying the said Bills, or causing or knowing the said Bills, so drawn by him, the said P. G. Hogan, as such Deputy Assistant Commissary General on the public service and account, or some or part of the said Bills, or the product or value of the said Bills or a part thereof, to be appropriated and applied to his, the said P. G. Hogan's, own private use and benefit, and to or towards the liquidation of his, the said P. G. Hogan's, private debts, accounts and concerns; the

Charges
preferred
against dep.
assistant
commissary-
general Hogan.

same being a gross and fraudulent violation of duty, conduct highly derogatory to and unworthy of an Officer and a Gentleman, and a breach of the articles of War.

Second Charge.—Of having, as such Deputy Assistant Commissary General, fraudulently received and obtained possession of certain orders, receipts or Promissary notes from Messieurs Kemp, Jemott and Belbin of Hobart Town in Van Diemen's land, as for the purpose and under the pretext of Consolidating according to the established custom and practice of the Commissariat Department at that place, the value and amount thereof in Public Bills on the Deputy Commissary General at Port Jackson, New South Wales, well knowing or having reason to know at the time that he, the said P. G. Hogan, as such Deputy Assistant Commissary General, had already then filled up and exhausted his credit with the said Deputy Commissary General on the public service and account, and could not procure or effect the Consolidation thereof; and of unduly and injuriously afterwards refusing to consolidate, according to custom, as Deputy Assistant Commissary General, the Orders, Receipts or Promissary Notes, so received and obtained by him, the said P. G. Hogan, from the said Messieurs Kemp, Jemott and Belbin, for consolidation, the same tending to injure and diminish the public credit of the service; being a gross and fraudulent violation and neglect of duty, conduct highly derogatory to and unworthy of an Officer and a Gentleman, and a breach of the articles of War.

Third Charge.—Of fraudulently omitting and neglecting, duly and correctly, as such Deputy Assistant Commissary General at Hobart Town in Van Diemen's land, and having charge of the Commissariat there from the twenty fifth day of December, 1815, to the 25 day of September, 1816, to account for the proper application, use and distribution of the Provisions and stores, belonging to the public Service, and Committed to the charge and care of the said P. G. Hogan; and, for the procurement and payment of which, certain Bills, on the public account and service for divers sums amounting to £—, had been drawn on the Deputy Commissary General at Port Jackson, New South Wales; the same being a Gross fraud and flagrant neglect of duty, conduct disgraceful to and dishonorable in an officer and a Gentleman, and a breach of the articles of War.

Fourth Charge.—Of having fraudulently abused the power belonging to him, the said P. G. Hogan, as Deputy Commissary General at Hobart Town, Van Diemen's land, to issue Promissary notes on the public account and the credit of the Government, in having issued, given and circulated on his own private account, and to promote his own private interest and concerns, certain

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Charges preferred against dep. assistant commissary-general Hogan.

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Charges preferred against dep. assistant commissary-general Hogan.

Promissary notes, signed by him, the said P. G. Hogan, Officially as the Deputy Assistant Commissary General, bearing the King's Arms and every other mark and appearance of, and being in every respect the same as, Promissary Notes issued by the said P. G. Hogan, as Deputy Assistant Commissary General on the public service, credit and account, thereby deluding, or intending to delude, the public into a belief that the said Promissary notes were in fact issued by him, the said P. G. Hogan, as such Deputy Assistant Commissary General, on account of the public service and the Credit of the Government, in order thus illegally and improperly to advance his own private views and interests, and to take advantage for his own private Emolument of the public confidence and credit in the official Securities and Engagements of the public service and the Government; the same being a fraudulent abuse of his, the said P. G. Hogan's, public duty, appointment and trust, tending in that respect to bring the public credit of the service into disrepute; being conduct highly censurable in and unworthy of an officer and a Gentleman, and a breach of the articles of War.

By Command of His Excellency the Governor and Commander of the Forces.

H. C. ANTILL, Major of Brigade.

Head Quarters, Sydney, N. S. Wales, 10th July, 1817.

A True Copy:—H. C. ANTILL, Major of Brigade.

[Enclosure No. 2.]

SENTENCE OF THE COURT MARTIAL.

THE Court, having taken into due Consideration the several Charges preferred against the said Patrick Gould Hogan, and the Evidence produced in support of the same, and what the Prisoner has submitted in his Defence, Do adjudge and determine that the said Patrick Gould Hogan is Not Guilty of having embezzled and fraudulently misapplied the public Money, during the years 1814, 1815 and 1816, as in the First Charge is alleged against him. But, upon the evidence, the Court do find that, though no Sum or Sums of Money have been drawn or obtained by the said Patrick Gould Hogan, but on proper and sufficient Vouchers and returns in that respect, yet that certain Bills of Exchange, Orders and Receipts (which last are commonly called in the Territory Store Receipts, signed by and proved to have been acknowledged as such by the said Patrick Gould Hogan, and such as have been generally and usually issued to persons making, and at the time of, delivery of Meat and Wheat into His Majesty's Stores at Hobart Town, Van Diemen's Land, and afterwards consolidated in public Bills on the Deputy Commissary General) remain still outstanding to the amount of Two Thousand, three hundred and

Sentence of the court martial on dep. assist. commissary-general Hogan.

forty seven Pounds and four pence, wholly unpaid and unsatisfied, in respect of which no due Returns or Vouchers whatever have yet been made or given, nor any Bills or any public Money whatever yet been paid on the public Account.

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Sentence of the court martial on dep. assist. commissary-general Hogan.

The Court do further adjudge and find that the said Patrick Gould Hogan is Not Guilty of having, as such Deputy Assistant Commissary General, *fraudulently* received and obtained Possession of certain Orders, receipts or promisory Notes from Messrs. Kemp, Jemott and Belbin, or of having unduly and injuriously refused afterwards to consolidate the same, as in the second Charge is alleged; but that the said Patrick Gould Hogan, at the time of receiving the same, had reason to know that he had already filled up and exhausted his Credit, as Deputy Assistant Commissary General, with the Deputy Commissary General, and could not procure or effect the Consolidation thereof.

The Court do further adjudge and find that the said Patrick Gould Hogan is Not Guilty of having *fraudulently* omitted, but guilty of having neglected, as in the third Charge is alleged, duly and correctly, as such Deputy Assistant Commissary General at Hobart Town, Van Diemen's Land from the 25th Day of December, 1815, to the 25th Day of December, 1816, to account for the proper Application, Use and Distribution of the Provisions and Stores in charge of him, the said Patrick Gould Hogan; the loss or damage whereby to His Majesty, the Court has been unable to ascertain; the same being a flagrant Neglect of Duty and a breach of the Articles of War, but not a gross Fraud or conduct disgraceful to and dishonorable in an Officer and a Gentleman.

And the said Court do further adjudge and find that the said Patrick Gould Hogan is Guilty of having fraudulently abused the power belonging to him as Deputy Assistant Commissary General, as in the fourth Charge is alleged.

And the Court do further adjudge that, for and in respect of the Premises and offences of which the said Patrick Gould Hogan is so hereby adjudged and found to be guilty, he, the said Patrick Gould Hogan, be dismissed from His Majesty's Service.

JAMES ERSKINE, Lt. Col. 48th Regt., President.

JNO. WYLDE, Judge-Adv., N.S.W.

A true and correct Extract from the minutes of the Proceedings of the Court Martial on the Charges exhibited against Patrick Gould Hogan, Deputy Assistant Commissary General at Hobart Town, Van Diemen's Land.

JNO. WYLDE, Jud.-Adv., N.S.W.

Sydney, 9 Decr., 1817.

True Copy:—L. MACQUARIE.

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GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 37 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

11th December, 1817.

1. I have now the honor to submit a Point of very considerable Importance to Your Lordship's Consideration and Decision.

2. Some little time previous to the Departure of the 46th Regiment from this Colony for India, Colonel Molle, as Lieutenant Governor of this Territory, thought proper to prefer Certain Charges against D'Arcy Wentworth, Esquire, as Principal Surgeon of the Colony; and having demanded a General Court Martial for the investigation of those Charges, although I thought them of a most frivolous and ridiculous Nature, I ordered a Court Martial to be immediately assembled, of which Lieutenant Colonel Erskine of the 48th Regiment was President, and Mr. Judge Advocate Wylde acted as Judge Advocate.

3. The General Court Martial assembled accordingly, and, after going through the usual preliminary Ceremonies, an Objection was started by the Judge Advocate as to the Competency of the Court to try Mr. Wentworth, as not being amenable to Martial Law from the Tenor of his Commission, as Principal Surgeon of this Colony. This Objection was deemed Valid by the Court, and adopted by it accordingly on a Minute made by the Judge Advocate. This Minute was sent to Me by the desire of the Court, and was delivered to Me by the President and the Judge Advocate. The Arguments, made use of by the Judge Advocate, appearing to me very strong and almost conclusive, I did not think Myself justified in Opposition to his legal Opinion to insist on the Court proceeding further in the Trial of Surgeon Wentworth. I therefore dissolved the General Court Martial, and have now the honor to transmit Your Lordship herewith, for your information and Notice, a Copy of the Minute of the Judge Advocate on this subject, as delivered in to the Court and entered on its Proceedings.

4. Although the charges, exhibited by Colonel Molle against Surgeon Wentworth, appeared to be not only frivolous but groundless; yet I think it would be a dangerous rule to lay down that the Medical Officers and other Officers, holding similar Commissions* in this Colony, which have hitherto been deemed Military, should be considered as not amenable to Martial Law in case of any gross neglect of Duty, disobedience of Orders or other act of insubordination.

Charges preferred by colonel Molle against surgeon Wentworth.

Assembling of court martial.

Objections to competency of court raised by judge-advocate.

Court martial dissolved.

Liability of medical officers to trial by court martial.

* Note 130.

I therefore most respectfully recommend that your Lordship will be pleased to submit the accompanying Minute to the Judge Advocate General in England, or some of the other Law Officers of the Crown, for their legal Opinion on this very important point, and favor Me with the result at Your Lordship's early Convenience. Several Trials at General Courts Martial in this Colony of Medical Officers have heretofore taken place, and Sentences have been passed on the Persons so tried; and this circumstance renders it the More Necessary that this Point should be now cleared up beyond all possible doubt.

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Legal opinion
required.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

MINUTE of the opinion given by The Honorable Mr. Judge Advocate Wylde at the General Court Martial ordered to be held at Sydney for the trial of Darcy Wentworth, Esquire, Principal Surgeon of New South Wales, on charges preferred against him by Lieutenant Governor George Molle on the 17th of September, 1817, Vizt.

Judge-
advocate's
opinion *re*
competency of
court to try
surgeon
Wentworth.

HAVING taken into consideration the question that has occurred to this Honorable Court, as to the Prisoner now before it being amenable to the Jurisdiction of a General Court Martial, I beg leave to suggest that all and the *only* authority and power in His Majesty or Commanders in Chief to convene General Courts Martial result from, and are dependent upon the Mutiny act; in the positive Enactment of which (S. 35), establishing the right in His Majesty to make, form and establish articles of War, and giving power to those Courts, when established, to try, hear and determine any crimes or offences by such articles of War, the very articles alone find validity or efficacy in the service, and regulate the Conduct and constitution of such General Courts Martial.

It is then to enquire what General Powers are derived, and what Jurisdiction is given to Courts Martial from and under the Mutiny Act; and by the 14th Section, "it is enacted that any General or other officer, having the Command of a body of *His Majesty's forces*, is empowered to convene General Courts Martial, as occasion may require, for the trial of offences committed *by any of the Forces* under their Several Command"; so that the Prisoner must therefore belong to that body, as designated and intended by the Act, to be subject to this limited and peculiar Jurisdiction.

It seems necessary therefore generally to refer to the features and description of that body as delineated in the act itself.

The title of the act describes it as an act for punishing Mutiny and *Desertion*, and for the better payment of the Army and their

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Judge-
advocate's
opinion *re*
competency of
court to try
surgeon
Wentworth.

Quarters; and in the preamble it is stated that the body of Forces, to be continued for the safety of the Kingdom and the possessions of His Majesty's Crown, shall consist in the whole number of such *Forces of a certain specified* number of effective officers and Men; and it then proceeds to enact that it being requisite for the retaining *all the before mentioned* forces in their duty, that if any person, who is or shall be Commissioned or in pay as an officer and shall commit certain offences therein particularized, shall suffer as by a Court Martial shall be awarded.

The act in Subsequent provisions directs Musters of the *Army* to be taken at periods (S. 40), and Muster Rolls and Returns to be made (S. 42), and in *specific* clauses enacts that every Paymaster or other Commissioned Officer of His Majesty's forces, or any Storekeeper, or Commissary, or other persons Employed in the Commissariat Department (as it might be uncertain, whether even such Officers, altho' acting under Military Commissions, were part of His Majesty's Forces subject to the operation of the act) may be tried for embezzlement by a Court Martial.

The Militia, Yeomanry and Volunteers are excluded from, and Troops raised in the Colonies are included in its operation, altho' the Military Commissions of the Officers might seem to render it unnecessary thus particularly to govern the operation of the Act in this respect.

It is also to be remarked that the articles of War are in the same manner entitled for the better Government of His Majesty's *forces*, and give by a particular article specific Jurisdiction to Courts Martial over the Artillery, Engineers, Military Surveyors, Gunners, etc., as if a mere engagement in His Majesty's Service, connected even with the Army with even a Military Commission, did not necessarily Constitute the subject of part of His Majesty's Forces; returns here also are ordered to be made, and all Commissions granted by His Majesty, it is to be particularly noticed (S. 18), are to be entered in the Books of the Secretary of War and Commissary General.

Hence it seems clearly to follow that the liability to be tried by Courts Martial is not to be found, determined and defined in the terms of the Commission, but by the nature of the specific service and character, which generally belongs to an Officer of His Majesty's Forces or standing Army, by this act with consent of Parliament acknowledged and rendered legal, and by its provisions entirely moderated and governed.

If then the Court be satisfied that the Prisoner cannot in the sense, virtue and operation of the Mutiny Act belong to His Majesty's forces thus consisting, is not subject to all the usual Military controul and orders of the service, is not bound by the

General Regulations from time to time issued in the service, is not included in the prescribed Musters, Returns, Account and Muster Rolls of the Army, has no pay upon or thro' the Army Estimates or through the Paymaster General of the forces or other usual mode of payment to the Army, and has not entered his Commission in the Rolls of the Secretary at War and Commissary General, it would seem that the Prisoner cannot be held amenable to a General Court Martial; because in a Commission, issuing from the Secretary of State's Office appointing the Prisoner to be Surgeon to the *settlement* within his Majesty's Territory of New South Wales under a Government, such as is established in the Colony, and so mainly differing in points from the general language and form of strictly Military Commissions, the words, "you (meaning the Prisoner) are to observe and follow such orders and directions from time to time as you shall receive from His Majesty's Governor of the Territory or any other his superior Officer" according to the rule and discipline of War, are introduced as the terms of Official Subordination, the Military act alone being the Criterion of personal liability to the Military Jurisdiction of Courts Martial.

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Judge-advocate's opinion *re* competency of court to try surgeon Wentworth.

It is to be observed, however, that, even if the Commission of his appointment render the Prisoner liable to a Court Martial, still according to the terms and obligations of it, the Court could only take cognizance of any breach of Orders and directions given by the Governor, Lieutenant Governor, or other his Superior Officer; and the Court in the present case would have to determine whether the charges preferred alledge any breach of Orders and directions duly given.

Upon these grounds, I have respectfully to offer it as my opinion to this Honorable Court that the Prisoner, in respect to his Commission as Principal Surgeon of the Territory (which I owe it to myself to mention the production of this day, at the instance of the Court itself, afforded me the first opportunity of taking into consideration), is not Subject to be tried by a General Court Martial.

JOHN WYLDE, Judge-Advoc.

To The Honorable The President and Members Of the General Court Martial now assembled.

True Copy:—L. MACQUARIE.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 101, per ship Neptune; acknowledged by Governor Macquarie, 1st March, 1819.)

Sir, Downing Street, 12th December, 1817.

12 Dec.

A Representation having been made to this Department and also to The Commissioners of the Treasury, that it is the

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Masters of
transport ships
prohibited
from shipping
private
merchandize.

practice of the Masters of Convict Ships to carry out Goods from this Country, as well as Spirits and Various Merchandize from Rio de Janeiro and the Cape of Good Hope, the same being for the purposes of Private Trade and Sale in New South Wales; and as the evil complained of must not only materially injure the Interests of the Merchants resident in the Colony, but also cause the accommodations allotted to the Convicts on board the respective Vessels to be considerably interfered with, I have to desire that you will cause the most vigilant and strict Attention to be paid, on the arrival of all the Convict Vessels, that the Quantities of Stores, Spirits, &c. correspond with the Lists transmitted by The Commissioners of the Navy, and that in case of any greater Quantity being shipped on board of such Vessel than is specified in the said List, or by the special Order of the Navy Board, that you not only withhold the usual Certificates from the Master and Superintendants of the Vessel in question, but that you enforce the Terms of the Charter Party, and report to me the circumstances of the case that the necessary steps may be taken in consequence.

I have, &c.,

BATHURST.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 38 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 29th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

12th December, 1817.

The disagreeable Necessity of Superseding a Civil Officer under this Government has been lately Imposed on me by Circumstances, which I shall as briefly as possible relate to Your Lordship.

Criminal
conduct of John
Drummond.

Mr. John Drummond, who had been Appointed by Your Lordship to the Situation of Naval Officer at Hobart Town in Van Diemen's Land, has exhibited himself in An Occurrence, lately brought to light, as engaged in a Scene of Depravity and Vice, which has at once exposed him to a Criminal Trial, and rendered him totally Unworthy in My Opinion of further holding any Honorable Office under this Government; Circumstances, which I alike regret from the Consideration of the respectable Family to which he belongs, and of the good Opinion I had been led to entertain of him in his own private Conduct until the present unhappy Occasion.

The Circumstance, to be now brought before Your Lordship, is that Mr. Drummond has been Charged with holding for a

Considerable time past a Criminal Connection with his wife's Sister, who resided in his own House. This Young woman, having become pregnant, was induced, in order as is supposed to Avoid the public Scorn, to make away with her Infant on being privately delivered. Such at least was the Ground, on which She and Mr. Drummond were lately Arraigned here. The Charge of Murder was not however made good, and the Parties have been Consequently acquitted.

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12 Dec.

Trial of
Drummond for
infanticide.

But the Facts of Mr. Drummond's Criminal Intercourse with his Sister in Law, his having prepared a Box to put the Infant into, and his having even assisted in depositing it in the Earth, were too Notorious Not to impress a strong Conviction on every Mind that he had been Highly Criminal thro' every Stage of this disgraceful Business.

Feeling that to restore Mr. Drummond under such Considerations to an official Situation of Rank and Responsibility would be Indirectly Encouraging a Line of Conduct, against which Nature revolts, and Offering Violence to the good Manners and honest Indignant Feelings of the Society, wherein he was placed, I have deemed it a Duty incumbent on me to suspend him from the Situation of Naval Officer, Until Your Lordship's Pleasure shall be made known thereon.

Reasons for
suspension of
Drummond
from office.

The Report of Trials in the Criminal Court, which accompanies My General Dispatch by this Opportunity, will Inform Your Lordship of the Proceedings in this Case, wherein Mr. Drummond and his Sister-in-Law, Lilly McKellar, were brought to Trial.

It distresses Me to Add that Public Rumour represents Mr. Drummond Continuing his Criminal Intercourse with this Young Girl to the heart rending Distress of his Wife, whose Propriety of Conduct in All Occasions now renders her an Object of much Compassion.

Until Your Lordship's Pleasure shall be known, I have Appointed Mr. John Beamont (a Young Gentleman, who Arrived in this Colony with Col. Davey) to fill the Situation of Naval Officer thus Vacated at Hobart Town.

Appointment of
John Beamont
as naval officer
at Hobart.

Mr. Beamont having Conducted himself with Much Steadiness and Propriety since his Arrival in this Country, He is in My Opinion Well Calculated for the Situation, he is now placed in; and being Also Strongly recommended to Me for the Situation by Lieut. Governor Sorell, I beg to recommend him Accordingly to Your Lordship's favorable Consideration.

I have, &c.,

L. MACQUARIE.

1817.
12 Dec.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 39 of 1817." per ship Harriet; acknowledged by Earl Bathurst, 12th April, 1819.)

Government House, Sydney, New South Wales,

My Lord,

12th December, 1817.

Having already addressed your Lordship under date the 12th of Septem'r last (via India) on the occurrences which took place on board the Convict Ship Chapman, from Ireland to this place, I feel it will be unnecessary to enter at any great length into that subject now, especially as the Duplicate of my Dispatch No. 29 accompanies the present.

The long protracted Sittings of the Court of Enquiry, which I had appointed by Warrant to examine into and Report on the circumstances of the various cruelties, &c., committed on board the Chapman, being at length terminated, I am now enabled to transmit your Lordship the Reports made to me by the Members of that Committee, One of which conveys the joint Opinion of Mr. Judge Advocate Wylde and D. Wentworth, Esqr., and the other is the report made by Mr. Secy. Campbell, these three Gentlemen being the Members of that Committee.

On an occasion like the present, where I had conceived there was such strong ground of Criminal Charges against several persons on board the Ship Chapman for killing, Wounding, Macerating, and starving the unfortunate Convicts, I little imagined there could be any difference of opinion between the Members of the Committee, and still much less that the Judge Advocate should wind up the proceedings with the opinion that there was not sufficient evidence to warrant the treating any of the parties as amenable to Criminal Jurisdiction.

This unexpected result has necessarily induced me to pause in regard to the measures to be pursued, well aware that were I to follow the dictates of my own mind, by sending home the Commander of the Ship, His Three Mates, the Surgeon Superintendent of Convicts, and the Officer Commanding the Military Guard, as Prisoners for Trial in contravention of the opinion and advice of Mr. Judge Advocate Wylde, that I should be incurring a Weighty responsibility on myself. Under this impression I have, tho' most reluctantly, yielded my opinion, on a question of such importance, to that professional knowledge which the Judge Advocate must be supposed to possess; and instead of sending the persons home as Prisoners, whom I mentioned in my former Dispatch on this Subject as appearing to me to be the most particularly Criminal and responsible, I have acceded to the plan suggested and recommended to me by that Gentleman.

Previous report *re* voyage of ship Chapman.

Reports from committee of inquiry.

Difference of opinion between members of committee.

Macquarie's decision subject to judge-advocate's advice.

Yielding therefore to the weight of the first Law Authority in the Colony, I have now the honour to inform your Lordship that Three Soldiers of the 46th Regt., who belonged to the Detachment on board the Chapman, namely James Clements, John Hogan and John Jordan, are now embarked on the ship Harriet as Prisoners for Trial on specific Charges of Murder, and Mr. Alexander Dewar, Surgeon in R.N., late Surgeon Superintendent of the Convicts on board the Chapman, and Lieut's Busted of the 69th Regt., who commanded the Military Guard on board, are also embarked under close Military Arrest to abide such charges as may be preferred against them; with these, are also embarked as Witnesses Ten Soldiers and Fourteen Convicts.

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12 Dec.
Soldiers charged
with murder.

Officials placed
under military
arrest.

One of the Parcels herewith contains Documents read before the Committee, Recognizances taken of Ship's Officers, and also of Witnesses, as sent me from the Judge Advocate. The Hypothecation of the Ship Chapman forms a part also of this Parcel, and has been taken for the securing the surrender of Capt'n. Drake and His Three Mates on their arrival in England to His Majesty's Government, whereon they are now permitted to proceed with the Ship Chapman on her intended Voyage to India and thence home. Recognizances are also taken for the appearance as Witnesses of Eleven of the Petty Officers and Ship's Crew on the return of the Ship from her present Voyage.

Papers and
documents
transmitted.

The Several Parcels and Documents, which this business has produced, are now labelled, and a brief of their contents is given in the accompanying Lists, to which I must beg leave to refer your Lordship. I am aware that several of the Letters numbered in red figures in three distinct parcels will be found irrelevant to the general Issue of this case; but as I understand it is the intention of Capt'n. Drake to endeavour to make this Government responsible for the detention of the Ship Chapman in this Port, I have thought it most advisable to forward every Letter or paper which had at any time or in any shape a connection with the proceedings in question.

Altho' I cannot but despair of effectual Justice being rendered by the mode I have, under the Advice of the Judge Advocate, been induced to adopt, yet I still hope that sufficient may be effected at least to protect the persons of Convicts in future on their passage hither from the Cruelties and violence, to which they have been heretofore in a certain degree exposed, chiefly owing to the rude and boisterous description of Men who generally command Merchant Ships, And to the little care they take to prevent their petty Officers from exercising tyrannical and unnecessary Severities towards them.

Necessity for
protection of
convicts on
transport ships.

1817.
12 Dec.
Captain Gill
in charge of
prisoners and
witnesses.

Passage money
paid.

Captn. Gill of His Majesty's 46th Regt. has received charge of the Officers under Arrest and Prisoners, together with the Military and Convict Witnesses who are sent by this opportunity; and in consequence of his having this Duty to perform and also the Command of the Military, who are returning agreeable to the terms of the Service for discharge, I have ordered passage Money, £110, to be paid him by the Deputy Commissary General, which, being agreeable to the Rules of the Service, will I trust meet Your Lordship's approbation. I have also ordered the Sum of £95 to be paid for the passage of Lieut't Busted, the Military Officer now proceeding in Arrest. A like Sum has been allowed to Surgeon Dewar who goes home also in Arrest, this being the allowance regularly made to the Surgeons of Convict Ships.

For each of the several other Persons, Civil and Military, amounting in altogether to *Sixty two Persons*, I am to pay passage Money to the Owners of the Ship Harriet at the rate of £13 per Man, those being the lowest terms which I could possible obtain.

I have, &c.,

L. MACQUARIE.

List of books,
papers, etc.,
transmitted.

LIST* of Books, Packages, Papers, etc., etc., in the Affairs of the Ship Chapman to accompany Dispatch No. 39 of 1817.

1st. In a brown Paper Covering;

- 1st. Ship Chapman's Log Book, Original.
- 2nd. Do. Do. Do. Copy.
- 3d. Diary of Surgeon Superintendent.
- 4th. Book of Evidence before the Committee.

2nd. Also in a brown paper Covering;

- 1st. Documents, etc., read before the Committee.
- 2nd. Recognizances taken of Officers.
- 3rd. Do. of Witnesses.

In Blue paper Covering;

- 3rd. Report of the Honourable Mr. Judge Advocate Wylde and D. Wentworth, Esqre., of the result of the Investigation of the Occurrences on board the Ship Chapman, received 25th November, 1817. "L.M."
- 4th. Separate Report of Mr. Secretary Campbell of the result of the Investigation of the occurrence on board the Ship Chapman, received 17th November, 1817. "L.M."
- 5th. Attested Copy of Muster of 176 Male Prisoners Per Ship Chapman, held on the 31st July and 1st August, 1817, by Mr. Secretary Campbell.
- 6th. Do. Do. of Letters and other Documents, running from No. 1 to No. 59 both Inclusive, between His Excellency the Governor, Mr. Judge Advocate Wylde, Mr. Secretary Campbell, the Surgeon Superintendent, and Captain of Ship Chapman, etc., etc., etc.

7th. Attested Copy of Letters from Mr. Justice Field on the Subject of the Ship Chapman, addressed to His Excellency the Governor and to Mr. Judge Advocate Wylde, running from No. 1 to No. 6 both inclusive.

1817.
12 Dec.

List of books,
papers, etc.,
transmitted.

8th. Do. Do. of Supplementary List of Letters from several Persons in the Matter of the Ship Chapman, from No. 1 to No. 14 both inclusive.

J. T. CAMPBELL, Secy.

[Enclosure No. 1.]

[Complete copies of the four parts of this enclosure are not available.]

[1]

ABSTRACT of Captain Drake's Journal of the Ship Chapman at and from Cork to Sydney Cove, With Occasional Queries and Remarks.*

Abstract of
captain Drake's
journal with
comments.

Arrived at Cork, 9th Jany., 1817. It appears that the Chapman arrived in Cove of Cork to receive Convicts on the 9th January, 1817.

15th Jany. 2 Men discharged. Two Seamen discharged, One on account of ill health, the other at his own request.

17th Jany. Two Seamen desired to be discharged; Crew Mustered to know the reason of "Disaffection" among the "Men"; two or three replied *they were Slaves.*

18th Jany. 9 Seamen disch'd. Nine Seamen discharged.

28 Jany. Received for use of Convicts, Padlocks, Bread, Clothing, Hats and Beds.

29 Jany. 1 Seaman disch'd. One Man discharged.

2d. Feby. "Carpenters completed the Prison Room," and reported "Ship ready for Convicts."

4th Feby. Received for Convicts, Beds, Blankets, Clothing, Irons, rivets, hammers, Chisels, punches and Anvil.

5th Feby. 34 Convicts rec'd. Sundry Provisions received on board, also 34 Convicts.

6th Feby. 53 Convicts rec'd. Convicts this day embarked. 53 Do.

7th Feby. 56 Convicts rec'd. Convicts this day embarked. 56 Do.

8th Feby. Three Convicts appointed Cooks, and two to fill Cisterns and handle Swabs; Allowed to be on Deck from 6 A.M. to 4 P.M.

9th Feby. Commenced Admitting 20 Convicts on Deck for one hour. Prison Room visited by a Serjeant and 2 Privates and 2d Mate. At 8 P.M. two lights in the fore and Main Hatch way, "having heard some of Prisoners picking the locks."

10th Feby. 10 Convicts rec'd. Received on board 10 Convicts.

11 Feby. 47 Convicts rec'd. Received Do. 47 Do. On Deck 24 Prisoners from 8 A.M. to 4 P.M.

13th Feby. Received Sundry Articles of Provisions, Clothing, Necessaries, and Allowed 24 Convicts on Deck at a time for one hour each.

14th Feby. Carpenter inspected Convicts' Irons; found a Number Defective. Prison room locked up at 4 P.M.; issued to each Mess of Convicts (12 in each) 2 Water Kegs, 2 Porringers, 2 Towels.

15th Feby. Carpenter and Mate inspecting Convicts' Irons.

16th Feby. *Third Mate* employed among the Convicts.

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- 17th Feby.* Issued Soap to Convicts to wash their Clothes.
- 18th Feby.* Received for use of Convicts Snuff, Tobacco, and Bread.
- 19th Feby.* Several Bowls and Platters broke thro' Negligence of Convicts.
- 20th Feby.* 3rd Mate Superintending Convicts.
- 21st Feby.* Completed inspection of Convicts' Irons; found 39 pair defective.
- 23rd. Feby.* 3rd Mate Superintending Convicts; Mustered the whole upon deck to inspect them; kept them 2 Hours; then mustered them down by *Muster List* "and found them all correct."
- 24th Feby.* Received 6 Hogsheads Vinegar, 384 Gallons, 48 Iron Hoops, also One Convict per Verbal Order from Dr. Harding, and Dispatches* from Irish Government for N. S. Wales, and received Sailing Orders from Agent of Transports; 3rd Mate and 2 of the Crew Attending Convicts.
- 25th Feby.* Received Sailing orders and Certificates; 3rd Mate and two of the Crew employed as yesterday.
- 26th Feby.* Received Wood and repaired therewith the broken Cabins in the Prison room. Unmoored and hove to in 45 Fathoms. Moored again.
- 27th Feby.* Moored with Kedge.
- 28th Feby.* *Soldier acting unbecomingly.* Weighed and Made Sail; Moored again; *Jas. Clements*, Soldier of 46th on Guard on Starboard side of Fore Castle, laid his firelock down to fight Williams, One of the Soldiers.
- 1st March.* Visited by Admiral Hollowell, and received 6 Soldiers of 46th to Complete Guard.
- 2d March.* Bad Weather; let go best bower and hove it up again.
- 6th March.* A Man (Quere whether Sailor or Convict) in Irons for theft.
- 8th March.* "2 Prisoners hand Cuffed"; No Crime stated.
- 11th March.* Appointed J. Jackson, a Convict, to attend the issue of Provisions in the Steward's Room.
- 12th March.* Fourth Mate attending the issue of Provisions; McPeak and Flinn, 2 Convicts, hand Cuffed for fighting; released same Day.
- 14th March.* All the Convicts mustered on Deck with their Beds and Blankets to Air; Pillows deficient; some of the Men Cut them up to put round their legs under the Bazzels; passed 200 down by Muster List.
- 15th March, sailed for N.S.W.* Weighed and Made Sail; Most part of Convicts Sick.
- 17th March.* Mr. Baxter, 3rd Mate. Ordered to attend the Convicts and *No Other Duty*, for the purpose of keeping the Prison and Men Clean.
- 18th March.* Carpenters Casing Capstern to hold Cutlasses.
- 23rd March.* Sentry at Fore Hatch way heard Convicts picking Locks; Caused Guard and Crew to be under arms; Surgeon, Captain and 3rd Mate with One of the Guard went round the Prison and found All quiet; at 12. They being heard again as before at 10.30 P.M., placed One of the Crew on After hatchway, who heard some of them say, it was a D—d bad Job that we are found out; see More fully the Captain's Journal.
- 24th March.* Mustered Convicts up the Main and down the fore hatchway.

* Note 133.

27th March. 168 Convicts on Deck with Bed and Bedding; Mustered Do. as Yesterday.

28th March. 48 Convicts on Deck; William Ottare, a Convict. Confined from 9 A.M. to 5.30 P.M.; No Charge.

29th March. 168 Do. Do. Do.

30 March. 36 Do. Do. Do.

1st April. 36 Convicts on Deck; fine pleasant Weather; Mustered Do. up the Main and down the fore Hatch.

2d April. 168 Do. Do. and Mustered as Do.

3d April. 120 Do. Do. fine Weather.

4th April. 196 Do. Do. Do. Do. Anchored in Porte Praya.

5th April. Received Water, Live Stock and refreshments; a Sailor caught drawing off Spirits from a Cask.

7th April. Weighed Anchor and proceeded for N. S. Wales.

8th April. 96 Convicts on Deck with their Beds.

9th April. 60 Do. Do. Do.

10th April. 108 Do. Do. Do. Punished a Convict for theft.

13th April. *No Mention here or hereafter in Captain's Journal of Convicts refusing the fresh Meat.* Crew refused to eat Porte Praya beef; Surgeon and Officer of Guard approved it as good and Wholesome. At $\frac{1}{2}$ past 6 P.M., The Captain, Surgeon and Officer of Guard being on Deck alarm was given that the Convicts were on Deck; every Person under Arms; found William Nelson, a Seaman, in the Main Hatchway; could give no Account of himself; He and Thomas Crawley, Seamen, strongly suspected in favour of Convicts; Secured them, etc.

14th April. *3 Men Punished.* Punished Nelson for last Night's Conduct; and at request of Crew hand Cuffed Wm. White, Landsman, One of the Crew, for being several times Observed to talk with Convicts; Chained 3 Convicts, John Jackson, Edwd. Donogh, and Michael Savage, to Staumcheons on Orlop, suspected of being the "Principal Conspirators" Quere, what was the Conspiracy?

15th April. Punished Owen Tonny, 18 Lashes, for Stealing 4 Guineas; Nelson, Crawley and White, Seamen, in Irons.

16th April. Heavy Rain; No Convicts on Deck; Placed Chain Cable over Main Hatch Way; hands to Quarters; Mustered Convicts on Deck; found S3 with Irons defective; Mr. Baxter heard some of the Convicts say, when passing Chain Cable over Hatchway, "that is your Sheet Anchor or else we would get on Deck."

17th April. All Hands passing Chain Cable over fore and aft Hatchways of Prison room to secure Prison; All Hands to Quarters; Mustered all the Convicts up the after and down the fore; Michael Collins, Convict, informed Mr. Baxter, 3d Mate, that the Convicts meant to take the Ship, Murder all on board, and take Ship to America. Collins repeated information in Captain Drake's Cabbin.

18th April. *No Mention of killed or Wounded.* Fine pleasant Weather; employed passing small Chain thro' large One to form a Grating; at 3 brought up 5 Prisoners to be punished, which they were, Vizt. Burn, Doyle 1st, Doyle 2nd, Murray and John Jackson; Also Crawley, a Seaman. At 7 O'Clock P.M. The Prisoners were all silent; at 8, James Wells, the Ship's Cook, gave the Alarm of Convicts, etc., and Commenced a Brisk fire into the Prison. See this day the Captain's Journal. Captain Drake and Mr. Alldridge, 2d Officer, hailed the Prison and asked if they wanted Quarter; to which they answered, *No.* Punished principal Conspirators, 10 in Number, Vizt. Kelly, Gray, Connor, Hoy, McGiff, Doyle, Murphy,

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Flood, Donogh, and Savage and Nelson, one of Ship's Company. No Mention of Prisoners killed or Wounded, but One Seaman killed.

19th April. Steady Breezes and pleasant Weather; Buried the above Seaman; repaired Convicts' Bazels and Chains, which they found difficult to effect at Cove, where 39 pair of Bazels were Applied for, but not received; Pumped Ship and Continued repairing Bazels and chains; No Mention of any Convicts being killed or wounded.

20th April. 46 Convicts Punished; See Captain's Journal. Threw Overboard Several Articles of Clothing and Bedding, belonging to the Dead and Wounded. Here be it remarked is the first Allusion to the Circumstance of any Dead or Wounded, but No Number of either Mentioned.

21st April. All Hands employed in Attendance on Convicts; passed all the Prisoners' Beds, Bags and Clothing down. Quere, why were all these required up? *Flogged 3½ Convicts*, see Journal for Crimes and degree of Punishment. All this While, No Notice is taken in Captain's Journal of the Names of the killed or Wounded.

22nd April. Thomas Mulholland departed Life, and Committed to the Deep with usual Ceremony. Quere, who was the deceased and what did he die of?

24th April. James Roberts, a Wounded Convict, died and was Committed to the Deep. At 9 P.M. Punished 3 Convicts, Viz. McGrady, Dawe, and McDonna, for *Muffling their Irons in the Night*.

25th April. Punished Christopher Kelly for making Water on lower Deck, and John Hoy for insolence. Pleasant Weather. Quere, What prevented Kelly from Coming on Deck?

26th April. Daniel Parker, Convict, died and was Committed to the Deep with usual Ceremony. Punished 3 Prisoners, Vizt. Hall, Dooly, and Martin, One for rattling Chains and Alarming Sentry, and the others for Attempting to take off their Irons.

28th April. Steady Trade and Warm Weather; Punished 2 Convicts, Vizt. William Leo and John Ardle, One for insolence to Corporal of Guard, and One for rattling Chains; at 9½, I was in bed, heard a Noise like the Prisoners rushing Aft, got out and found every Person under Arms. Steady Trade. Punished 4 More Convicts, Vizt. Kenny, McPeake, McKean, and Ottare.

29th April. 1 Shot on Poop. *Quere, by Accident or intentionally*. Steady Trade and pleasant Weather. Watch employed stowing Anchors over Scuttles on each side fore-castle to make that part of Prison More Secure; passed Chain Cable 4 Times over Midship Scuttle; Patrick McCusker, a Convict, brought on Deck and punished with 24 Lashes, Brian Kelly having declared that He had a Bar of Iron, a knife and two files for breaking out of Prison with, and having Sworn a Number of the Prisoners to fight and take the Ship. At 7½ P.M., Sentry gave alarm; on enquiry it was parties consulting each other. *See particularly this day's Narrative* in Captain's Journal. At ½ past 8, a fire Commenced down the Hatchways, till good Order was restored. At 10, Visited Prison, found 2 Men Dead, and 4 Wounded. *At 12 fine pleasant Weather*. Bryan Kelly shot on the Poop. *Quere by accident or intentionally? fine pleasant Weather*. Oliver Wallace died of his Wounds received on former Occasion. Committed the Bodies of Wallace, McArdle, and Kelly, to the Deep; hove Overboard Several Articles being bloody.

30th April. Passed Chain Cable round Prison room to secure part of Convicts in the Night. Confined 54 on it.

1st May. At 4 P.M. Confined 73 on Chain Cable.

2nd May. At 6½ P.M. Do. 73 Do. Do. and Several on Orlop Deck.

3rd May, 2 Punished. Light Airs and fine; Punished Patrick McKenna for saying, if we don't take the Ship in fine Weather, we will in bad. Quere, Who heard him? punished Francis Murphy for having an Instrument for taking off Hand Cuffs. Quere, what Instrument?

4th May, 2 Punished. P.M. Moderate and fine Weather; at 4, Confined 74 on Chain Cable; at 8.30, punished Martin Dungannon for Muffling his Irons 24 Lashes, and John Dooly for uncleanness. Quere, what uncleanness and how could it be accounted for?

5th May, 7 Punished. Light Breezes and fine Weather. At 8 A.M., Punished 2 for being out of Bed contrary to orders and rattling their Chains. At 11, Punished 5 for Conspiracy. Quere, What Conspiracy and how proved? At Noon, Light Winds and fair Weather. A list is given of "the names of the Conspirators" of the 2nd Attempt, consisting of 19 Persons; No reason whatever assigned for Considering them Conspirators.

6th May. Mustered Convicts round the Deck. Punished Patrick Hunt for insolence to Sentry; Confined 74 on Chain.

7th May. The Watch and Boatswain securing Hatchway with More Chain Cable; 74 on Chain.

8 May. Fine Weather; died John Blakeley, a Convict, from his Wounds, and Committed his body to the deep.

9 May. Confined 74 on Chain Cable.

10 May, 1 Punished. 74 on Chain Cable; Punished Andrew Kenny for uncleanness. Quere. Was He not on Chain Cable?

11 May. 74 On Chain Cable.

12 May, 1 Punished. Punished John McGennis for uncleanness; 74 On Chain Cable. Quere, Where was McGennis at the time?

13, 14, 15 May. 74 On Chain Cable; No Punishments.

16 May, for Names see Capt'n's Journal, 15 in all punished this day. Fine pleasant Weather; at 4 P.M. Confined 74 on Chain Cable; At 9, punished Cor. Connor for Calling Mr. Baxter a D—d rogue, Patrick Finnegan for uncleanness; at 10, punished 11 Convicts, for Names See Captain's Journal, for having in their berth a Lever and piece of Iron Hoop. John McKenna for having a piece of Tin in Shape of a knife, Andw. Murtagh for not acknowledging the Lever found in his bed place. Quere what was the Lever made of, and What were its length and other dimensions?

18 May, See Surgeon's hand Writing in Capt'n's Journal for this day. Moderate Breezes and fine Weather; Put Francis Lacey, Seaman, in Irons and Hand Cuffs for Aiding and assisting Prisoners with a View to killing the Surgeon and 3rd Mate. What Proof?

19 May, 2 Punished. Light Winds and pleasant Weather; Punished Wm. Hughes with 24 Lashes, being suspected of a Cold Chissel being in his possession. Thos. Kelly with 48 Lashes for Attempting to procure a pistol or Pistols to shoot Surgeon or 3rd Officer; Confined Wm. Lucas, Seaman. Quere How proved and by Whom?

20 May. 75 on Chain Cable.

21 May. At 4 A.M. Fine Weather; John Collins gave evidence of hearing Lucas say, He would hand down the lever and piece of Iron Hoop and pistols and Cartridge Box for shooting Officers; Nelson heard Lucas say, before either of them were Confined, that he would be hanged for some One in the Ship. And that he intended Cutting Boat Away at N. S. Wales.

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22 *May*. Died Wm. Kendrick, Seaman; Hove over board 3 Blankets, 1 Bed of Government Stores by Surgeon's Verbal Order.

23 *May*. Crawley's report of what he heard in Prison. Mustered Convicts up the after and down the fore Hatch to inspect their Irons. No remark on the state they were found in.

24 *May*. Light Breezes and fine Weather; John Sandon, Sentry on Cuddy, at about 10.30 P.M., heard Crawley, the Seaman, and John Jackson, Convict, say the Cut Mr. Millbank's throat that Night, and lamented they had not when at liberty killed Mr. Dewar. At 12 Calm; A.M. 1.15, Sentry directed Prisoners in Jolly Boat (When were they put there?) not to raise their heads repeatedly. After being several Times desired not to do so, they insisted to disobey Orders. Whereon he fired on them, and Francis Lucas, Seaman, died of His wounds, being twice Shot. The other Three were wounded. Nelson heard Lucas, after being Wounded, say, I am a guilty Man in the face of God, I beg forgiveness. He soon after expired, and His body was Committed to the Deep. At this time Light Airs and Cloudy. Quere, How many Shots were fired, And what Crime had been Committed? What Steps were taken on the Occasion by the Captain, the Surgeon, or any of the Ship's Officers: found an instrument on Francis Murphy for picking Hand Cuffs. Quere What was it? See Captain Drake's Journal.

25 *May*. Sold Lucas' Clothes, and Confined 101 Convicts on Chain Cable in the Prison.

26 *May*. Muster the Convicts up one and down other Hatchway to inspect their Irons. John Mallen died of His wounds, and was Committed to the Deep. Light Breezes and fine.

27 *May*. 103 on Chain Cable.

28 *May*. 100 on Do. Do. John Jackson died and was Committed to the Deep. Quere, was not this a Convict who had been Wounded?

29 *May*. James Collins, Convict, died and was, etca. Quere, What did he die of?

30 *May*. Strong Gales and Squally.

31 *May*, 13 in all punished. Punished Thos. Marlow 36, Wm. Ruddy 24, Thos. McGiff 36, Martin Dungannon 36, Andrew McMahon 24, John Dooly 24, for Cutting Main Deck in Prison. Quere, did they do so, And with what Instruments; and 7 others punished on other different Charges; Quere, how ascertained?

2 *June*. Mustered Convicts up and down and inspected their Irons; No Observation on the state of the Irons.

3 *June*, 7 Punished. Punished 7 on Sundry Accounts; Wm. Walsh, Andrew Murtagh, George McMullen (inter alia for laughing), Michael Leonard, Andrew McMahon, John King on Suspicion of Another Conspiracy, and John Grinselage; read the ridiculous narrative of Captain Drake in this day Journal.

5 *June*, 2 Punished. Fine pleasant Weather; Kennedy, a Seaman, insisted on Collins, the Convict, being put in Irons and Confined; Hands turned up and referred to evidence of Collins on 3rd Inst. All desired that Kennedy should be put in Irons and Hand Cuffed; Made him Prisoner on the Poop; Punished 2, John Hayes for Theft, and Jno. Hoy for Lies; fine pleasant weather.

6 *June*. Mich'l Collins Confined for giving false information against Kennedy, who was released at the request of the Crew.

7 *June*. Issued Sundry Articles of Apparel to Convicts.

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8 June, 6 Punished. Punished on Various Pretences 8; Jas. Flinn, John Emms, John Dodly, Ed. Ging, Chris'r Quinn, Chas. Darly; Steady Winds and fine pleasant Weather.

9 and 10th. Nothing.

11 June, 2 Punished. Punished 2, Jas. Revel and Mich'l Talbert for theft.

12 June. Mustered Convicts up and down; No remark.

13 June, 4 Punished. Punished 4, Andrew McMahon for noise and fighting; Mich'l McDonogh for making noise with his Chains in the Night; Pat Riley and Jas. Hayes for fighting. Quere, Are not the Squabbles here mentioned Strong presumptive proof that No Conspiracy (of an extensive Nature at least) existed among the Convicts?

14, 15, 16 June. Nothing to remark.

17 June, 5 punished. Punished 5, Pat Mahony for making a Noise at Night against Ship Order; Pat Leydon for Do.; Mich'l Flinn Insolence; Mich'l Peters and Jno. Grinselage for neglect and Insolence.

18 June. Mustered all the Prisoners upon Deck to examine their Irons; found all Correct.

21 June, 6 Punished. Punished 6; Rich'd Connor for making a Noise, Andrew Kenny for uncleanliness, Jno. Dooly for Noise in the Night, Patrick Finnegan Do., David Goldberry for Uncleanliness, and Patrick Ganly for Insolence; Steady Winds.

23 June, 3 punished. Punished 3; Mich'l Peters for uncleanliness, Lawrence Biran for theft, Ed. Ging for making a Noise in the Night. Quere, What kind of Noise?

26 June, 3 punished. Punished 3 for Uncleanliness; John Dempsey, Pat'k Higgins, and John Dealey. Quere, What uncleanliness and how were they situated?

27 June. Christopher Kelly, Convict, died. Quere What was his Complaint?

30 June, 1 punished. Fine Weather; Punished 1, Thos. Mangan for disobedience of Orders. Quere, Was he a Prisoner and what order did He disobey?

5 July, 2 punished. Employed passing Chain Cable over Main Hatch Way; punished 2, Jno. Dempsey for uncleanliness, and Matt'w Dawe for Making a Noise in the Night. Quere, What uncleanliness, and how situated, What Noise and how were the facts proved?

9 July, 4 punished. Punished 4, Wm. Hughes, Wm. Corran, Rich'd Sinnott and Michael Bennett for Noise and disputing with others in the prison, Apparently with a bad design, when making the Land of N. S. Wales. Quere, Why should the design be different item from any other time, and how proved?

10 July, 4 punished. Punished 4, Edwd. Jamieson for having a pick lock in his possession; Quere, What the picklock made of, And what Shape was it? John Rowe for making a Noise, Thos. Higgins for Noise, Chas. Connell for heaving a pick lock into Jamieson's birth. Quere, Should Not the last fact have proved Jamieson's innocence, yet he received 24 lashes for the Pick lock.

27 July. Moored in Sydney Cove, and same day John Gill, George Speed and James Bigley deserted from the Ship.

It Appears by the Captain's Journal that the Confining Convicts on the Chain Cable Commenced on 30th April, and the 28th of May is the last day wherein there is any Mention of Confining Prisoners on Chain Cable. Quere, Did Chaining the Convicts Cease on the

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28th May or when else, And why was it Continued so long, or why discontinued at that time? No Notice is taken of Any reduction in the Rations in the Captain's Journal. Quere, Did any take place, and When and how long Continued. Did the Captain make any enquiry on the Subject, And if he found the fact to be so, was it not his Duty to make a Note of it in his Journal. What has he done with any Savings of provisions made by such Means?

At what times, Did the Captain Visit the Prison Room, and what examination did he Make on those Occasions to ascertain whether or no the Convicts were properly secured, Comfortably accommodated; and Deprived of None of these Comforts to which they were entitled?

Did the Surgeon pay strict and due Attention to the foregoing Circumstances, and if he did at any time, when did He Cease to do so, and what Cause did He assign?

How long were the Convicts kept upon Short Allowance before the Surgeon replaced them on full Allowance, and Why did He do so?

[3]

Extract from
the journal of
Alexander
Dewar, surgeon
superintendent.

EXTRACT from the Medical Surgical Journal and Diary of the Convict Ship Chapman.

April, 1817; Wednesday, 16th A.M. Fresh breezes with variable winds. At 8, Ship's Company employed passing Chain Cable over the Main hatchway. Captain Drake has been induced to adopt this measure for the better security of the Prison, as the Conduct of the Convicts of late has been suspicious, by so many of them taking off their Bazzels on various pretences. Prison deck cleaned as usual. At 10, Mustered all the Convicts up the main hatchway and down the forescuttle, observing as they passed round from Eighty to a Hundred of them with their Bazzels and Chains defective, and a number with only one Bazzel on, and could give no satisfactory account of what had become of the other.

P.M. At 2.30, Mich'l Collins, Convict, communicated to Mr. Baxter, the Mate in charge of the Prison deck, that it was the intention of the Convicts to take the Ship and carrie her to America. As soon as this information was made known to Captain Drake, he gave orders for the Chain Cable to be passed over the fore and after Hatchways for the better security of the Ship, should any attempt be made by the Convicts to pull the Stanchions down enclosing the Prison. Every other means that could be devised for our safety was adopted, and a good watch kept during the night. . .

Thursday, 17th. . . . After muster, Collins was called into Captain Drake's Cabin and strictly examined on the subject, he had communicated to Mr. Baxter the preceding afternoon. On different questions being put to Collins respecting the wicked intention of the Convicts, he still persisted in what he had before related, namely that it was certainly the intention of the Prisoners to attempt taking the Ship, and, if they succeeded, to Murder all hands and proceed to America; he further stated that Francis Murphy, Lauchlan McLean, William Morrison, Peter Allan were the Principal leaders of the Plot, and had sworn all the Captains of the different Messes to act with their Messmates at a proper opportunity; and so sure were they of success that they even named themselves as the succeeding Officers of the Ship. William Morrison was to be the Captain and wear Captain Drake's Clothes, Lauchlan McLean the

Officer of the Guard and wear his Clothing, and Francis Murphy, the greatest *Villain* amongst them, to be the Doctor and wear his apparel. Having heard thus much circumstantially detailed, no room was left what measures for safety ought to be followed; accordingly the Convicts usually allowed as Cooks on deck during the day were immediately ordered below, and every other means adopted for the safety of the Ship; Collins not allowed to return below, and taken under our protection.

P.M. At 4, mustered all the Convicts up the after Hatchways and down the fore-scuttle, detaining, as they went round, for Suspicious Conduct John Emms, William Burn, John Doyle the 1st, John Doyle the 2nd, John Murray, and John Fox. Punished John Emms with twenty four lashes on his Back, John Doyle the 1st with Six lashes on the Back and two on the Breech, John Doyle the 2nd Six lashes on his Back and two on the Breech, John Murray with eight lashes on his Back, John Jackson with thirty six lashes on his Back, Cornel's Crawley, one of the Crew, with thirty six lashes on the Back; John Fox escaped punishment by bringing a large File up out of the Prison, which the Convicts had contrived to get down for the purpose of assisting them to take their Bazzels off. At 5, Hand-cuffed Francis Murphy and sent the Prisoners below. At 8, James Wells, Ship's Cook, was standing on the Grate of the Starboard Fore-scuttle, and suddenly found it lifting under him. A general alarm throughout the Ship was immediately given that the Convicts were forcing the scuttles forward; at the same time, a strong party of them was distinctly heard to run quickly aft in the Prison towards the hospital Bulkhead, the Door of which they thrust open, but did not come any further aft, as a brisk fire of Musketry was opened upon them by the Guard and Crew from the Loopholes in the aftermost Bulkhead and down the hatchways. Soon after the firing commenced, some of the Convicts was heard to call out, fire away, we will give you no Quarters. About 9, Ceased firing, as the Prisoners Called out for Mercy. At the commencement, George Murray, one of the Crew, was Shot through the Body by accident and instantly expired. When every thing was restored to quietness, enquiry was made to know the number of killed and wounded, which could not be exactly ascertained owing to its being dark, and it was not deemed prudent to visit the Prison until morning. All hands at Quarters during the night.

April 18, A.M. At 5, Sent a Message down into the Prison demanding Files, Saws and Pieces of Iron we had received information they had amongst them, with a positive assurance, if they did not instantly comply, the Guard and Crew would again begin firing upon them, and continue to do so while a living Convict remained in the Prison; to which Message, the Prisoners return for answer, they would give up every thing, and begged to be spared a few Minutes to search for them; at the expiration of a short time, several Articles were produced such as pieces of Iron, etc., etc.; during the period granted to find these Articles, many things was observed to be thrown out at the Scuttles, supposed to be the Saws and Files we had received information of, as they were not produced with the Pieces of Iron, etc., etc. The Prison was now visited, and Lauchlan McLean, Daniel McCormick, George Stephenson found killed, likewise twenty two wounded, Many of them severely. Punished the following principal Conspirators, viz. Barnard Kelly with 36 Lashes on the Back, William Grady 26, William

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Connor 24, William Leo 36, Thomas Magiff 30, John Doyal 8, Francis Murphy 17, John Flood 24, Edwd. Donohough 30, Mich'l Savage 36, William Nelson, one of the Crew, 24.

P.M. Committed the Bodies of the Deceased to the Deep, Viz. John Murray (Seaman), George Stephenson, Daniel McCormick and Lauchlan McLean, Convicts. Made Francis Murphy, Mich'l Savage, William Leo, John Doyal, Edwd. Donohough, John Jackson and William Morrison Prisoners on the Poop. As soon as the wounded was cleaned and dressed, and Cleaned the Prison deck and sprinkled it with vinegar. Fine pleasant weather. Two discharged out of the Sick List, and Twenty two Cases of Gun shot Wounds added.

Saturday, 19th A.M. Fresh breezes from the S.W. with occasional showers of rain. Prison deck cleaned as usual. Captain Drake with his principal Officers employed examining and completing the Prisoners' Bazzels.

P.M. Fresh breezes and clear weather. Punished in the course of the day Forty six of the Convicts, principally for having their Irons defective.

Sunday, 20th. Got all the Convicts' clothing and bedding on deck to be examined and aired. Washed the lower deck through-out the Prison Room. Noon fine pleasant weather. *P.M.* At 4, Sent the Convicts bedding and Clothing below. Wounded for the most part doing well. No addition to the sick list.

Monday, 21st. *P.M.* Completed the whole of the Prisoners' Bazzels, that were found defective, and punished 33 of them for having them so; at 5, Departed this Life, Thomas Mollholland; at 5.40 Committed the Body of the deceased to the deep. . . . The Guard and Convicts have this day been served with half an Ounce of Lime Juice and half an Ounce of Sugar to each Person, to be by my request continued daily during the remainder of the passage to New South Wales. The Prison deck has been sprinkled all over with Vinegar and the hospital fumigated.

Wednesday, 23rd. Expired suddenly James Roberts, Convict, at 9. Punished Jas. McGreene with 17 Lashes on his Back. Matthew Daw with 18, Jno. McDonna 18, for being found with their Bazzels Muffled.

Thursday, 24th. at 10, Punished Thos. Higgins with 12 Lashes on the Back and 12 on the Breech for Insolence to James Talbot, Captain of the Deck, and saying all was not over with them in the Prison yet. Mustered all the Convicts up the after hatchway and down the forecuttle as formerly, serving to each person, as he came up, a Gill of Wine. At 9, Punished Christopher Kelly with 12 Lashes on his Back for uncleanness, and John Hoy with 12 on the Back for Insolence.

Friday, 25th. Departed this Life Dan'l Parker. Punished Thomas Hall with 24 Lashes on the Back for rattling his Chains in the night and Alarming the Sentinel, John Dooly 24 Lashes for the same offence, Joseph Morton 24 Lashes on the Breech for attempting to take off his Bazzels.

Sunday, 27th. Punished William Leo with 4 Lashes on the Back, and John McArdel with 12, the former for Insolence to the Corp'l of the Guard, the Latter for Rattling his Chains in the night. At 9, The alarm was given that the Convicts were again attempting to Rise. All hands was immediately under Arms; but it was soon discovered the Convicts were not attempting anything

bad, the alarm originating in some of them incautiously getting hastily out of Bed and making more rattling with their Chains than usual. . . .

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Monday, 28th. *P.M.* Patrick McCusker brought up out of the Prison, being accused by Bryan Kelly of having in the Prison concealed a Bar of Iron, a Large Knife, and Two Files, for the purpose of assisting him to break out of the Prison; Also on Saturday last of swearing in his Messmates and others to assist in again attempting to take the Ship, at the same time persuading them to fight, until reduced to Ten Men. Punished Pat'k McCusker with 24 Lashes on his Back and made him a Prisoner on the Poop. At 7.30, the Sentinel forward gave the alarm that parties of the Convicts were consulting each other. Jas. Clements, another of the Guard, overheard some of them say, Half of us attempt the fore Hatchway, the other half the Sick bay and after Bulk head into the Guard Room. At 8.30, The alarm was given that a Party of the Convicts were rushing aft, causing several Muskets to be fired down the Hatchways, which soon restored quietness in the Prison. At 10, The Prison was visited, and John McArdel found Shot, with four others wounded. Bryan Kelly was likewise Shot on the Poop. . . .

Tuesday, 29th. at 4, Departed this Life Oliver Wallace; at 8, Committed the Bodies of the Deceased John McArdel, Bryan Kelly, and Oliver Wallace to the Deep. . . . Confined Fifty four Convicts with part of the Chain Cable on the Prison deck during the night.

Thursday, May 1st. *P.M.* Mustered all the Prisoners up the Main hatchway and down the fore scuttle as usual, serving to each person a Gill of wine; the Prisoners on the Poop, Edwd. Donohough, Wm. Leo. F. Murphy, John Jackson, Thos. Kenna, Mich'l Savage, John Doyle, Peter Allan, Wm. Morrison, Pat'k McCusker excepted; at 6 Confined them to a Stanchion on the Orlop deck, and the same number on the Chain Cable in the Prison as last night. . . .

Friday, 2d A.M. Moderate Breezes and fine weather. Prison deck cleaned as heretofore. Punished Pat'k McKenna with 18 lashes on the back for making use of the words, if we don't take the Ship in fine weather, we will in bad. *P.M.* At 4, Punished Francis Murphy with 24 Lashes on the Back for having in his possession an Instrument for the purpose of taking off the close Prisoners Hand-cuffs, and wishing Peter Allan to make use of it in that way. 73 Confined on the chain Cable in the Prison during the night.

Monday, 5th. Punished Pat'k McKenna with 12 lashes on the Breech, and Thos. Marlow with 12 on the Back, for being out of bed at an improper hour and rattling their Chains. At 11, Punished Thos. Kenna with 12 Lashes on the Back and 12 on the Breech. Pat'k Ward with 12 on the Back, Jas. Johnston 21 on the Back, John Flynn and Wm. Leo 12 on the back, all for suspicious conduct.

To the Convicts.

It is to be hoped the following Rules and Regulations may be strictly and cheerfully obeyed during the time you are on board this Ship. They are adopted for your internal comfort, and will be highly conducive to your health on the Voyage. So long as you conduct yourselves Peaceably, Soberly and orderly, you may rest

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assured that every attention, which humanity points out, shall be paid to your situation; and, should your conduct meet my approbation on the passage, I shall be careful in representing the particulars to His Excellency the Governor of New South Wales; while, at the same time I must observe, the reverse of good conduct will be visited with appropriate severity.

1st. The Sabbath day is to be Religiously observed.

2d. There is to be no Blaspheming, Rioting, Disputing or Gambling, under any pretence whatever.

3d. All your Beds and Blankets are to be rolled and lashed up every morning at day light, and ready to be handed on deck with your Bags, if thought necessary.

4th. Each person is required to be clean Shaved and washed, and to have a clean Shirt on, ready to be Mustered every Sunday and Thursday.

5th. You are to be divided into Seventeen Messes, Twelve Men in each; out of which two will be selected, who are to be called first and second Captain of their respective Messes; their duty is to superintend and assist in cleaning that part of the deck, on which they mess, also to see their Bedplaces and mess articles are kept clean; and the senior of the mess is to draw the Provisions daily, likewise do every thing in his power to keep peace and quietness in his berth.

6th. There will be one man appointed to superintend and see the whole Prison and Bedplaces are kept clean, and also that the Beds and Blankets are lashed up at the appointed time. He is to be called Captain of the deck.

7th. The Prison is to be swept clean, and the dirt taken upon deck and hove overboard immediately after getting up in the morning, after meals, and before going to bed at night.

8th. A certain number will be admitted on deck daily, when the state of the weather permits, the number to be optional with me.

9th. One man from each mess is to take it in turn daily to fill the prison Cisterns, and to do other fatiguing duties as may be thought necessary.

10th. No washing of Clothes is to be allowed in the Prison, and as little slop or wet as possible is to be made below; whoever wets the deck the superintending Captain is to see it immediately swabbed up by the Person or persons, who made the slop or wet.

11th. There is to be no noise in the Prison whatever, at any time of the day, and more especially at night.

12th. While the Ship remains in this harbour, your friends will be admitted to see you on deck; should they however be detected in bringing Spirits on board or anything improper, an immediate stop shall be put to this indulgence.

13th. You are to keep your Clothes, which require repairing, properly mended in order that you may appear neat and respectable.

14th. No smoking nor Chewing Tobacco is permitted between decks.

16th. Should there be any cause of complaint, or any supposed grievance requiring redress, I am to be made acquainted with it at the time I visit the decks in the morning.

ALEXR. DEWAR, Surgeon and Superintendent.

Cove of Cork, 6th February, 1817.

[4] EXTRACT from the Book of Evidence before the Committee of Enquiry.

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JOHN MILBANK Examined. I was Chief Mate of the Ship Chapman during the late passage from Ireland to this Country. I kept the log; this is the log with the exception of some little writing filled in by others; a part of the entries in this log were not made at the times they bear date. The 5 first pages were not entered at the time. The entries made in the log book were kept by me; except two of the dates of the 18th and 29th April, were all made at the time they bear date. The remarks of the 18th and 29th April are of the hand writing of Captn. Drake, I saw him write them. I can't say when. I can't say whether they were both made at the same time or at the time of making the interlined remarks, but I believe both at the same time. I cannot say whether a week or a fortnight after. The remark of the 28th April was made by Captn. Drake on the first day the Ship was at anchor in this Port. It was made from the Evidence or information of Jno. Clements, and the remark of the 29th April was made from a Slate. I do not recollect when the remarks of the 18th April were made. I cannot swear whether it was a week or not after the transaction. It was some time after, but I cannot say how long. Excepting as to such two entries, to the best of my recollection and belief the entries were made at the time. It was not my duty to shew the log to the Captain every day, except when required; but I consider it was a part of my duty to shew the slate from whence the entry was made as often as required. Most transactions are entered on the slate as well as the Ship's way, but not any Evidence. Captn. Drake several times called for the book during the Voyage. (On looking over the book Witness pointed out an entry in Baxter's hand Writing.) I do not know how he (Baxter) came to make it. I made the remarks of evidence from the Persons, who gave them, from their own reports. On Saturday, 24th May, I received from Captn. Drake a written Document the same as the entry in the log. The entry in the log Book is a Copy. I believe I received the paper out of Captn. Drake's own hand. I never introduced any matters of evidence except such as were made by the suggestion or on the Authority of Captain Drake.

TERENCE KIERNAN Examined. I was a Convict on board the Ship Chapman during the Voyage from Ireland to this Colony. I was on board when a firing commenced; and when it commenced I was in my Bed. I believe it was in the Night of the 17th April. It began about dusk in the Evening. The Prisoners were all except a few in their Beds. The Prison doors were closed. I do not know that any of the Prisoners were on Deck that Day. I heard the Captain of the Deck say no person would be allowed to go on Deck. All the Convicts were quiet and in Bed, except a few in the Round House. All very quiet and in a hurry to go to their Beds. One Baxter on board the Ship was termed 3rd Mate; and, before the firing commenced, he came to the fore scuttle and rammed down a Cutlass and swore saying d——n your s——s what are you all up to. I was lying in the head of the Ship near the fore scuttle and saw the Cutlass. I did not see it touch any Person. The Convicts then rush'd away from the fore scuttle and to their different Beds, and immediately a firing commenced. All the Convicts except one who had but one Leg had their Irons on. The Convicts had never been released from their Irons. I believe 2 or 3 run from the round

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house on the alarm. There was no light in the Prison except what appeared from the Scuttle and Hatchways. I did not hear Baxter say any thing more than what I have stated before the firing commenced; and there was no other noise further than what proceeded from the Men running from the round house that I heard. Had there been any I must have heard it. I saw Baxter come down to the after hatchway and fire several Muskets into the Prison, and order several Soldiers to load their Muskets and said he would fire them. I could plainly see Baxter, and heard and knew his voice. When the firing commenced, I did all I could to protect myself by getting the Bed and two Bed Cloaths to put before me and by laying as close to the Boards as I could. I heard Baxter give Orders to the Soldiers to fire away, he said fire away Boys and kill all the b—y B—s. The firing as I believed at times, continued for an Hour and a half. The Convicts did not say any thing except calling for Mercy or Quarters. From the 4th or 5th Shot being fired, the Prisoners all cried out for Mercy, and I heard Baxter, who was just above me, say they are crying for no Quarters, they are shouting give us no Quarters; the cry was for Mercy. The cry was several times repeated, and Baxter would always fire towards the place where he heard the cry of Mercy that the Men were afraid to speak. The Man, who lay at my left hand, was wounded. Some made great moanings but all afraid to speak. The firing proceeded from the fore Scuttle and after Hatchway and different parts of the Vessel. I think there was once an interval of about 10 Minutes; and on commencing the 2nd time of firing Baxter came to the after hatchway of the Prison and said he would kill every b—y B—r. I saw him fire two shots saying he said he best knew the situation of the Prison. Baxter stood alone in the Hatchway. I don't know how many were above him. I could plainly see him out of my birth. Whether he fired more than 2 Shots I don't know. No more had taken place; in the interval of 10 Minutes there was no more but that of groaning to be heard. None of the Officers were present at the time of the firing to my knowledge except Baxter. After the firing I heard Mr. Dewar above. I neither saw or heard Lieut. Bursted. I did not particularly know the Soldiers, and could not distinguish which was present; no one that Night came into the Prison to take away the dead or dress the wounded; but several times I heard the Sentry say they would fire upon them. I do not know that any of the Convicts had been allowed to go on the Deck on that Day. Previous to the fire commencing, there was no Noise than what proceeded from the 2 or 3 that run from the round house and a few hurrying to their Beds. On the next day none were let out of the Prison except a few to carry up the Dead Men about three hours after day light. The Soldiers and Sailors came armed with Guns and Cutlasses; and Baxter, who was there, said why d—n my s—l there is but a very few of them killed. I don't recollect I saw Lieut. Bursted, Mr. Dewar or the Captain. When they came in, Baxter gave orders to carry up the dead, and that each Mess should carry up their dead. I went to the Sick Bay and saw Dr. Dewar; and he said to some of the Men who had charge of a wounded Man "throw him there," pointing to a place where he was to be laid. On the following day, none of the Prisoners (except Talbot or some other Person as Witnesses) were allowed to go on the Deck. I believe the Convicts were mustered, but I am not sure. An order came into the Prison for the Convicts to send up all Saws

and files; to be sent up or that they should all be murdered; but only one file could be found, and I do not know where it was found. A General search of every birth was made, but nothing was found unless perhaps some few old Nails; Baxter and some Soldiers and Sailors were present at the search; there were some Men punished on that and the next day. On the 27th or 28th April, the Convicts were again fired upon. From the 17th April to such period, none of the Convicts were allowed to be or go on Deck except in Muster. The Convicts were not allowed to stay longer on the Deck than was necessary to examine them in the muster, and I was generally struck by some of the Soldiers. After the Convicts were in their Beds on the 2d time of firing, I heard Baxter say to Clements, this is a good time to begin; to which Clements said, it is too soon yet; then Baxter said, this is the best time for the Officers are all in the Cabin and we shall have the longer time to play at them. Clements said, then I'll let go, and immediately fired from the fore scuttle, and a firing commenced as on former Evening from the same and from different parts of the ship. I don't recollect how long the firing lasted; but I heard Baxter say to Clements, fire away my brave Boys, don't be commanded by Captain, Officers or Superintendent, and I will be accountable for it. The Convicts only cried out for Mercy; when Baxter gave directions to fire away, he said the Doctor says it will do as well to carry their Names to New South Wales. The Doctor was not present to my Knowledge. Baxter came to the fore Scuttle, just where I was lying, and thrust down his Arm to the Shoulder and fired a Pistol, saying to them, it was of no use to fire with the Muskets, fire in this way and then you will weed them; leave off firing with your Muskets, it is of no use firing with them, but fire with your pistols in this way, shewing them how to put down their Arms. I don't know he fired the Pistol in that way more than once. Several Shots were fired down there, but whether with Pistols or not I don't know. One of my Mess mates, of the Name of McArdeU, was shot and died in 4 or 5 Minutes. Some Person asked how many was killed, but I don't know who. No Enquiry was made by any of the Officers during that Night. I believe a boy came down to make some Enquiry. I don't recollect whether the dead was carried away that night or not. Next morning I helped to carry up Wallace, one of the dead Men, on the Deck, and I there saw Barnard Kelly lay dead with his brains scattered about. He was lying on the starboard side of the after hatchway and lying with other dead Men, which had been carried up. After the 2d firing, the Convicts were kept in Prison and not allowed to go on Deck but only to be mustered. I did not see the Bodies thrown overboard; for, on depositing the Bodies, we made the utmost speed to get down to avoid being struck with a bayonet or Cutlass, which were frequently used. I was kept in Irons during the whole of the passage, and the Convicts generally were, except 2 or 3, kept in Irons during the whole Voyage. I was brought up and flogg'd for breaking one Link of my Irons. I broke it in order to get off my Trowsers to prevent Vermin. The Convicts were carried up in Messes to be flogged after the 17th April. They began at the first Mess and went through the whole of them. I am not sure whether any punishments took place before the 17th April; and after then they were flogged by Messes. When I was about to be punished, I spoke some Latin words to Dr. Dewar; on which he said, are you the lad who addressed some Latin words to me on St. Patrick's Day. I said, I am; on which the Doctor said

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never presume to address me in that way. Give him (speaking to some of the Ship's Company) a double punishment. He deserves a double punishment; about three weeks afterwards I was again called up with the remainder of the Mess and punished, owing to a bit of iron hoop being found in my Birth. I do not know how it came there. I had never seen it before. It was a rusty bit about 4 or 5 Inches long. Doctor Dewar asked me, when I was carried on deck, what I was doing with the iron Hoop. I told him I had never seen it before; to which the Doctor said you d—d scoundrel, there is not one of you who will say the truth to save yourselves. I do not know whether Lieut. Bursted was present; the whole of the Mess, Eleven in Number, were punished for it. The two times I have mentioned were the only times I was punished. From the 17th April none of the Convicts were allowed to go on Deck until the Ship's Arrival in New South Wales; and previous to such day the Convicts were only allowed to go on Deck by a Mess or half a Mess at a time, and continue for an Hour only. I believe that, except four convicts of the Names of Talbot, Shield, Smith (the Doctor's Mate) and Woods, none escaped being punished. Some of them have been punished three times. One in my Mess was punished three times. Some on the back and some on the breech. After the Decks had been cleaned from Blood after one of the firings, the Doctor came into the Prison and said, is there any Rascal that dares to complain to me about Rations; I will not hear him but have him punished immediately. I will not flog him but shoot him; and I believe none did complain for eleven Weeks until driven to it by him. I do not recollect ever seeing Captain Drake in the Prison, but once, when at St. Jago's. After the 17th April, I and the Prisoners went on our knees to request we might be chained to the Chain Cable to prevent our being suspected of mutiny or attempt to take the ship. Doctor Dewar came round after the deck had been washed from blood, and we then begged it on our knees; on which he said, if you mind how you behave yourselves, there shall not be a Man of you hurt. We had to beg it a 2nd time on our knees, before the favor was granted to us. I think the 2nd firing took place first; we begged it a 2nd time of the Superintendent on our knees. I heard Patrick McKusker assign the reason to Dr. Dewar for begging to be fastened to the Chain Cable. When it was granted, the Chain was passed down the after Scuttle and up the fore scuttle; but afterwards there was more of it passed down and passed round the whole Prison; the Chain was passed over the Irons and between the Legs of such as were fastened to it. None of them was afterwards released from the Chain except from Illness of the flux. They were placed on the Chain at about 4 o'clock in the afternoon, and not released until long after Day light in the Morning; it was passed thro' every Day until our Arrival in Sydney Cove. We could not lie in our Births when on the Chain, but on the Deck. Many wanted Beds, some were thrown overboard all over Blood. The Hatches were thrown open; we were exposed to the Sea water, rain, &c. A great number of us was very ill with the flux, so as to be compelled to go to the Hospital; but on leaving it were again placed on the Cable as before. Whilst there Baxter would frequently strike and abuse us, and used to beat us with a Bayonet; if the Convicts cough'd whilst on the Cable, they were flogged, Mr. Baxter saying it was an insinuating Cough. And if any of them made Water, tho' they did it in their Shoes to get it conveyed away privately, they were flogged for it. I have known

several, who had made water in their Shoes, to have been flogged; a Convict Man of the name of Talbot, who was appointed a Captain of the Deck, gave information of some of the supposed Offences; if the Men happened to move on the cable so as to make the least noise, enquiry was made who made it, and he would be punished for it; or if it could not be ascertained who made the Noise, 4 or 5, who were nearest to it, would be punished for it. I believe some of the Convicts took out the rivets from their irons, and could slip the Irons over his Heels. I believe that the rivet was sometimes taken out for the more easy getting off the Trowsers. After the 17th April, the Convicts were curtailed of their Provisions for 11 Weeks; and after such time, it was universally believed that the Convicts had not more than one half of the flour, Raisins and Suet, they ought to have had; and we were also curtailed of our bread in the proportion of about 2 lb. per Day for the Mess from the time of sailing from St. Jago's to the time of arriving at New South Wales. We had a small quantity of Burgon allowed that 6 of the Mess would take the 12 allowance, and the same of the Peas, and at length they thought it not worth claiming. About three weeks before the Ship's Arrival at New South Wales, one McKenna complained to Dr. Dewar of the shortness of the Provisions; and they from such time increased, and from the time of such complaint we received it regularly. After the 17th April, they cooked a certain quantity of Beef, which they threw down to the Convicts to be divided amongst the Convicts by themselves in such way as they thought proper. On arriving here, I enquired of the Ship's Steward why he did not let the Convicts have their Rations after the 17th April; to which he said, you had it until then by which the Captain complained he lost £100 and discharged me from my Situation. Until the 17th April, Dr. Dewar saw all was regular, and on Complaint would cause any Complaint to be rectified; after the 17th, we had Wine but more frequent as we came near Sydney. We got it about once a Week from the 17th until our Arrival near New South Wales, and then more frequent; after the 17th we generally had about 2 Pints of Sherbet or Lime juice per day. I most solemnly declare that I do not know of any Conspiracy. I endeavoured to find out whether there were any or not, and examined a Boy with respect to it; and from the whole of the Enquiries I have made, and to the best of my belief, I do not know of any wish or intent to take the Ship or attempt towards such Purpose. I never heard of any Oath administered or taken by any of the Convicts for such end; and I never saw or heard that the Convicts rushed forward, in furtherance of such an Attempt; nor did the Convicts ever make such a noise, as to give any just grounds of suspicion. There was a Chain passed over the hatchway, and an Anchor on each fore scuttle, which 1,000 Men could not have forced away, and only 4 could have got to it, and would have rendered such attempt wholly useless. I never heard there was any reason or any attempt at insurrection, or of any combination for mutinous purposes. On the 17th April, the Convicts were mustered on the Deck, and a great number of the Bazzels of the Convicts' chains were found to be taken off. I don't know how many but a great number. Baxter said he had been appointed by the Superintendent to superintend below and to keep the Decks clean. I had no dislike to Baxter until after the 17th April, then only for his inhumanity. I believe that such of the Chains, as were found defective of Bazzels on the 17th, were repaired and put in order, and were so at

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the time the 2d firing took place on the 28th April. Previous to a punishment being inflicted, the Doctor was in the habit of whispering with and consulting Baxter, and I believe as to the measure of punishment to be inflicted, and that he (Baxter) principally superintended the punishment; it was pretty generally known amongst the Convicts that I was intended to be brought up to the Catholic Church; no public prayers were read to the Convicts during their Voyage. I never heard that the black named Allen was to be appointed Captain by the Prisoners, if they succeeded in taking the Ship.

PATRICK SMITH Examined. (*Extract from Exam'n.*) I was shipped as a Convict on board the Ship Chapman. On the morning after being shipped I was brought into the Hospital to attend the Doctor and the sick as Doctor's mate. . . . As Doctor's Mate I was permitted to go on the Deck the same as the Sailors, and had an opportunity of seeing what was being done. . . . I never discovered anything going forwards improper by the Convicts before the firing commenced. . . . During the time of the firing I heard the Prisoners cry aloud for mercy. . . . I saw Baxter repeatedly fire into the prison as fast as he could get Pieces. I believe the Pieces were charged and sent down to him. I heard him direct some Person on Deck to get them charged and handed to him, declaring he would fire as long as any of the B—rs (speaking of the Prisoners) were living. . . . The wounded were not that night removed into the hospital. . . . I think that 17 of the wounded were brought to the Hospital to be dressed of their Wounds. . . . Six of them died. None on the first day but one badly wounded died on the second day. Sometime after the firing, a fortnight or three weeks, Baxter shewed me some bullet holes and said he had shot and intended to kill me, saying I have missed you three times, but I will take care to hit you the next time, and declared he would certainly kill me and after made use of the same threat. . . . He charged me with being privy to a combination of the Convicts saying I must know what passed. . . . The 2d firing commenced not so early in the evening as on the former occasion; I was in the hospital when it commenced. . . . I was asleep when it began it awoke me. . . . I am sure it was the shot that awoke me, and not any rush of the Convicts. . . . I think they were in Bed and perfectly quiet. . . . One Man was shot dead in the prison, and brought in the sick bay with the wounded. . . . Soon after the last firing the Convicts begged, to save their Lives, to be put on the Chain cable. . . . After the request was granted, a Number of Convicts were placed on the Cable. I do not know how many; not so many at first as afterwards; the number increased to 106. . . . They put on as many as they could, and they generally remained about 17 Hours. . . . There was continual flogging inflicted after the Convicts were fastened to the Chain Cable. . . . After the 17th April, we did not get weight and Measure of Provisions as usual. After the 17th April, the conduct of Doctor Dewar changed very much towards the Convicts. It was not so kind and he gave the reason they intended to take his Life. . . . Previous to the 17th April, the Doctor left a Candle and Lanthorn with me and gave directions for me to fetch him at night in case his presence was absolutely required by the Convicts; but after that time I had positive Orders . . . that I should, not on pain of my life, rise out of my

Birth to afford any assistance to the Convicts, from day light in the Evening until day light in the following Morning. . . . I found Oliver Wallace dead in the Morning, who had crept out of his bed during the night; but I durst not stir out of my bed to assist him. Wallace in the agonies of death had crawled towards the round house, and he died in agonies. John Manning a wounded Man also died in his Bed during the Night, to whom I had no opportunity of affording assistance.

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Friday, 21st August, 1817.

JOHN FAGAN Exd. (*Extr't.*) I was a Convict on board the Chapman, lately arrived in Sydney Cove. . . . Punishments took place almost every day from the time of the first to the 2nd firing. . . . After the first firing, there was a great difference in the supply of Rations; I think in all the Articles by a less quantity of meat and flour. . . . The Prisoners were sometimes very hungry. . . . The Punishments were very frequent, as it was inflicted for coughing. I heard Baxter say coughing was a Signal. As also for making the least noise with their Chains. . . . I think about 20, but not more, escaped punishment. I had a fresh pair of Irons put on, and they were fixed on with red hot Rivets which burnt me; and I complained, on which Baxter said to the Sentry, d——n him, don't mind him, make him stand up; if he don't stand up, prick him and make him stand up. They then brought water and put on the Nutt or rivet, and the water that ran from it scalded me. . . . Upon my oath, I have never had reason to know or believe that any Conspiracy ever existed to take the Ship. . . . I heard Wallace say something before his death in the presence of Dr. Dewar and Smith; it was the day or the day before his death; and, to the best of my recollection, the Doctor came over to and said to Wallace, You are in a bad or dying state, and you do not know how soon you may depart this life; your Wound is dangerous, but I will do as much for you to save your Life as I can; tell me did not you know about this Business; he Wallace said nothing for awhile; I thought by the stop he made he knew something; I said, for God's sake, O Wallace, tell what you know; Dr. Dewar said, did you not know that they intended to take the Ship; he said, I believe I did; the Doctor said, d——n your believing, why don't you tell me, you are in a dying state, did you not know they were going to take the ship; he said, I did; he then said, pray did you not know they were to take my life. I did, said he. Did you know they were going to take the Captain's life; he answered, I think they did; he then said, did you not know who it was; to which he received no answer; before Dr. Dewar said, did you not know that Murphy was going to be Doctor; he said, he did; he then asked him, what were they going to do with all the hands, was not they going to take the Ship to America; said he, they were Sir; Smith was by at such time, James Burn and a man of the name of Mustoff; the Doctor said, were the Men not sworn; he answered, they were; to which the Doctor asked, how many he thought were sworn; he said, he believed the most or all of them. In fact every thing the Doctor said to him, he said the same. . . . I cannot say whether Wallace understood every question that was asked but he seemed to answer them very well. I think before that his understanding was affected; he had been raving and romancing, but he seemed to answer the Questions very well; he seemed more distinct and sensible than he had been. . . . I do believe he

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understood him, but he seemed alarmed by what the Doctor said, and his eyes rolled about; and he said they would be coming in upon him; the Doctor said never fear I will protect you. I can't tell whether he was in dread of the Doctor or the Convicts.

Monday, 25th Augt., 1817.

JAMES BURN Examined.

PATRICK SHERIDAN Examined. (*Extr't.*) I came a Convict on board the Ship Chapman. I remember the Muster to examine the Irons On the very day the firing took place. My own Irons was broken, and many of the Prisoners like mine a great number of them broken. . . . On the following morning I was carried on deck, and told by the Doctor and the Captain I should be shot. The Doctor spoke to me and told me it was for having a file to cut the Irons. He told me to go on the Poop. He had other Men there, and I and another Man were to be shot; and Baxter said to the Doctor, here is the d—d scoundrel who said he would give them all their liberty. . . . John Murray and I were on the Poop, and Leo Murphy and Wm. Connor were on the Quarter Deck to be shot. They were on their knees, and the Doctor was reading prayers to them. . . . Leo was ordered to kneel down. He had his shirt drawn over his Head to hide his Eyes. . . . The Doctor and the Captain told him he was to be shot. I was afterwards ordered by the Sentry to go to the after part of the Poop, and I could then hear no more. . . . I could see that Leo was taken down and flogged on the fore part of the deck. After Leo was flogged, I was taken off the Poop. They made me see several Persons, six, flogged, and was myself flogged. Nothing further was said to me. I had seen the File three Weeks before amongst the Prisoners. They used it to cut their Chains, so as to get their Trowsers off. . . . I saw Leo after his punishment. A Rope was fastened round his Body, and he was thrown over board and towed along by the side of the Ship. He was over a very considerable time, until he was almost dead; he was over upwards of 10 Minutes at the least. . . . Mr. Baxter stripped off in his Shirt and flogged me. He had that day taken the Cat out of the Boatswain's hands, whilst flogging McGiff. The Boatswain had given him six lashes, and Baxter finished his punishment and he gave me my whole punishment. Baxter was not ordered to take the Cat; he made a laugh of it to the Officers round, and took the Cat to please himself. I received 30 Lashes on my Back. I was loosed by the order of the Doctor. I was almost in a faint and Baxter took me down and handcuffed me. . . . The Handcuffs were taken off the next morning, for I thought I might as well be shot as to be in the State I was in; for my back was in a dreadful state, my shirt sticking in the wounds, and I could neither eat nor drink, and I made a 2nd application and the Doctor ordered them to be taken off.

N.B.—The Punishment of this Witness on the 18th April does not appear in the Log Book, Diary or Journal of either the Captn., Mr. Drake, or the Doctor, Mr. Dewar, nor any Entry made in the Captain's Journal of any Persons having been shot or wounded. . .

Between the first and 2nd firing, I was again punished for having a small string which fastened up my Irons. . . . From the first firing to the 2nd, the Convicts had been quiet. It was then their whole study to be so; it was as much as our Lives were worth to cough. I have seen several Men punished for coughing; that was

the crime that went up. I saw them from the Main hatchway where they were seized up; Baxter used to say it was an insinuating cough, a Signal. If the Prisoners made a noise with their Irons or muffled them with a Handkerchief or any thing else to prevent a Noise, they were flogged. . . . Upon my sacred Oath, I never at any time knew any of the Prisoners in any way or at any time conspire together to take the Ship or the lives of those on board. . . . After my first punishment I was used very hard by red hot Rivets being put on my Legs. There is the mark of the burn now on my legs.

Note.—By desire of the Committee he shewed the Mark, which was very plain.

WILLIAM LEO Examined. (*Extr't.*) I was a Smith in my own Country, a Horse shoer; I am 28 Years of Age. I am a Convict and was put on board the Ship Chapman. I recollect when the first firing took place. For 4 days before that, I was down in one of the Store rooms with 3 others hand cuffed and chained to a pillar in the room, and did not know what I was put there for. The others were Jackson, Savage and Donohaugh. The next Morning to the firing, I was brought on the deck to be shot. . . . I was told I was one of the d—d Rascals. I was the Ringleader. Up to that time nothing had been charged against me. . . . The Doctor came to me and asked whether I would confess whether there was any intention on the part of the Convicts to take the Ship and their lives; that if I would confess, he would save my life, if not, he would shoot me. I was then on my knees and my shirt over my Head; I said it is of no use to deny, if I swear it you will not believe me; you called me a perjured Rascal and I'll die innocent. . . . The Doctor said he is a hardened wretch; he will not tell of the rest; take him up and give him a d—d good flogging. . . . I received I believe three Dozen and a half. . . . Whilst the Boatswain's Mate was flogging me, Baxter said he was not doing it well enough, and he would give the rest, and then gave me the rest of the punishment. The Doctor then ordered some pickle to be put on my back, and they rubbed 3 or 4 handfuls out of the tub on my back. They then put a rope round my Neck, and then took it off and put it round my Body and hove me overboard. . . . They pricked me with bayonets until the Blood ran (Witness shewed two marks on his Arm which might be occasioned by the bayonet); the serjeant of the guard at the time said it was bad usage to a Person, who was punished, and he ordered them not to do so. . . . When they threw me overboard, I had handcuffs on; they had never been taken off. I think I was dragged up out of the water 10 or 11 times. I was then put down into the Orlop deck again. . . . I remained until 7 or 8 o'Clock the next Morning. I was then brought up again; he asked me then whether I had any thing to tell them about the Prisoners and save my life. . . . I said I knew nothing about it; on which the Captain gave me two blows on the Jaw, and said, you hardened villain you must have been sworn below amongst the rest or else you would tell me. . . . I was afraid of my life amongst them. With that they put 4 of us in double Irons, put us on the Poop, run a Chain through the ring of our Irons, and the Captain and Doctor or both said there you will remain, rain, cold or snow, until you arrive at New South Wales, for I would as soon have your Names as yourselves alive. . . . Whilst I was on the Poop I was a second

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and a third time flogged. . . . After I had received about a 2nd blow with the Cat, to avoid farther punishment I told them a lye that we did mean to take the Ship; I said it only to save me from the flogging, I was asked about the ————. When I was taken down, I was taken to the Cuddy and told the Doctor the lye that we did intend to take the Ship; and the Doctor said I should not be punished any more, and he would save my life in New South Wales. . . . He asked me who was to be Captain; I told him I did not know; he said, was not Morrison to be the Captain, yes, Sir, said I; he asked if I did not know Murphy was to be the Doctor; yes, Sir, said I. . . . The Doctor wrote down what I said in the Cuddy. I can't read. Then I was taken to the Poop; I thought the lye I had told him would get me down. I told him the lye for that to get away from the hardship and the Chain. . . . I was expecting a flogging, if I did not answer. . . . I said yes to everything he asked me. . . . There were 12 of us on the Poop at the time the 2nd firing took place; it was Moon light. The order was, if there was a firing below, to cut us to Pieces and put us to death, if we stirred. . . . A Night or two before the 2nd firing, there was a false alarm, and the Sentry began to cut me. I raised my Arm to save my head, and got a cut on my Elbow and my wrist; when the Serjeant came up and said it was a false alarm; and I prevented them from cutting me, but for that we should all have been put to death. . . . When they had done firing below, Baxter came up to the Sentry and was about pulling the Musquet out of his hands; he was on the poop; the Sentry asked, what do you want now, I want to kill one of those rascals; I would not give it to my Officer while I was on Sentry. Baxter ran back to the box, and brought one of the large pieces. I do not know what they call them, a blunderbuss; it had a wide mouth; he fired away one Shot and then Kelly's blood was hove over us. . . . I did not know who was killed; I knew very well some one was killed, but I dare not stir for fear of being killed myself; the men on the poop remained exactly in the same state during the Night and the dead Man. The first Mate, Mr. Milbank, in the Morning ordered the Tarpaulin to be removed and the dead Body to be brought down. . . . Baxter was the one, who took the Man out of the Chains; he said it was not I who killed him; he must have been killed in Mistake during the firing last night, though I have often threatened his life; it was not I who killed him. . . . I never on my Oath heard such a word among the Prisoners, as that of taking the Ship. . . . I never heard from any of the Prisoners on board the ship that they had been sworn; and I can take my Oath on my Knees that such a thing never passed aboard the Ship to my knowledge. I have no reason for knowing why Collins gave the information he did; but he was going to be punished for having a Knife between Decks, and he told what he did to escape a punishment.

(2 other Convicts Examined.)

8th Day, 2nd Septr., 1817.

JNO. RYAN Examined. I was compelled to give Evidence in the Cuddy of the Ship Chapman in the morning after the firing. I was called up by the Doctor, and sent in to Collins in the Cuddy; and the Doctor left me there; and I then knew no more than a Child unborn what I was sent for. I knew I was called on to give Evidence; I

was with Collins for 10 minutes alone; Collins told me the evidence he gave the Captain and Doctor. He told me he gave me the names of 4 persons, who were to be Capt'n., Officer, Doctor and Mate. Collins gave as a Reason for sending for me was that I was a Countryman of his. The Doctor came in; I went on my knees to Dr. Dewar, and declared I knew nothing about it any more than a Child unborn. He made answer and said, you damn'd Rascal, if you don't give the same Evidence as Collins has done you shall be flogged until near dead, and shot afterwards. I said, Sir, I have nothing to tell you unless I tell you lies. The Doctor then went out, and the Captain came in, and I went down on my knees again, and confessed to him I know no more about it than the Child unborn; and he told me the same as the Doctor, that I should be first flogged nearly to death, and shot afterwards; he then went out and he and the Doctor came in together, and they said, if I would give the same information and four men's names, as Collins had done, I should have plenty of Money in my pocket, and be allowed so much a year from the owners of the Ship, and it would save the Men's lives and I should go home again. . . . I gave evidence to save the lives of those below, innocent men and my own life. I did not tell Dr. Dewar and the Captain that the information, Collins had given, he confessed to me was false. I afterwards made a Confession of what Collins had put me up to. I am sure that the Capt'n. and Dr. Dewar left me and Collins together for the purpose of making up the Story. As far as I can believe, or have any reason to know, the Captain and Dr. Dewar did believe what I told them and accounted me a good Man. It was on the next day after this, as far as I understand, that my Evidence was taken down by Doctor Dewar, and on the first day I confessed that all Collins had said was true knowing it to be false. I mean to swear it was all false. . . . I did not tell the Doctor and the Captain after the 2nd firing that what I told them was false, because I was afraid of my life. . . . I mean to swear that I do not know, nor ever heard, there was any Conspiracy to take the Ship, and I now have no reason to believe that any Conspiracy did exist to take the Ship amongst the Convicts. . . .

9th Day, 3rd Sepr., 1817.

LIEUT. BUSTEED Exam'd. (*Extr't.*) I was appointed Officer of the Guard over the Convicts in the Ship Chapman in her voyage from Ireland to New South Wales. The Sailors in my opinion was not at all under proper restraint and command of the Capt'n on the morning after the firing, whilst the Prisoners were on the deck for punishment. . . . It did not appear to me that the Captain did interpose his authority to prevent the mutinous state of the sailors, as the Capt'n. of the Ship; I should think he might have done a great deal more; I think the Captain was at that time a good deal in liquor, and during the Voyage he was very frequently so. I had no opportunity of observing what was his state the night before, during the firing, but after the firing that night the Captain seemed very far gone in liquor. He had been on deck the night before the firing, and he had been drinking. I did not perceive that the liquor had had any particular effect before the firing. I have frequently seen him intoxicated during the Voyage, and he is of an evening much in the habit of drinking. . . . The Doctor did not at the time of taking the Examination threaten Ryan that, if he did not state what he knew, that he should be nearly flogged to death,

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and then hanged or otherwise punished; and no threats or persuasions were to my knowledge made use of by Dr. Dewar to induce Ryan to give such Examination or Confession; but, as far as my judgment went, it was a fair and honest Examination by Dr. Dewar. Believing, as I did, the evidence of Collins and Ryan, I did think at that time there was a Conspiracy amongst the Prisoners to take the Ship and murder the Crew, tho' I did not think they could have effected it. I thought from the Evidence that there was in fact a Conspiracy amongst the Convicts to take the Ship, but now I should rather disbelieve the same. . . . I attribute the cruel treatment of the Prisoners during the Voyage, entirely to the effect of the evidence, given by Collins and Ryan, and the belief of it, of the intention of the Prisoners to take the Ship. . . . In Baxter's Conduct there was a great difference; there was a very great change of behaviour of the Crew towards the Prisoners. . . .

(25 other witnesses were examined, chiefly of the Guard and the Crew.)

[Enclosure No. 2.]

[1]

DOCUMENTS, ETC., READ BEFORE THE COMMITTEE OF ENQUIRY.

[A] *Captain Drake to the Members of the Committee.*

Mr. Judge Advocate and Gentlemen,

Whatever may be my feelings as to what has passed on board the Ship Chapman, of which I am Master, on her Voyage from England to this Port, I shall abstain at present from expressing them, proceeding by a statement of the occurrences that took place on the voyage, and by adducing evidence to Shew that I have not been guilty of any frauds or Tyrannical Conduct, oppression or Cruelty, against the Convicts on board the Chapman on her passage to New South Wales from Ireland, nor have I authorized or countenanced any Officer of mine in Such Conduct.

Pursuant to instructions from the Transport board, I sailed from Deptford on the 11th Decr., 1816, and arrived at the Cove of Cork in the early part of January, 1817, and began receiving Male Convicts on board on the 5th February, and completed the complement on the 10th.

The Ship sailed on the 14th of March, and on the 22nd of March, at Sea, a report was made that the Convicts were picking the Locks with the intent of getting on Deck; in consequence of which the Crew and Guard were ordered under Arms; as soon as it was ascertained that the Convicts were safe in the Prison, it was visited by Mr. Dewar, one of the mates, a Soldier and myself, where we found all quiet; about twelve o'clock a Second alarm was made, the Crew and Guard were again under Arms, but after some time, finding all quiet, they were dismissed; the Officers during the morning watch placed as Sentinels in the

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Hatchway two Sailors, Peter Cocker and Cornelius Crawley, to listen to the conversation, and watch the movements of the Convicts. These men reported that they heard the Convicts say one to another, that it was a damned bad job, we are found out; and one replied, there is time enough yet; and again that the Soldiers were not worth a damn, and if they had their will, they would send them all to Hell; from this time to the arrival of the Ship at St. Jago, all was quiet.

On the 12th of April another Alarm was made, upon which the Crew and Guard were put under arms, and Cornelius Crawley told me that one of the Convicts had made his escape from the Deck into the Prison through the Chain-Cable Scuttle, and that others were running up the rigging forwards; after lights were brought and Search made, it appeared that the alarm originated in William Nelson, a Seaman when down in the Main Hatchway, not answering to the Challenge of the Sentry; and on being questioned by me, he stated that he went down to get some water; but as this place communicated with the Convicts, and as it was a very improper place to go for Water, and contrary to my express orders, it excited my suspicion and confirmed that of the Seamen, which they before entertained in consequence of his intimacy with the Convicts; and, upon the remonstrance of the Officer of the Guard and other Officers, he was put in Irons.

The following day William Nelson was punished; and Mich'l Savage, John Jackson and Edward Donoughoe, Convicts, were confined in the Orlop Deck for insolent conduct to Mr. Dewar and myself; and shortly afterwards William Leo was confined in the same place for suspicious conduct.

On the 16th and 17th of April, Michael Collins, a Convict, gave information that a Conspiracy was formed by the Convicts to take the Ship and proceed to America, that they had all been sworn to this effect, and that they were to murder the whole of us with the exception of the first Mate, whom they were to keep to navigate the Ship till within sight of Land, and then throw him overboard; this information was fully corroborated by the insolence lately shewn by the Convicts, and the appearance of their Irons being broken, contrary to orders; in consequence of these circumstances, I directed the Ship's arms to be got in readiness, and ordered my Officers to be on their guard and keep a good look out.

On the 17th, two Musters of the Convicts were held, and the number of the Irons broken had considerably increased from the first to the Second muster; as I then believed and have now no doubt but that a most horrid conspiracy existed amongst the Convicts against us, I directed the Chain Cable to be passed over the

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Hatchways for the better Securing the Ship; this measure I considered imperiously called for, as the Soldiers were in a disorderly and mutinous state, and my own Crew were not to be trusted, two of them, Cornelius Crawley and William Nelson, being then in Irons on Suspicion of being improperly connected with the Convicts. The Chain Cable thus forming a protection to the well disposed part of the Crew against the attempt of those who were already, or might be corrupted by the Convicts, by rendering Secret access to the Convicts impossible.

About eight o'clock the same evening, I was walking the quarter Deck, when a Sailor reported that the Convicts were forcing up the forescuttle; I immediately went forward, but found all quiet; Shortly afterwards however, as I was standing by the Starboard Gangway near the main Hatchway, I heard a general rush in the prison, and then I heard a Shot fired, and, believing the Convicts were breaking the Prison, I called out to Arms, here they come; and as I was going to the Cuddy to call the Officer of the Guard, I heard the Convicts forcing the Bulk Head of the Sick Bay; I met Mr. Busteed, Mr. Dewar and my brother, coming out of the Cuddy, appearing very much alarmed. The Soldiers and Crew got under arms, and began firing without orders from me or any one, as I heard, from all parts of the Ship into the Prison, and such was the confusion that a Seaman of the name of Murray was accidentally shot in the after Hatchway; as soon as it was ascertained that all the Convicts were in the Prison, I called out Avast firing; but my orders and exertions were for sometime unavailing, as were those of Mr. Busteed and Mr. Dewar, who were equally strenuous in their endeavours to stop the firing; it at last ceased, after having continued nearly an hour. The Soldiers and Crew remained at their quarters all night, and it was not known till the next morning who was killed or wounded amongst the Convicts, it being deemed by every one highly dangerous to open the Prison.

The next morning a Message was sent down to the Convicts, desiring them immediately to give up the files, Saws and other implements, which they had for breaking their Irons and effecting their escape from Prison; previously however to their bringing anything up on Deck, they were observed to throw many things out at the Scuttles, though the precise articles could not be ascertained; but they did hand up various implements which, if required, I will produce. After this, the three Convicts who were killed the preceding night were interred, and I read the burial service over them.

At this time great disorder prevailed amongst the Crew and Guard, who for a length of time would not obey any command,

some calling out to shoot the ringleaders immediately, others calling out the Seventeeners ought to be served the same way. At this period, William Leo, Francis Murphy and William Morrison, who were charged by Collins with being the Ringleaders in the Conspiracy, were brought on Deck, and the Crew and Soldiers placed William Leo on a grating and pulled his Shirt over his head, but not any one was placed to shoot him; by the exertions of the Officers, the Crew and Soldiers consented to spare their lives on condition of their being punished; with respect to the cruelty charged to be inflicted on Leo after his punishment, I declare myself compleatly innocent, nor do I believe it was done with the knowledge of Mr. Busted or Mr. Dewar, or with the consent of any of my Officers; as I was afterwards informed that some of my Officers prevented the rope by which he was towed being cut—and though this was passing while we were on Deck, I shall prove that it might, as it did, happen without our seeing it. After this the punishment proceeded against those who had broke their Irons, and which from the great number, who were guilty, took up two or three days.

On the 28th of April, I was on the Quarter Deck near the Capstan, when I was alarmed with the noise of a Shot being fired from the Starboard forecastle; every body instantly flew to arms; I went to the Cuddy to call the Officer of the Guard, when I met him coming out, very much alarmed; I then commanded silence fore and aft, and demanded the cause of the firing, but the people would not obey my orders, nor those of Mr. Busted or Mr. Dewar, who equally exerted themselves to stop the firing; such indeed was the disposition of the Guard and Crew, that I now was apprehensive they would even kill me, as I heard some of them say, Shoot the bloody Doctor, which circumstance I afterwards mentioned to Mr. Dewar, and advised him to be cautious how he moved about at night if any thing was going forward, and a Soldier directed his piece towards me which I avoided by mixing with the crew on Deck. The firing at last ceased by the exertions of the officers. On this night, one was killed in the Prison, and five wounded, and Bryan Kelly, who had been two or three days a Prisoner on the Poop, was killed, but by whom I could not ascertain at the time; it has since been reported to me that it was John Jordan, a Soldier.

Nothing particular occurred from this time till the 18th May, when it was reported by Michael Collins, and Michael Woods, that Francis Lucy, a Seaman, was in league with the Convicts, and had undertaken to procure Pistols to be handed down to the Prison to Thomas Kelly for the purpose of Shooting Mr. Dewar

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and Mr. Baxter; in consequence of which Lucy was confined in the Jolly Boat, and Thomas Kelly was punished and made a Prisoner on the Poop.

On the 24th May, I was in my bed asleep, and about one o'clock I was awoke and alarmed by the firing of shot; I immediately ran upon Deck and demanded the cause of the firing, and the Sentinel in the Poop replied that the Prisoners in the Jolly Boat had been trying to get up; Mr. Busted and Mr. Dewar also came up; the firing having ceased, I went to my Cabin to dress myself, and then returned on Deck. Upon enquiry I found that John Jackson, a Convict, and Francis Lucy, Cornelius Crawley, and William Nelson, Seamen, were wounded; shortly after this I heard another Shot fired, and I heard that Lucy was killed; though enquiry was made at the time I could not learn who had killed him; but sometime after my arrival here, I was informed by John Fundant, a Sailor, that John Hogan, a Soldier, was the man who had killed Lucy.

Hence it appears that on the 17th of April the rush was made, and the Shot fired, before I called the people to arms, and that the firing commenced without any orders from me; and on the night of the 28th April on the first Shot being fired, I did all in my power to prevent its continuance; I immediately ordered them to desist, and directed the Gunner not to serve out arms to the Crew; but no orders could avail against the exasperated minds of the Soldiers and Sailors, and it has already appeared in evidence that all the mischief, that occurred upon and after this night, originated with the Soldiers who were in a high state of insubordination.

Mr. Dewar directed me to serve out the rations to the Convicts agreeably to the Scale furnished by Government, a Copy of which has been already before the Committee, and my most positive injunctions to the Stewards were to be particular and let the Convicts have their due rations. After giving such orders, and never having a complaint of any kind from the 17th of April till the 30th June, how could I suppose that any thing was going wrong; the moment Mr. Dewar wrote to me, I made the necessary enquiries; the result of which is in possession of the Committee; and the evidence of the persons, whose duty it was to serve out the several articles, completely refutes the charge preferred against me of defrauding the Convicts of their rations.

It is confessed by the Convicts themselves that they were treated with the utmost kindness by every person on board till the 17th of April; and it has been proved that a Violin was purchased by me for the Convicts to amuse themselves with during their passage hither; with respect to the alledged cruelties

committed in the Prison, of which I do not believe, but which if committed were not authorized by me, for I always considered that my duty was to navigate the Vessel and attend to the directions of Mr. Dewar; and as to any personal cruelty on my part, I totally deny. It is true I was, as I felt it my duty, generally present when the men were punished; but I never saw a greater punishment inflicted on any of the Convicts than what the nature of their faults deserved and they were able to bear; for I do not believe, for the most atrocious conduct, any Convict received more than four dozen lashes, and by far the greater proportion, did not receive more than two dozen. And with regard to the cruelties inflicted upon Leo in particular, and which I have before noticed, I think it necessary again to mention, as he has been guilty of the grossest and most wilful perjury in Swearing positively that Baxter was guilty of murdering Kelly; and I therefore submit to the Committee that his unsupported testimony is not entitled to the smallest credit.

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Mr. Baxter, my third Mate, who has had the honor of serving his Majesty in the Stations of Midshipman and Master's Mate for many years and has passed for Lieutenant, can produce high testimonials of Character, and whom I have always found a most excellent Officer, and as far as my observations have gone a most humane man, but whose arduous and disagreeable office it was to see that the Convicts did their duty; by which he has rendered himself, and I firmly believe unjustly, an object of their most determined hostility and inveterate malice, a stronger proof of which cannot be given than in the testimony of Leo. I should therefore hope the Committee will do him the justice of affording him an opportunity of replying to, and explaining what has been alledged against him.

JOHN DRAKE,

Commander of the late Convict Ship Chapman.

Sept. 29th, 1817.

Ack'd as signature of etc.:—J.W.

The above statement read before the Committee this third
Day of Octr., 1817.

JNO. WYLDE, Judge-Adv., N.S.W.

[B] *Surgeon Dewar to the Members of the Committee.*

Mr. Judge Advocate and Gentlemen,

Never did I feel so much difficulty in expressing myself as upon the present occasion, after having had the honor of serving his Majesty from 1802 to this period, and having during that time received the unqualified approbation of the Officers under whom I have served; and whose distance at this time I have most deeply to lament, as their testimony, as to my integrity, humanity

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and punctual attention in the discharge of my duty, would have fully satisfied the Committee that I could never have become an Actor, or willing instrument, in acts of fraud, tyrannical conduct and oppressive cruelty, with which, though I am not specifically charged, I feel myself involved in by the course the proceedings have taken. No one can more lament than myself the dreadful occurrences that happened on board the Chapman, and which have occasioned the present enquiry; but in the statement, which I shall submit to the consideration of the Committee, supported by the evidence already adduced, and which I shall adduce, I feel confident that you will fully acquit me of those charges or of having been instrumental in causing the dreadful events that took place.

I was appointed Surgeon and Superintendent of the Ship Chapman on the 28th November, 1816, and went on board on the 29th; and sometime after being there, I received the Instructions* which have been already in proof before you; the first Clause of which distinctly marks my duty; it states amongst other things, "That I am not in any way to interfere with the management or navigation of the Ship," my duty as Surgeon and Superintendent extending only to the care and management of the Convicts. The third Clause directs that I am to see that the Convicts and Passengers have their due rations of Provisions without any deduction whatever, and to see that the victuals be properly Cooked and regularly issued at the usual meal times, as also that they have a sufficient proportion of water.

We sailed from Deptford about the 11th Decr., 1816, and arrived at the Cove of Cork in the early part of January, 1817, and there waited the arrival of the Convicts from Dublin; on the 5th February we commenced receiving the Convicts, and had taken them all on board by the 9th or 10th. At the time of receiving them, I had frequent conversation with the Officer of the Guard, and Master of the Brig Atlas, who brought them from Dublin, respecting the conduct of the Convicts during the passage from that Port to the Cove of Cork, both of whom told me several times and seperately that the Men were very notorious, riotous characters, that they had laid a plan to take the Brig, and had made an attempt to put it in execution, but were discovered in time and prevented.

Shortly after they were on board, I had been on Shore, and on my return was told that the Convicts were the night before attempting to pick the Locks, but that they had not succeeded. Nothing further occured till after we sailed, which was on the 14th March; everything continued quiet from this time till the 22nd March, when the Sentinel at the fore Hatchway reported

* Note 134.

that the Convicts were picking the Locks; the Crew and Guard were immediately under Arms, Captain Drake, a Mate, one of the Guard, and myself went round the Prison and found all quiet. At 12 o'clock an alarm was again given by the Sentinel forward, when all hands again turned up, but this, like the former, proved to be groundless. In consequence of this the following morning two Sentries, Sailors, to the best of my recollection Peter Cocker and Cornelius Crawley, were placed in the Hatchway by the Officer on Deck to listen to the discourse, and watch the movements of the Convicts; and between two and four o'clock, these men reported that the Convicts had said, one to another, that it was a damned bad job we are found out, and another replied, plenty of time yet; between 4 and 6 they again reported to have heard the Convicts say, the Soldiers were not worth a damn, and if they had their will, they would send them to Hell; from this time the Convicts were tolerably quiet, till our arrival at St. Jago and during our stay in that port.

On the morning of the 7th of April, after the Ship had got under weigh to proceed on her voyage hither, Mr. Baxter came to me and said the Convicts positively refused to clean the Deck in the way I ordered; I immediately went down and enquired the cause of their refusal, and, on hearing the reasons they assigned for it, I complied with their wishes.

On the 12th April in the afternoon, John Jackson, one of the Convicts who acted for them in seeing their rations regularly supplied, came to me while I was in the Sick Bay, and said the Convicts objected to having fresh Beef tomorrow; to which I replied, fresh Beef would be served; and he went away apparently much dissatisfied; on the following morning I received a message by one of the Convicts' Cooks, saying the Convicts would not have the fresh Beef served, but I persisted in its being served. About 7 o'clock in the evening of the 12th April, an alarm was given that the Convicts were breaking out; at that time I was in the Cuddy, in company with the Officer of the Guard and Mr. Drake, the Captain's brother; I immediately went out, when I heard the Convicts were on Deck and running up the rigging; I was also informed that Cornelius Crawley, one of the Seamen, had seen a Convict go from the Deck down into the Prison thro' the Chain Cable Scuttle; Lanthorns were then procured, and two Musquets fired into the rigging; it was after some enquiry found that the alarm originated in William Nelson, a Seaman, not answering to the challenge of the Sentry, while he was down the main Hatchway where he ought not to have been at the time, it being contrary to the orders of the Captain. After this several of the Crew accused Cornelius Crawley and William

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Nelson of being too intimately acquainted with the Convicts; in consequence of which they were both put in Irons, and the following day Nelson was punished; it will not escape the observation of the Committee that these two Seamen were the first who were confined or punished; and notwithstanding the suspicious conduct of the Convicts, and the unfavourable reports made of them by the Master and Officer of the Guard of the Atlas, the Convicts, by their own confession, were allowed every indulgence, were treated with the greatest kindness, and had no reason to complain of any one on board, up to this time.

About this time I found it necessary to confine John Jackson, Michael Savage and Edward Donohugh in the Orlop Deck for insolent conduct to me, but no corporal punishment was inflicted on them, or on William Leo, who was afterwards confined with them on his conduct being deemed suspicious.

On the 16th of April between two and three in the afternoon, Michael Collins, a Convict, communicated that it was the intention of the Convicts to go down into the Prison as usual, and the Officers of the Watch were directed to be upon their guard.

In consequence of Collins' information, on the 17th April, early in the forenoon, the Convicts were mustered on Deck and their Irons inspected, when a great many were observed to be broken; As soon as the Muster was over, Collins was taken in to Captain Drake's Cabbin and examined; when he stated that it was the intention of the Convicts to take the Ship, and murder the whole of the Crew and Guard, with the exception of Mr. Milbank, the first mate, who was to be spared till he had navigated the Ship in sight of Land when he was to be thrown overboard. In the afternoon the Convicts were again Mustered, when many whose Irons were observed to be whole in the morning, were now found broke, and in the few hours which had elapsed from the Muster in the morning, the number, whose Irons were broke, had considerably increased, and at this time there were nearly One hundred of them in that State.

At this time they were told that we had received information of the Conspiracy, and John Fox, on being charged with having files, replied he only knew of one, and if he were allowed to go down into the Prison he thought he could find it; in a short time he returned upon Deck and brought up a large file; at this time some of them were punished, and the Convicts were then sent below with Francis Murphy, who was handcuffed.

About eight o'clock the same night I was sitting in the Cuddy with Mr. Busted, the Officer of the Guard, and Mr. Drake, the Captain's brother, when I heard a Shot fired; I immediately went upon Deck, and I then observed a general alarm and heard

Captain Drake say, here they come. After this the firing became general. At this time the greatest terror, alarm and confusion prevailed; my enquiries were fruitless as to the cause; some said the Convicts were forcing the Scuttles and coming up forward; others that they had forced the Hospital Door and were coming up Aft; in this time of horror and confusion, each fearing his neighbour, from the circumstance of Crawley and Nelson being considered traitors, the Soldiers and Sailors were in the greatest disorder, and not under the least command; indeed such was the confusion that one of the Crew was Shot in the after Hatchway; but, as soon as it was satisfactorily ascertained that the Convicts were safe in the Prison, every exertion was made by Lieut. Busteed, Captain Drake, and myself, and by the Officers of the Ship to stop the firing, but in vain, as the minds of the Soldiers and Sailors were so exasperated, it was impossible to reason with or restrain them. The women, at the early part of the alarm, were put in the Cuddy; and as they suffered much from their fears, even to fainting, I went in occasionally to quiet and sooth them. After the firing had continued nearly an hour, it ceased through the exertions of the Officers, and on visiting the Prison early the following morning three of the Convicts were found dead and twenty two wounded, Several mortally and others severely.

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On the following morning the Crew and Guard, who were in a complete state of Mutiny, insisted upon the Ringleaders being Shot, and Francis Murphy, William Leo and William Morrison were brought up for that purpose, and Leo was placed by the Soldiers and Sailors upon a Grating and his Shirt drawn up over his head, but no one was posted to Shoot either; the Soldiers and Sailors at last desisted from their intention, on being assured that the men if guilty should be punished; and as I was then convinced and am still convinced that an attempt to take the Ship had been made, and Leo and the others having been represented by Collins as being deeply concerned in the conspiracy, they were ordered to be punished; but the circumstances of Leo's being rubbed with Pickle (if so) and that of being thrown overboard and towed, I shall prove were done without my knowledge or any direction from me.

The Convicts, who were punished on this and the two or three other days, were principally those who had their Irons broke.

From this time a general panic had taken possession of the Guard and Crew; already had two persons of their number, Crawley and Nelson, been accused and believed to be concerned in the Conspiracy; such was the impression on their minds that the greater part of them slept on Deck, and the want of rest and

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continual apprehension excited such extreme irritability that they were ready for any measure against the Convicts. At this time the Convicts requested me to let the Chain Cable be passed into the Prison for their Security, to which I answered I considered it would be prejudicial to their health, and earnestly entreated them to conduct themselves so as to render such a measure unnecessary; and the Committee are aware from the evidence that at this time it was not put down.

On the night of the 27th April, there was an alarm again, but no firing took place.

On the forenoon of the 28th April, Bryan Kelly, a Convict then a Prisoner on the Poop, sent for me and declared in the presence of many of the Soldiers, that Patrick McCusker, 8 or 9 days previous to this day, had begun to swear in his Mess and others to attempt to take the Ship and to stand by each other till there were only ten men left.

On the night of 28th April, I was sitting in the Cuddy with Mr. Busteed and Mr. Richd. Drake, when I heard a Shot fired; I instantly went out and I heard Captain Drake calling out, avast firing; Mr. Busteed, Mr. Drake, the Officers of the Ship and myself exerted ourselves to stop the firing; after continuing about a quarter of an hour, it ceased; while I was forward in the act of suppressing the firing, a shot passed very near me; I mention this circumstance because I was afterwards informed by Captn. Drake and his brother, that they heard some of the Guard on the Quarter Deck call out, Shoot the bloody Doctor; and Captain Drake advised me to be cautious of moving about on Deck at night. On this night one was killed in the Prison, and five Wounded, and Bryan Kelly was killed on the Poop; I made every enquiry at the time but could not discover who did it; I have Since heard it was John Jordan, a Soldier.

After this, finding that the Crew and Soldiers were so dreadfully exasperated and so irritable that they had no prudence, I consented to the repeated and earnest entreaties of the Convicts to the Chain Cable being introduced into the Prison, considering that it would allay the fears of the Soldiers and Crew, and thus protect the lives of the Convicts; and so far from its originating in cruelty, the measure was adopted for the express purpose of guarding against those dreadful consequences which were to be apprehended from the disposition of the Soldiers and Crew, as I have just stated; from this cause and the necessity of preserving the Health of the Convicts by a strict attention to cleanliness, the punishments became frequent, but in no one instance was a Convict punished without there being a reasonable ground for it.

On the morning of the 24th May I was in my bed asleep, and was awoke by the noise of Shot firing; I instantly went upon Deck, and found Mr. Busteed and Captain Drake, who informed me that the Soldiers, under some apprehensions of the Convicts rising in the Jolly Boat, had fired upon them, and wounded John Jackson, a Convict, Francis Lucy, Cornelius Crawley and William Nelson, Seamen. The firing had ceased before I got on the Poop; I returned to the Quarter Deck, and in about ten minutes I heard a Shot fired, and I heard Francis Lucy was killed; but from all the enquiry I could make under the apprehension I felt of the disposition of the Soldiers towards me, I could not at that time ascertain who had killed him, but I have since heard it was a Soldier of the name of John Hogan.

The committee will thus see that the firing commenced each time while I was in the Cuddy or in bed; I therefore submit to them that no charge can attach to me as the instigator or promoter of it, and I trust I shall prove that I exerted myself to the utmost of my power and at the hazard of my life to suppress it.

It has already appeared in evidence that I gave instructions to Captain Drake to supply the Convicts with their full rations, and that they might know to what they were intitled, a Board, with a Scale of rations, was kept in the Prison, as also two Boards of my regulations directing them to make known their grievances daily to me. It has also been proved by the Convicts, that till the 17th April they had no cause of complaint whatever, that their provisions were good and regularly served, and that my treatment of them, to use the expression of one of them, was "very very kind." The subsequent diminution of the rations cannot in justice be imputed to me, nor have I any reason to believe that Captain Drake was privy to it, and indeed I think him above the commission of so base an action. But, if the Committee be not already satisfied of the circumstances, I can adduce evidence to shew that my orders, to Captain Drake and also to the Steward, were that the Convicts should have full rations, and it is for Captain Drake to shew that my orders were complied with. The Convicts never having complained to me from the 17th April till the 30th June, and the Rations having been always properly supplied to the first mentioned period, I never supposed that any thing was going on wrong, more especially as the Steward, as it appears by his evidence, from time to time assured me that all was right. But as soon as a complaint was made to me, I took effectual steps* to have it remedied immediately; and it is but justice to Captain Drake to state that he instantly and most readily attended to my orders, made the necessary enquiries, and furnished me in writing with the result,

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which I forwarded to his Excellency the Governor on my arrival; and I believe that the correspondence that passed between Captain Drake and me is now in the possession of the Committee.

To the charge of fraud, I trust the Committee will admit that I have given a satisfactory answer.

At the conclusion of the firing on the first night, it might have been expected that I should have gone down into the Prison to dress the wounded men; but the horror of the preceeding scene had already appalled the hearts of every one; fear and suspicion pervaded all our breasts; I feel therefore no hesitation in saying that not one person could have been procured to have accompany me, for the universal feeling and sentiment of the people was that it would be unsafe to open the Prison Door; under these circumstances the Committee I trust will not, indeed cannot, charge me with wanton and deliberate cruelty, or shrinking from my duty; And at the other periods when firing took place, from the feelings expressed towards me by the Soldiers, and the disorderly and suspicious conduct of the Crew, together with the reason I had to fear assassination from the Convicts, prevented my having any communication with the Prison at night; the death of Lucy, who had incurred the displeasure of the Soldiers, proves that my fears were not groundless; and what might have been the consequences of my death it is impossible now to calculate; but I think, after what is already in proof, that the consequences would have been dreadful indeed.

By the evidence before the Committee it appears that I omitted nothing for the relief and comfort of the Sick, and the best proof that this was the case, with the exception only of those who died from the Shot of the Soldiers and Crew, there were but two persons died from disease under all the unhappy and unfortunate circumstances that occurred during the voyage. Even after the firing took place, it was my particular direction to the Men, who attended the Sick, to have every possible comfort at hand, that the Sick might not want anything during the night; my object for this was to guard as much as possible against any noise being made, as I had the greatest apprehension that the slightest alarm would occasion a recurrence of those dreadful outrages, which I cannot at this moment think of without horror.

The Convicts, kept on the Poop, were considered most dangerous characters, and that the safety of the Ship would be endangered by their being permitted to be below, or to be in a situation to have any communication with the other Convicts; and whatever they may say of their being neglected, I can prove to the Committee that they had a regular change of Linen, and their food properly supplied, and that precautions were taken for

protecting them from the inclemency of the weather, and in proof also of the efficacy of those measures as it regarded their health, they were at the time of the Ship's arrival in this port in the highest health.

Whatever may have been alledged by the Convicts of my having prohibited them from complaining to me of any deficiency in their rations, or otherwise, I declare to be false; unhappily for me they have made the charge in that way that I have no means of rebutting it; but the best answer I can give to this charge is that, when a complaint was made to me, their grievances were instantly redressed.

The charge made by John Doyle of receiving and detaining his money, I most solemnly declare to be false; for this there is only his bare assertion, and I trust that my station and character in the public service will fully satisfy the Committee that I would not be guilty of so unworthy an action.

This is what I have to submit to the Committee, and which I am ready to certify upon Oath if required; I have before professed myself to the Committee to be examined, and I now repeat that offer for the purpose of explaining any part of my conduct which it may be deemed necessary to enquire into.

I shall not any longer trespass on the time of the Committee; I hope the explanation, I have given of my conduct throughout, will remove any impression unfavourable to my character, and that when the Committee come to weigh the testimony that has been given, and the situation of life and the questionable characters of many of the persons giving that testimony, that however they may lament the circumstances that have taken place, they will acquit me of having been guilty of fraud, cruelty, or neglect of duty.

ALEXR. DEWAR,

Surgeon Superintendent of the late Convict Ship Chapman.
29th September, 1817.

Ack'd as the sign'e of &c.:—J.W.

The above statement read before the Committee, this third day of October, 1817.

JNO. WYLDE, Judge-Adv., N.S.W.

[C] *The Deposition of Captain Drake.*

New South Wales.

JOHN DRAKE, Esquire, Commander of the Ship Chapman, maketh Oath and saith that Doctor Alexander Dewar, the Surgeon Agent and Superintendant of Convicts, and Lieutenant Christopher Binstead of the 69th Regiment, the Officer in command of the Soldiers Embarked on Board the said Ship Chapman, having undertaken the whole superintendance and management of the Convicts and Soldiers respectively, in pursuance of Orders and instructions

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received by them from the proper authorities in England to that Effect, the only duty which devolved upon this Deponent was that of duly navigating the said Ship to this Port. And this Deponent further saith that no Punishment was ever inflicted, no shot was ever fired, nor was any act of Coercion ever used towards the said Convicts, or any of them, nor were any Orders ever given to the Soldiers by this Deponent, or by his Authority, from the time of their Embarkation on Board the said Ship to the Period of their disimbarcation therefrom. But that on the contrary this Deponent had a serious misunderstanding with Lieut. Bustead, in the presence of Doctor Dewar and Mr. Richard Drake, which went to the Extent of this Deponent's threatening the said Lieutenant Bustead with personal restraint, in consequence of His, this Deponent's, even remonstrating as to the Punishments of the Convicts. And this Deponent further saith that he used every possible means within his power to prevent the unfortunate circumstances which occurred on Board the said Ship, and made every possible exertion to put a stop to the firing of the Soldiers upon the Convicts, a measure which was in Entire opposition to his wishes and Orders, and was never in the remotest degree sanctioned by his Authority.

JOHN DRAKE, Commander of the Ship Chapman.

Sworn before me the Eleventh Day of October, 1817.

D. WENTWORTH, J.P.

[D] *The Deposition of Mr. Richard Drake.*

Richard
Drake's
confirmation of
John Drake's
deposition.

RICHARD DRAKE, an Officer in the Service of the Honorable East India Company, maketh Oath, and saith, that He, this Deponent, has read over the preceding Affidavit of Capt. John Drake, and, as all the circumstances deposed to therein come within his knowledge, He this Deponent is enabled to confirm the same in every particular.

RICHARD DRAKE.

Sworn before me this 11th Day of October, 1817.

D. WENTWORTH, J.P.

[E] *Instructions to Mr. Alexander Dewar, Surgeon and Superintendent of the "Chapman" Convict Ship.*

Transport
commissioners'
instructions to
Alexander
Dewar.

1st. You are not to consider yourself as a Naval Agent for Transports, nor authorized in any way to interfere with the Management or Navigation of the Ship, your Duty, as Surgeon and Superintendent, extending only to the Care and Management of Convicts, and to see that the Master fully complies with the terms of his Charter-party, a Copy of which is enclosed for your Information. If he should deviate from it, you are to be particular in noticing the Circumstance in your Journal, communicating such deviation to this Board, to the Governor of New

South Wales, and to any of His Majesty's Commanders in Chief or Commanding Naval Officers you may meet with during the Voyage.

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2d. You are to take particular Care that neither the Master nor any other person be suffered under any pretence whatever to put on board any private Goods or Articles of any kind without the special permission of the Board; and as the whole of the Tonnage of the Stores, which may be permitted to be shipped, will be reported to the Governor of New South Wales, the Ship will be liable to Seizure if any greater quantity should be found on board.

3d. You are to be careful that the Crew and Passengers have their due Rations of Provisions without any deduction whatever, and to see that the Victuals be properly cooked and regularly issued at the usual Meal-time; also that they have a sufficient proportion of Water.

4th. In case of the Master's purchasing fresh Beef for the Convicts and Passengers at any Port you may put into on the Passage, you are to see that the Meat is good and wholesome, and to certify the same to the Victualling Board, and that it is purchased at the Market price.

5th. A supply of Lemon Juice and Sugar for six Months being put on board for the use of the Convicts (over and above the proportion of 50 gallons of Lemon Juice for each 100 Men, supplied as an Article of Comfort on the Voyage) you are to cause these Articles to be issued to them in proportion of half an Ounce of Sugar and half an Ounce of Lemon Juice a Man per Day, and to be mixed either with Wine allowed to the Convicts, or to be used unmixed as Sherbet, unless at any time it be improper and prejudicial for them to be supplied therewith; but it is recommended that they should not be issued before the Ship shall have been three weeks or a Month from Port.

6th. You are to visit the Sick twice a Day or oftener if necessary, and not only to administer such Medical treatment as you may judge advisable, but to enquire minutely into their Management with respect to their Diet, Nursing and general Comfort.

7th. You are also to go daily among the People in Health, and make a general Inspection of them with a view to discover their Complaints, and particularly to examine whether any of them are afflicted with Fever, Flux, or Scurvy, in order that early and effectual means may be taken to stop the progress of these Diseases.

8th. As few Complaints as possible, besides those that are infectious, are to be conveyed to the Hospital, which is chiefly intended for those who are labouring under Fevers and Fluxes or

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such Diseases as render Confinement to Bed necessary. Cases of incidental Scurvy and other slight or Chronic Complaints need not be treated in the Hospital, but supplied with such Medicine and Diet in their own Births as their Cases may require.

9th. When Persons with infectious Complaints enter the Hospital, you will take care to have their Clothes stripped off, their Hair cut off, and to cause them to be washed if possible in a Bathing Tub; or if this cannot be done to have their Faces, Hands and Feet well washed with warm water and Soap. The Linen or Cotton Clothing, which they throw off, is to be steeped for some time in cold water before it be handled and washed, and the woollen Clothing is to be exposed to the Fumes of Sulphur if this can be done, but if not let it be exposed to the open Air for two or three Days before it be stowed away. The Patients should be bathed at least once a Week while on their Passage.

10th. In regulating the Diet of the Sick, You are not only to employ the Articles specially provided for the Sick, but such Articles of their Provisions while in Health, as may in your Judgement be applicable to their Cases, such as Rice, Oatmeal, Flour, Biscuit, Raisins and Wine, which are to be demanded occasionally from the Master.

11th. As Cleanliness is essentially conducive to Health, You will take care that their Cabins be kept clean and as airy as possible, and that the utmost cleanliness be observed with regard to the Hospital and People's Persons, and that as much purity of Air and free Ventilation be adjusted, as may be consistent with due Warmth. Dryness should also be particularly attended to, for which purpose as well as for warmth and for promoting a renewal of Air, an Airing Stove with Embers should frequently be carried to different parts of the Hospital.

12th. You are to keep a Journal, noting down in it any remarkable Occurrence particularly what may relate to the Convicts, with the Number of Sick each Day, Deaths, &c. You are to specify therein the Nature of the Diseases, which fall under your Care, also your method of treatment of each Case day by day, and to assign the cause, to which such Diseases are in your opinion attributable, together with the method of preventing them, particularly if they are of an infectious Nature. You are to deliver this Journal into the Office of the Secretary of State for the Home Department, as a requisite condition for receiving your Pay.

13th. You are to appoint, from among the Convicts in Health, such as are most fit and trustworthy to act as Attendants on the Sick.

14th. You are to be particularly careful to observe all due Economy in the Expenditure of Medicines, Necessaries and

Utensils; and upon your Arrival at New South Wales, You are to deliver into the Public Stores there the remainder of them. A Certificate to this effect from the proper Officers will also be considered as necessary for receiving your Pay. The Portable Soup and other Necessaries put on board for the Sick Convicts and Passengers are not to be applied to any other Purpose.

15th. In case any remark should occur to you respecting the general Management of Convicts on their Passage with a view still better to preserve their Health, You are to communicate them to this Board for the Information of the Secretary of State.

16th. You are to apprise the Board of all Occurrences in the Ship, which you may deem worth the Communication, And to avail yourself of every opportunity for writing to them during the Voyage.

Given under our Hands, at the Transport Office, this 28th
Day of November, 1816.

RUP. GEORGE.
JN. HARNES.
JOHN FORBES.

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[F] *The Transport Commissioners to Captain Drake.*

Sir, Transport Office, 3rd December, 1816.

Mr. Alexander Dewar, having been appointed Surgeon Superintendent of the Convict Ship "Chapman," we direct you to comply with such Regulations, as he may think necessary, respecting the Management of the Convicts and their treatment while on board; and as it is absolutely necessary that the said Vessel should be furnished with a sufficient number of Scrapers, and everything proper for keeping her sweet and clean, the better to preserve the health of the Convicts and Passengers during their Voyage to New South Wales, we direct that every requisite article of this kind may be laid in previously to the Vessel's sailing; and we inform you, that you are every day, when the Weather will permit and the Surgeon requires it, to cause a number of the Convicts to be brought upon Deck for the benefit of Air, and see that their Births be properly cleaned and ventilated. You are carefully to note these particulars in your Log Book, which you are to produce to the Governor of New South Wales upon the landing of the Convicts, on Oath if required.

If the Chapman should on her Voyage to New South Wales touch at the Cape of Good Hope, we direct you to receive on board such Convicts under transportation as the Governor of the latter Settlement may require (and the Ship may be able to accommodate) for Conveyance to New South Wales.

A Certificate must be produced at this Office upon the return of the Ship, setting forth that the Governor of New South Wales and Surgeon, appointed by this Board, are satisfied with your

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Conduct, particularly as to what relates to the Victualling and treatment of the Convicts on the Voyage; and you will be recompensed for your Assiduity and Humanity by a Present at the discretion of His Majesty's Secretary of State. On the other hand, for any neglect in performing these essential Duties, you will be prosecuted with the utmost Severity.

In case it should be necessary to purchase Provisions at any Port you may put into on the Passage, we direct you to draw the Bills, which you may give in Payment for the same, upon the Commissioners for Victualling His Majesty's Navy, forwarding to them a Certificate of the Surgeon and Superintendent that they were good and wholesome, and purchased at the Market Price.

For your Guidance in the particular Line of Duty allotted to the Surgeon of the Chapman, we inclose a Copy of our Instructions to him, in order that you may regulate yourself accordingly.

We direct you to cause Mr. Dewar, Surgeon of the Chapman, to be victualled at full Seaman's Allowance, agreeably to the Custom of the Navy.

We are, Sir, &c.,

RUP. GEORGE.

JN. HARNESS.

JOHN FORBES.

[G]

Evidence of
Michael
Collins *re* a
conspiracy
amongst the
convicts.

EVIDENCE of Mich'l Collins, Convict, given at Sea, 22nd April, 1817, in Lat. 6° 6' N., Long. 23° 10' West, in presence of Capt. John Drake, Mr. Rich'd Drake, Mr. Dewar, Surgeon, Mr. Busted, Officer of the Guard.

Q. To the best of your recollection, when and where did you know the Convicts intended to take the Ship? *A.* Second day after leaving St. Jago.

Q. What did the Convicts intend to do with the Ship, if they got possession of her? *A.* To take her to America.

Q. Who was the first Person that mentioned taking the Ship? *A.* Francis Murphy.

Q. What were the words he made use of to you? He said, Collins, come out here and be sworn, as I am myself, to be Staunch and loyal, not to deceive each other; for it's our determination to take the Ship and put every Soul to Death; the time fixed for the Attempt is 12 o'clock on Sunday Night, and Hugh Maloy is to be the Password; the first Mate's life is to be spared, until we get in Sight of Land, when he is to be Killed.

Q. Did you, when asked to be Sworn, make any objection? *A.* Yes, I said I would sooner be shot.

Q. What answer did Murphy make to you? *A.* Peter Allen came up, and asked Murphy what he was about that he did not

split me open with a knife; he then pulled out his Knife, and swore by the Virtue of his Oath he would rip me open, if I did not take the Oath.

Q. Did you take the Oath? *A.* Yes, I was obliged.

Q. When did you take the Oath? *A.* Second day after leaving St. Jago.

Q. Do you remember the Words of the Oath? *A.* Yes, to be true and loyal and not to deceive each other, as it was the Convicts' intention to take the Ship and murder the Crew and Guard and everyone on board, except the Chief Mate.

Q. Do you Know, if they had Succeeded in taking the Ship, which of them was to be the Captain and Officers? *A.* Yes, S. Flinn to be Captain's Brother and Sailing Captain; John Morrison to be Captain and wear his Clothes; Murphy to be Doctor and wear his Clothes; McLean to be the Officer of the Guard and wear his Clothes; Allen first Mate.

Q. Did you ever hear them talk further of their Wicked Design? *A.* Yes, frequently, that they were to be Officers, and that they were only to Keep one Hundred Convicts in Irons to make it appear all was right, in the event of being Boarded by any Ship at Sea; and that they were to have New Ship's Books, and insert the Names of those in Irons, the others to be borne on the Ship's Books as Captain, Officers, Crew, and Guard, and wear their Clothes.

Q. Do you know if all the Captains of the Messes took the Oath to take the Ship and Murder all hands? *A.* Yes, I know they have all taken the Oath; for I was obliged to go round with Murphy, Morrison and Allen to oblige them to take the Oath.

Q. Did any of them Refuse to take the Oath? *A.* No, not one; they all took the Oath in my presence.

Q. What was the Punishment, if they did refuse to take the Oath? *A.* To be stifled with blankets, Quartered, and hove out of the Port Holes.

Q. Has Murphy said anything to you Since he has been a Prisoner? *A.* Yes, when he said he threw his life on my hands, and that he had a Guinea in Gold he would give me not to say anything against him.

Q. Do you Know if any of the Ship's Company assisted the Convicts with Articles to help them in their Plot? *A.* Yes, I know that Crawley and Nelson, Sailors of the Ship, handed down from Deck Two Bars of Iron, Two Knives, a Carpenter's hammer, and long nails.

Q. Do you Know the Convicts they gave these Articles to? *A.* Yes, Murphy, Allen, McLean, who was in readiness to take them at the Prison door of the Main Hatchway.

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convicts.

Q. Did you ever hear what use they were to be made of? *A.* Yes, to be put in pieces of wood to answer as Spears.

Q. Do you know if there was any Instrument among the Convicts in the Prison to Kill any one Secretly? *A.* Yes, Four Knives fix'd on a piece of wood Kept by Murphy and others.

Q. Do you know who were the Persons they intended to Kill Secretly? *A.* Yes, Mr. Baxter, 3d Mate; Mr. Campion, 4th Mate; and the Carpenter's Mate.

Q. For what reason? *A.* Mr. Baxter for being severe; Mr. Campion for not giving them water; and the Carpenter's Mate for not giving them Nails.

Q. Do you Know the plan how the Convicts intended to take the Ship, when Hugh Maloy was the password? *A.* Yes, one part of the Convicts to force the Fore Scuttle with a View of drawing the attention of every one on Deck to that part, while the main body was to rush aft and force their way into the Guard Room for the purpose of getting Possession of the Arms, and go to the Powder Magazine, which they intended to set on fire, if they could not make their way back to get on Deck, as it would be as well to be blown up as to be Shot by the Guard.

Q. Do you know the reason of the Convicts choosing last Thursday for putting their Plot into Execution? *A.* Because they considered the Ship near the Line and Short passage to America.

Q. Was it not their intention to have taken the Ship last Friday? *A.* Yes, because there were seventeen men allowed to wash on Deck, who were Selected out by the Convicts for that purpose all the Stoutest Men, three Cooks and four Swabbers, altogether twenty four; they were to watch the opportunity, when the Ship's Company went down to dinner, when the Sentinels were to be Knocked down forward, and take their arms, and to come aft and take possession of the Quarter Deck, cut every body down that attempted to come from below.

Q. Did they think of Succeeding that day? *A.* They made sure, for they said that they should be employed in regulating and making out a Ship's Company and Guard, and on Saturday to have a grand dinner, the Dinner was to be Roasted Turkey, Roast Pigs, Geese, with a glass of brandy after the Goose, Port and Madeira wine.

[H] *Surgeon Dewar to Captain Drake.*

Sir,

Ship Chapman at Sea, 30th June, 1817.

Complaint *re*
irregular issue
of rations to
convicts.

The Convicts having represented to me that their provisions are not Issued to them agreeable to the established proportion, and as I have reason to believe there is some foundation for the complaint, I have therefore to request that you will make immediate enquiry into the same, and have the irregularity

corrected; and further that you will be pleased to state to me in writing the quantity of Beef and Pork now due to the Convicts, occasioned by the mistake that has arisen in Issuing their Provisions.

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I am, Sir, &c.,

ALEXR. DEWAR, Surgeon and Superintendent.

[I] *Captain Drake to Surgeon Dewar.*

Sir, Ship Chapman at Sea, Tuesday, 1st July, 1817.

In compliance with your request of yesterday, respecting the Provision which has been Issued to the Convicts, that they complained of Not having had their full allowance of Beef and Pork, I have endeavoured as much as possible to find out the truth of this, of which the following is the result.

Drake's report on the issue of beef and pork to convicts.

The Gunner, who has served the Provisions out to the Convicts since the 13th or 14th of April, and who at that time had directions to Serve it out according to the Establish'd proportion given to him, informs me that in consequence of the irregular Weight of the Pieces of Beef and Pork, some Pieces weigh'd Ten Pound, others only Seven, instead of Eight; that he weighed out the full allowance, without regarding the Number of Pieces, and asserts that he has always given them their full weight; but further to find out the truth, I have compared the Quantity of Provisions Broached with the Quantity Issued out, which if the Gunner informs me right, and I have no reason to doubt his honesty, the following is the Quantity of each, which has or ought to have been Issued out, Since the Gunner has acted as Steward up to yesterday.

Casks Beef Broach'd

	Ps.	each	lbs.
14	42	8	4,704
	5	do. left ...	40

4,664

Issued out

lbs. 751 in 2 Casks

Pes.

9 7 lb.

Broach'd

Pork 8 Casks

	lbs.
52 4 lb. Ps.=	1,664
5 do. left ...	20

1,644

Issued or ought to have been

2,095

451—2 Casks 8 Ps. 3 lb.

I have directed in future that the Beef and Pork is to be Served out by the Pieces, Taking it for granted that the Pieces weigh

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as Marked on the Cask, and as above diff'e appears to be much against the Convicts by not having had it by the Pieces, I will Issue the same to them at your pleasure.

I am, Sir, &c.,

JOHN DRAKE, Commander.

[J] *Government and General Orders.*

Government House, Parramatta,

Monday, 28th July, 1817.

General orders
re muster of
convicts on
ship Chapman.

His Excellency the Governor directs John Thomas Campbell, Esquire, will be Pleased to proceed on board the Ship Chapman, Transport, recently arrived from Ireland, on Thursday next, the 31st instant, at 9 O'Clock in the Morning, for the purpose of Mustering and inspecting the Male Convicts arrived in that Ship, reporting their state and Condition in Writing to His Excellency the Governor.

Mr. Hutchinson, the Principal Superintendent, will attend Mr. Secretary Campbell to assist him in taking the Muster thus Ordered.

By Command of His Excellency the Governor,

H. C. ANTILL, Major of Brigade.

[K] *Mr. Thomas Wylde to Captain Drake.*

Clerk of the Peace Office, New Buildings, Sydney,

Sir,

15th August, 1817.

Notification to
John Drake
to attend
committee
of inquiry.

In consequence of Several of the Convicts under Sentence of Transportation to this Colony, who were in Ireland put on Board the hired Ship Chapman, John Drake, Commander, now lying in Sydney Cove, having met their Deaths, and many others received divers severe wounds and personal injuries, from the effect of Fire Arms used against them during their passage hither on Board the said Ship, and of Complaint and Charge of General cruelty and oppression, and of unjustifiable, improper and unauthorized treatment on the part of the respective Officers in charge and Command of the said Ship and Convicts, during the said passage, and the same having been publickly declared, made and preferred to his Excellency Lachlan Macquarie, Esquire, Captain General, Governor and Commander in chief in and over his Majesty's Territory of New South Wales and its dependencies; His said Excellency the Governor has deemed it fit and expedient that the said Complaint, Charges and Allegations should be Minutely enquired into and examined, and he has given it in Command and ordered and directed that a Special Committee of Inquiry be forthwith appointed and held on such occasion, and that the said Committee shall Consist of John

Wylde, Esquire, LL.B., the Honorable the Judge Advocate of the Territory, John Thomas Campbell, Esquire, Justice of the Peace and Secretary to the Government, and D'Arcy Wentworth, Esquire, Justice of the Peace, Superintendant of Police, who, by warrant under the hand and seal of his said Excellency the Governor, are constituted a Committee, and are thereby directed, Authorized and empowered to hear, enquire into, and examine all such testimony, matters and Information as may relate to or shall be adduced before them touching the premises and the Complaint, Allegations and charges therein referred to, and duly to make full and true Report thereof, upon and with minutes of the Evidence taken in respect thereof, together with all other the incidents, Circumstances and concerns of or in any way belonging to or relating to the Management of the said Ship and Convicts during the passage aforesaid; and I, as Solicitor for the Crown, have received it in Command from his said Excellency the Governor to officially Attend the said Committee, and render it such Assistance in bringing forward Evidences and Documents, as may be requisite for the ends of Justice on such Investigation. In pursuance of the above Command, I have to inform you that the Committee, so Constituted, have appointed Wednesday next at Ten of the Clock in the forenoon at the Court Room of the Governor's Court, held at the New Hospital Sydney, to proceed in the Matters of the said Investigation, and the Matters so referred to them, at which time and place you are required to attend.

I am, &c.,

THOS. WYLDE, Solicitor for the Crown.

[L] *Captain Drake to Mr. Thomas Wylde.*

Sir, Ship Chapman, 20th August, 1817.

In answer to your communication by Letter received late last night, I have to request the following persons may be called upon on the Subject of enquiry respecting the Voyage of the Ship Chapman. Viz. :—

Lieut. Bustard;
Mr. John Milbank, First Mate;
Robt. Aldridge, Second Mate;
James Miles Baxter, Third Mate;

together with the following Seamen:—

William Jones;
John Weymouth;
Alexr. Johnston;
Thomas Harris;
Giffard Campion; and such others as may be necessary;

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Notification to
John Drake
to attend
committee
of inquiry.

Witnesses
proposed by
John Drake
to be called
at inquiry.

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Witnesses
proposed by
John Drake
to be called
at inquiry.

As also Alexr. Wardrobe, Corporal;

James Brown and others of the Military Guard;

And the following Convicts:—

Mich'l Collings;

John Ryan;

Mich'l Woods; together with James Cooper and James Brian, who came as Convicts in the Ship Pilot.

By whose statement I have no doubt it will appear, as far as relates to myself and the Officers and Crew of the Ship Chapman, no proceedings were taken on the Voyage, but such as necessity, Self-preservation and the Safety of the Ship required.

And with respect to myself as Commander of that Vessel, I consider that I have acted in every respect, as near as circumstances would admit, to the orders I received from the Transport Board respecting the Voyage.

I have, &c.,

JOHN DRAKE.

[M] *Captain Drake to Judge-Advocate Wyld.*

Sir,

Ship Chapman, Sydney, 20th Sept., 1817.

Probable loss
on voyage of
ship Chapman
by delay in
concluding
inquiry.

In the case before the Committee of Enquiry respecting the Ship Chapman, I beg leave to represent to Your Honor the disaster that may arise to the Vessel under My Command by the delay of the Enquiry.

I beg to represent that the Charges against Me appear to be exhibited on the Second of August last, a period of Six Weeks and upwards.

The Ship's Expences are about £400 a Month, and by the delay other damages may arise; for instance, If the Ship should not arrive in India at the time the Owners have prefixed, the Freight prepared for her there will probably be sent by another conveyance, which disaster would be a loss to the Owners of the object of the voyage.

By the detention she may lose her Season, being too late for the Monsoons. Another matter, if the Ship should not arrive there until the breaking up of the Monsoons, that Season is Subject to tempestuous Gales, so that there is no foreseeing where the damage may eventually end.

I mention these circumstances with the Greatest respect and deference in hopes that these reasons may induce you to proceed to the final close of the present enquiry with as little delay as possible.

I have, &c.,

JOHN DRAKE, Commander Ship Chapman.

Referred immediately to His Excellency and returned by him with answer, which was read to Captn. Drake on the next Meeting of the Committee publicly; See Answ'r.*

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JNO. WYLDE, J.-A.

[N] *Judge-Advocate Wylde to Secretary Campbell.*

Judge-Advocate's Office,

Sir,

Friday Even'g, 19th Decr., 1817.

The Depositions, taken by the Superintendent of Police and this moment only come to hand, as to the Charge of Murder against the three Soldiers now in Custody, and sent herewith, I beg leave to say I had not the *least Idea*, but of having been duly forwarded to you long since. Should the public Dispatch Box be closed, I will put them in my own yet open.

Depositions
re charge of
murder against
soldiers.

I take the Opportunity of requesting the favor that you will mention to His Excellency, that I understood from him that it was not necessary for him to sign, as approving the Sentence against Com'y Hogan. If I am *wrong* in the conjecture, you will perhaps be so good as to suggest to

Sentence passed
on dep. assist.
commissary-
general Hogan.

Yours truly and obediently.

Copy: J. T. CAMPBELL, Secy.

JNO. WYLDE, J.-A.

[2]

[A copy of the recognizances taken of officers is not available.]

[3]

Recognizances taken of Witnesses.

IN the Territory of New South Wales, Cumberland (to Wit); BE IT REMEMBERED That on the tenth day of December in the fifty eighth year of the reign of our Sovereign Lord George the third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, Gifford Campion, Peter Cocker, William Jones, Michael Arnold, Cornelius Crawley, William Nelson, John Fendaunt, Alexander Johnson, Henry Jennings, Robert Kirby and John Clift, Marines, now or late on Board the Transport Ship Chapman, now lying in Sydney Cove in the Territory of New South Wales, came before us, John Wylde and D'Arcy Wentworth, Esquires, two of the Justices of our said Lord the King in the County and Territory aforesaid, and acknowledged themselves, and each of them seperately for himself and for his own Acts or defaults did acknowledge himself, to owe to our said Lord the King one hundred pounds of good and lawful money of Great Britain, if the said Gifford Campion, Peter Cocker, William Jones, Michael

Recognizances
for the
appearance
of witnesses.

* Note 136.

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Recognizances
for the
appearance
of witnesses.

Arnold, Cornelius Crawley, William Nelson, John Fendaunt, Alexander Johnson, Henry Jennings, Robert Kirby and John Clift shall fail in the Condition under written.

THE CONDITION of the above written recognizances is such that if the above bounden Gifford Campion, Peter Cocker, William Jones, Michael Arnold, Cornelius Crawley, William Nelson, John Fendaunt, Alexander Johnson, Henry Jennings, Robert Kirby and John Clift shall, within the term of two years from the date hereof, and as soon as may be expedient or necessary on their arrival in England, personally be and appear at any the Court in England, having proper Jurisdiction there, and in which any Indictment, Information or prosecution shall or may within that time be found or prosecuted against John Drake, the Master of the said ship Chapman, or against John Milbank, Robert Aldridge or James Miles Baxter, three of the mates of the said Ship Chapman, or any or either of them, for Felony, Misdemeanor or other offences, charged, or to be charged, or chargeable in respect of the occurrences, matters, casualties, or things happening, belonging to and taking place, during, or in any wise appertaining to, the late passage of the said Ship from Ireland to Port Jackson in the county and Territory aforesaid and then and there give Evidence on behalf of our said Lord the King against the said John Drake, John Milbank, Robert Aldridge and James Miles Baxter, and each and every of them; Then the said Recognizance to be void, or otherwise to remain in force and effect, having entered into one other Recognizance of the same tenor and date, the one of which being in force and effect the other to be void.

GIFFORD CAMPION.

PETER COCKER.

WILLIAM JONES.

MICHAEL ARNOLD.

The Mark x of CORNELIUS CRAWLEY.

The Mark x of WILLIAM NELSON.

The Mark x of JOHN FENDAUNT.

The Mark x of ALEXAND'R JOHNSON.

HENRY JENNINGS.

ROBERT KIRBY.

JOHN CLIFT.

Taken and acknowledged before us,

JNO. WYLDE, Judge-Adv., N.S.W.

D. WENTWORTH, J.P.

[A copy of the hypothecation of the ship Chapman is not available.]

[Enclosure No. 3.]

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REPORT of the Honble. Mr. Judge-Advocate Wylde and D. Wentworth, Esqr., of the result of the investigation of the Occurrences on board the Ship Chapman. Rec'd 25 Novr., 1817. L.M.

Report of
judge-advocate
Wylde and
D. Wentworth.

THE Special Committee appointed and empowered by His Excellency Governor Macquarie under Warrant, dated 13th August last, to enquire into, hear and examine into all such Testimony, Matters and Information, as might relate to or be adduced before it, touching and concerning certain Complaints and Charges of general Cruelty and Oppression and of unjustifiable and unauthorized treatment of the Convicts put on board the hired Ship Chapman, John Drake, Commander, during their late passage from Ireland to Port Jackson, New South Wales, whereby several of the said Convicts met their Deaths and many others received divers severe wounds and personal Injuries from the effect of fire arms used against them:—And further directed by the said Warrant duly to make full and true Report in that respect upon and with minutes of the Evidence taken before it, together with all other Incidents, Circumstances, and Concerns of or in any way belonging or relating to the management of the said Ship and Convicts during the said passage:—And having in pursuance of the said Warrant made due enquiry as directed into and with respect to the Premises, and having determined separately and individually to report thereon, the undersigned with due Consideration makes The following Report.

The Ship Chapman, John Drake, Commander, sailed from the Cove of Cork on the 14th of March last, having on board 200 Male Convicts under the Care and Superintendence of Surgeon Alexr. Dewar, R.N., and with a Guard, consisting of a Serjeant and 30 Privates, a Detachment of the 46th Regim't under the Command of Lieut. Busted, 69th Regiment. The Convicts or part of them were brought round from Dublin to the Cove in the Brig Atlas, the Commander of which, it seems, spoke of them to the Officers of the Chapman as a turbulent, desperate, dangerous set of Men, and urged therefore the necessity of great caution of and watchfulness over them. And this appears to have had considerable Influence upon the Superintendent in the first instance even, as it cannot perhaps otherwise be accounted for, why 12 of the Convicts only at a time, even in the Cove of Cork, were permitted to be on Deck. Such an unusual measure could arise only from excessive natural timidity or cruelty in the Superintendent, or in consequence of the character thus given to the Convicts; certain it is, in no part of the passage was any

Departure of the
ship Chapman
from Ireland.

Statement of
character
of convicts.

Influence of
statement on
surgeon.

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Report of
judge-advocate
Wylde and
D. Wentworth.

greater number than 12 Convicts at a time, and only for one hour (as duly noted in the Diary), admitted on Deck, except on Wine Days, when the Convicts were passed up the main and down the fore hatchway or in respect of those permitted on Deck to wash, Cook and for other like purposes. Another Circumstance, which might be thought as tending to shew the influence of the suggestions made with respect to the Convicts by the Master of the Atlas, is that the Irons were not as usual knocked off, when out at Sea (but from 2 or 3 of the Prisoners appointed to particular Duty in the hospital), but from the commencement of, to the termination of the Voyage, were kept on except in cases of Sickness or personal Malady; nor removed even when the Ship was moored in Sydney Cove, but at the particular Instance and direction of the Secretary to the Governor. In this respect no order is indeed given in the official Instructions to the Surgeon or Master; and the non-compliance with the general Custom in this respect will, it is presumed, be resolved and become culpable or otherwise in the party, as justly attributable to a sense of proper Security, a want of due feeling in unnecessary restraint, or a more than ordinary timidity and apprehension of Danger with or without cause.

First alarms
of rising of
convicts.

The Ship had been but a very short time (only 7 days) at Sea, when (on the 22nd March) the Sentinel gave the alarm at 10 o'Clock P.M. that the Prisoners were picking the locks. All were instantly at Arms; but the Superintendent, the Commander and his brother hesitated not to go down into the Prison and, ascertaining that there was no sufficient Cause for it, quiet was restored; but at 12 o'Clock after, an Alarm again urged the Crew and Guard to Arms and was again allayed; and during the night two of the Crew were posted to listen to, and afterwards reported, the Prisoners to have said "It is a bad job, we are found out":—to which another replied, "There is time enough yet"; and at another hour the same night, "the Soldiers were not worth a d—n! and if they had their will, they would blow them to h—ll"; which reports were duly noted in the Superintendent's Diary and original log book of the Ship. No Consequences whatever, as to punishment or otherwise, arose however to the Convicts from these first alarms, though by no means producing on board trifling effect or sensation.

Reported
mutinous
conversation
of convicts.

First corporal
punishment.

On the 28th March, one of the Convicts was handcuffed (not flogged) for insolence, and the first Corporal punishment took place on the 9th April following for theft; About this time the prisoners were on occasions listened to by Crawley, Nelson, Cocker and others of the Crew, and suspicious speech reported as then heard by them; and the Sentries also reported to have

seen the figures of the Prisoners outside the Stanchions, endeavouring to turn the locks of the Hatches; and in proof of the fact, boards were actually put up afterwards, it appears, between the Stanchions.

The Ship went into St. Jago's on the 4th April (while there, one of the Witnesses states that a riot took place between the Soldiers and the Sailors, and that most of the Sailors were in Action) and sailed thence on the 7th; soon after which the Irons of the Convicts became matters of observation and suspicion with the Officers, in consequence of traits, as reported, of insolent and disorderly Conduct, and on examination many found deficient as to rivets, or broken in one way or the other; a fact admitted by the Convicts examined before the Committee, but alledged to arise and to be reasonably accounted for, as only affording a facility and ease to them in dressing and undressing and in other purposes of necessary cleanliness. On the 7th April, complaint was made by Baxter, 3rd Mate of the Ship (to whose Superintendence and controul, from the beginning of the Voyage the Prison and its cares were chiefly committed) that the Convicts would not dry holystone the Deck; when the Superintendent, upon hearing the remonstrance of the Convicts on the subject, was, upon Consideration, influenced to comply with the wishes of the Convicts, who again on the 12th, together with the Sailors, refused to take, for a reason assigned but compulsorily, the fresh beef on board ordered for the rations of the Day. In the evening at 7 o'Clock, a report was raised by the Sentries and watch on Deck that the Convicts had made their escape out of Prison and some of them actually on Deck. All flew to Arms, great confusion and consternation prevailed, and upon a suggestion that some of them were in the rigging 2 *blank* cartridges were discharged up there; lanterns were used, and at length the cause of the alarm found to arise only from one of the Sailors (Nelson) having, on being challenged, jumped up suddenly on the Deck from one of the hatches, and another (Crawley) having reported to the Officer of the watch, in the hearing of those on Deck, that he saw three men standing by the Chain Cable Scuttle, and to one of the Sailors (Arnold) that he saw 2 Men go down the Scuttle.

Nelson, being brought to confess himself the cause, and alleging the object of his having been below was to get water (not being believed as to his purpose, as water might have been got elsewhere, and the place, where he had been, had a way of communication with the Prison) became strongly and generally suspected, and Crawley, being charged by one of the Crew (Arnold) with having been overheard to say to Morris, one of the

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Report of
judge-advocate
Wylde and
D. Wentworth.
Visit of ship
to St. Jago.

Examination of
convicts' irons.

Complaints of
and by convicts.

Alarm *re* escape
of convicts
from prison.

Cause of the
alarm.

Suspicious cast
on Nelson and
Crawley.

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Report of
judge-advocate
Wylde and
D. Wentworth.

Nelson and
Crawley put
in irons.

Suspicious
conduct alleged
against Nelson
and Crawley.

Prisoners, while getting the water on the 17th March, "d——n their eyes, we'll heave them all overboard," also of being too intimate and connected with the Convicts in the result, upon the positive and direct requisition of the Crew and Guard generally and of the Officer of the Guard (who from his Conduct seems to have been considerably excited as to the cause of the alarm on the occasion) were both put in Irons, and Nelson next Morning received corporal punishment, the particular charge being written down and openly read on deck and considered by all; it appears (although then free from feelings of agitation or alarm) well founded and proved against him. Upon the evidence generally, as of Nelson and Crawley themselves, there seems some ground for this opinion; they acknowledge themselves at least to have been kindly disposed towards the Convicts, as to giving water, &c., and Nelson gives much stronger Ground for it in the avowal, that Murphy, one of the Convicts, had tried, before this, to get keys from him as Steward's boy, with which a way might have been made to the Gun-room, altho' it does not appear in the evidence whether he communicated this fact to the Officers of the Ship; and further in this That he (Nelson) had heard Crawley say more than once, at different times, that he did hear the Prisoners talking one to another and swearing one another in, and that he had told Captn. Drake of it:—and that when in the Jolly boat with him and others, he (Crawley) used frequently to communicate with one Collins (why this matter of suspicion will be made to appear) and did tell John Jackson a prisoner also in the boat, that the Prisoners did intend to take the Ship; that Murphy had sworn him (Crawley) in at the Ship's head, and that he was to open the Prison doors while they went below at dinner, and that they were to take the Ship and carry her to America. These facts were however denied by Crawley, but not so by Jackson, when, upon Report to the Captain, a personal examination on the subject took place at the time. Crawley persisted in the denial too under his examination before the Committee.

Convicts
confined on
orlop deck.

On this day (10th April) three of the Convicts were confined on the Orlop deck upon a charge of insolence during the alarm on the night before, but no other punishment took place.

Suspicious cast
on White.

On the 14th April, suspicion increased and fixed upon another of the landsmen on board (White) "from being observed," as it is stated in the log, "with the Convicts"; and one of the Convicts received Corporal punishment on a charge of theft; On the 16th April, another Convict (William Leo) was also put into confinement on the Orlop deck for, as alleged, suspicious and insolent Conduct; and while these Prisoners were confined there,

Leo confined on
orlop deck.

one of the Crew (Arnold) stated to the Ship's Company, though not to the Officers, that one of them (Donohaugh) said to the others "I'll fight till I die."

On the 16th April, there existed enough of apprehension to induce the Commander of the Ship to pass the Chain Cable over the main hatchway, and while this was doing, it was reported, and entered in the log book, to have been said by one of the Prisoners "That is your Sheet Anchor"; in further caution, the Convicts were mustered on Deck, the Crew and Guard it is to be observed being all under Arms, and the irons examined; very many of which are stated to have been found defective in one way or other; during this business, Collins (one of the Convicts) reported privately to Baxter, the 3rd mate and in charge as before mentioned of the prison, the fact of a general Conspiracy existing among the Prisoners, who were all sworn to attempt to take the Ship murdering all on board and carry her to America. Collins was sent down, and this information was forthwith communicated to the Master and Officers, who were so far alarmed as to pass the Chain Cable over the fore and after hatchways, to bring up upon the Poop the Arm-Chest and all the fire arms from below, and to rig the Capstern with Cutlasses. 60 of the Prisoners were allowed to be on deck however by twelves for an hour each during the day; at night a good watch was set and the night passed without any disturbance in the Prison or on board.

The next morning (the 17th April) the Convicts were again passed round the Deck to make observation as to the state of the Irons (for there could be no other purpose), and Michael Collins was then retained on Deck, taken in before the Officers of the Ship and there confirmed the Account in detail suggested the day before to the 3rd Mate, stating his readiness to come forward in any Court and swear the same.

The Superintendent seems to have cautioned him strongly as to telling the truth; "neither threats or persuasions, it is stated in the Evidence, were used." "The answers were given without hesitation in a ready and collected manner so as to gain belief"; while he stated that he had refused to take the oath at first, but was forced afterwards to do it.

The relation of Collins, thus given and at once fully accredited in every particular, was at once made known generally, if not wholly, throughout the Crew and Guard; the Chief mate was so alarmed as to hasten out from the Cuddy, before much of the statement had been heard, to adopt defensive measures. Collins was hailed as the preserver of the Ship, taken under protection on Deck, and the Joiner is heard by one of the Prisoners (Fagan)

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Collins'
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Examination
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Effect of
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Collins'
statement not
confirmed.

to exclaim to the Soldiers and Sailors, "There is the man meaning Collins (God bless him) who gave us information the Villains were going to take our lives."

The Superintendent endeavoured to obtain a confirmation of what he by his conduct and words evidently believed as the truth, separately from the 2 Prisoners (who seemed to have been held properly in rather better opinion than the other Prisoners) in care of the hospital, strongly charging them in some anger with a knowledge of something wrong in the Prison; but all knowledge thereof was denied. In the mean time every means of resisting any attack from the Prisoners were, of course, openly adopted; a small chain was passed through and interlinked with the Chain Cable to form an iron grating over the hatchways, arms of all sorts got ready, and ammunition supplied.

Precautions
to prevent
a rising.

At 4 P.M., the Drums beat to Arms and Crew and Guard under Arms; the Prisoners were mustered on Deck and Irons examined and 5 or 6 of the Prisoners receive Corporal punishment in respect of the then state of them. On this occasion, Crawley, one of the Sailors, as before mentioned received 36 lashes for suspicious Conduct, while one of the Convicts Fox escaped punishment by delivering up a file brought from the Prison. The Prisoners were sent then down below, and nothing particularly occurred till about 8 o'Clock in the Evening, at which time only the regular Watch and Guard and Officers were on Deck, where the Captain was also walking. The relief Guard and other watch were below, some going to, some in bed and some asleep. Crawley and Nelson between decks, and quietness prevailing in the Prison, when all at once a sudden fearful outcry took place, which led to a scene of such disastrous casualties and circumstances, involving matter of such awful responsibility upon those to whose Care and protection the Convicts were consigned by the mercy of the Crown, that it may not be irrelevant to attainment of a fair judgment, nor seem inconsistent with principles of Justice, just to catch the reflection cast, as it were from the past occurrences and incidents of the voyage, upon the Character feelings and conduct of the Officers under such obligations, fully and conscientiously to put into effect the merciful intentions of the Government.

Corporal
punishment
of Crawley
and convicts.

Raising of
alarm.

Convicts in
state of content.

It is to be observed then that up to this period all the evidence tends to shew that the Convicts felt themselves without cause of complaint in any respect, and were satisfied as to Rations and general good treatment on all hands, no instance or person being even suggested as an exception.

The Superintendent is in regular attendance upon the Hospital and the Sick "making a rule to go after breakfast, and always

visiting it once or twice a day and generally oftener, ready to obey any Summons at any hour, night as well as day, is kind, very kind to the Prisoners, no one could be better, listening to any remonstrances and ready to redress any grievance"; two prisoners have only been corporally punished and they upon charges of theft, though occasions of suspicion, alarm, and disturbance, disobedience and insolence are stated to have occurred. The Guard and Crew have been at least three times under Arms upon sudden alarms, and firing taken place, but only of blank cartridges. At these times, the Prison has been visited, and due exertion, courage, circumspection and restraint appear in ascertaining if the given cause of alarm be well founded and allaying the consequences, when proved groundless; neither cowardice or severity have been in any respect or instance manifested, except as far as the act of keeping the Prisoners in Irons, and admitting so few on Deck and for so short a time, may be considered as so chargeable; and from this must not justly be separated the Consideration that, if the restraint is to be attributed to a Spirit and disposition of cruelty, it is matter of surprize why that principle was only indulged in that particular instance, and all other traits and instances of conduct towards the same object not bearing the same influence or character. But it is especially to be remarked how gradually yet perceptibly the shades of suspicion and alarm have increased during the voyage, till at last they involved not only the Prisoners, but part of the Crew. Three of the Sailors, Crawley, Nelson and White, are in like durance with some of the Prisoners, have suffered the same punishment, and suspected treachery seems entirely to have filled up the baleful spell of Doubt, suspicion and mistrust. Its operation at the time is marked by the terror that prevailed, many feeling themselves the devoted victims of murder without escape, for the space around allows no footing, without avoidance except by personal conflict, its eventful upshot with superior numbers and the dangerous resistance of force by force; nor is it to be accounted for, but in the strength of this influence, that the prison custody should be not only so lightly but seemingly not at all considered and go so little way in appeasing the general alarm, which, in this with other general advantages of defence against the Prisoners, should at once be and one should think would have been laid at rest. Conspiracy against the lives of those on board is in terror believed to be waiting only a favorable opportunity to do its work of destruction; but no retaliative measure has been adopted towards the presumed authors of it beyond the corporal punishment of a few for the purpose of exciting terror or inflicting just punishment, and the preparation of every possible

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Panic created
on ship.

means of defence against that violence and real or supposed attempt at prison breach, which, as the spark is alone wanting to give fire to the train, so soon to burst in destruction, injury and suffering.

At about 8 o'Clock in the Evening of the 17th April, the result of the Evidence, however conflicting in certain points may, it seems, be correctly stated at least to be that on a sudden a Shot is fired, very forward in the Ship but the moment before in a perfectly undisturbed and ordinary state in every respect; and at or just before that same very moment a run or rush aft to the hospital is heard in the Prison below, the nature and effect of which, as greater or less in degree, is differently described and measured. The Commander (upon all the evidence in serious alarm) calls out aloud for the Guard, exclaims "they are coming, the prisoners have made the attack," and hurries towards the Cuddy whence the Officer of the Guard and Superintendent burst out, the Cards on the table proving the engagement thus interrupted by the loud repeated outcries of alarm. The word of Danger and Attack "part of them are rushing aft and forward" is repeated by one, by another, by every one. The Serjeant of the Guard calls it out below to the Ship's watch and Guard there. All rush on Deck without a minute's delay, whatever their state as to dress or otherwise. The Muskets are brought up and then first loaded, the arm chest is emptied and a general firing takes place, even through the bulk head over the Hospital into the Prison as from every other part of the Ship, where it can be opened upon the Prisoners. Terror and confusion prevail in the highest degree; the darkness of the hour afforded no power of distinguishing the objects of the scene, and Terror, feeling for the Foe, as it were, in every part of the Ship, raises the outcry "The bulk head is broken, the Prisoners are on deck, at the fore-castle, at the Hatchways, at the Scuttles, in this and that and every part of the Ship." At the instant the Officer of the Guard collected such of the Soldiers on the Poop, as he could succeed in withdrawing from the Deck, as in his opinion the best post of security, if the Prisoners were really then there, or succeeded in getting on deck and the most effectual means of at least diminishing the power of destruction by reducing the numbers of those engaged in firing; many still remained on the deck.

The firing continued, till one of the Sailors (Murray), by mis-hap, was shot in the after hatchway, when an interval took place, some say 10 some 7—6 or 5 minutes, whether in all parts of the Ship, or only aft, does not seem satisfactorily to appear; firing however soon recommenced and ceased not for about 10 Minutes or $\frac{1}{4}$ of an hour longer, when at last the Prisoners are asked, as said

Occurrence of
general firing
into the prison.

Duration of
the firing.

by some, or heard, as said by others, to cry for quarters and were directed and accordingly did immediately kneel round the main hatchway and pray their lives to be spared.

The appeal immediately put a stop to all general firing which had lasted, it seems on the evidence, from about $\frac{1}{2}$ an hour to three quarters; (though some of the Soldiers examined say less) computed and put down in the Diary and log however at about an hour; some shots are stated even after the general firing ceased to have been heard, a fact which should not escape observation. Two of the Prisoners examined (Kiernan and Talbot) state the cry of mercy to have been raised generally in the Prison, as soon as 5 or 6 Shots had been fired into the Prison, and discontinued only, when the fire was directed to that particular point, whence the cry proceeded; and further that the cry was heard, as Baxter and several of the Sailors said, "that they would give no mercy and only as much mercy, as we would give them that is, cut our throats." One of them (Wood) swears however "that before Baxter came to the hatchway just before the termination of the fire, there had not been a word said in the Prison, no cry whatever for mercy except the groans of the wounded":—and in this the evidence generally given on this point concurs, and that, in consequence of the excessive noise and confusion, no cry of mercy from the prison was heard on deck, till immediately before the fire ceased, when only 5 or 6 Shots more were then discharged. The Guard, Officers and Crew in body remained on watch during the night on deck, and the Prison is visited for the first time the next morning, and not at a very early hour; when three of the Convicts killed and 22 wounded are found as the result of this lamentable catastrophe.

But this general outline marked out, it is necessary more particularly to enter into the circumstances and incidents of the eventful period and transaction, and suspiciously to have them in watch, as they occur and give influence to and indicate the intentions and feelings of those moving in the scene of action; and against whom, in equitable Judgment, everything is in the first instance to be taken and presumed.

With this view, if the account of the Prisoners as to the actual state of the Prison at the commencement of the firing is taken into consideration, it will appear that every one gives it differently, and so in Conflict as to facts and circumstances as necessarily to throw it altogether into doubt and uncertainty without noticing even the little contradictions and inconsistencies, which are not few, of each particular evidence in itself.

The first witness (Kiernan), being at the head of the ship near the fore scuttle, states that only two or three men were out of

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their beds, and that there was no further noise than what proceeded from them on Baxter calling out "what are you all up to," and yet that Baxter rammed a Cutlass down without any apparent Cause as those 2 or 3 were, at the very time, in a different place, not under the foreshuttle, when they rushed away to their different beds and that on no other noise whatever a firing immediately Commenced, which continued at times for an hour and a half.

The next witness (Smith), who was in the hospital, states himself to have been awaked out of Sleep by a Shot and that he heard no run or rush whatever; and believes he would have heard it, if it had been made.

Fagan, who follows as a witness and who lay in the Prison, deposes that some of the Prisoners were up and some in bed, that the shot was the thing that waked him and not any rush of Prisoners, though he "heard some of the prisoners, several feet, running aft, tho' not so far aft as he was."

It is stated by another (Sheridan) that there were 20 Convicts lying at the fore-scuttle, telling stories about old witches (not perhaps a very probable engagement after the serious circumstances of the day), When Baxter came to the foreshuttle and rattled (not rammed down) his Cutlass and asked "what noise it was between decks," when the Prisoners made answer "there was no noise." Baxter insisted there was, and ordered them to go to bed; that he heard him immediately tell the Sentries, "The Prisoners were running aft to break the Prison," and ordered them to fire: and that there had been just before a great running to and fro on the Deck.

Three fourths of the Prisoners were stated by the next witness (Wood), whose birth is under the main hatchway, to have been in bed at the time the firing commenced, but that there "was not any particular number of them collected at any particular place in the Prison that he saw, and that there was no noise except of three or 4 of those, who had been handcuffed, wondering what they were handcuffed for; that if any one had said that there was any number of prisoners about the foreshuttle which he could plainly see to, it was not true; that a Sentry on the main hatchway, who sang out to Captn. Drake when all was perfectly still in the prison except a little noise, which a man might make in moving in his chains, "There are men at the hatchway," and Captn. Drake then sung out "fire away." Baxter, in this therefore, is entirely removed as the immediate cause of the first firing. This witness further declares, that "if any one had informed the Committee that just before the firing commenced

the Prisoners had run to their births, it was not true; that they were going to their beds gradually, the same as any other afternoon, and that there was no running whatever."

James Talbot, who was called Captn. of the Deck, lying forward in the prison, gives an account essentially different from all the preceding; he "states the chief part of the Prisoners to have been in bed, but that about 30 might be sitting up by the sides of their births or making up their beds, as it was warm; that he himself was lying under the fore-scuttle that night with 2 others (named) till he was alarmed; and that 3 was the largest number he saw collected out of bed; that he asked the Sentry to shift the Scuttle as it rained and the Sentry was putting it on, when Baxter came and shoved it off and thrust down a Cutlass, which he afterwards waved about, saying, why don't you get to your Cabins and that then the firing immediately took place; but that he did not hear the first fire till 5 minutes at the most after he heard the Cutlass; that there was no running before, that there might be after the firing, nor any noise except of himself and the other two men getting into their births."

On the other hand, the master of the Ship states, and every other witness who speaks at all to the point, swears most positively, particularly the women, who were in the Soldiers births and whose attention one would presume to have been peculiarly excited at the time, to a run or rush of the Prisoners before or at the moment of a Shot being fired, and some of them (the Sentries) go so far, as to having heard the Prisoners actually in the Hospital, the door of which was violently broken down.

It is to be observable, however, that whether in fact the Shot preceded or took place in consequence of the run or rush of the Prisoners, one followed so immediately at least upon the other as not likely in the then state of things to allow any but he, who actually fired or those with him, to be sensible, which was the efficient cause; as either circumstance might so naturally be the result in that respect of the other. The Sensation therefore, generally felt in the Ship, arose from the joint effect of both; and if the Shot in truth preceded the rush, it may be attributable to the alarm stated to have been given just immediately before the commencement of the firing by the Ship's Cook (Wells) that he felt the grating of the foreshuttle raised up, as he was at that moment passing over it.

Nor in short does there seem upon the whole any ground to have in doubt, but that in fact many of the Prisoners were not at least in their beds, however innocently otherwise engaged, just before or at the time the first shot was fired; and that upon the Challenge in that respect or upon the Shot being fired down the

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forescuttle, there was such a rush or run of certain Prisoners from forward aft (though how far may be uncertain) as, in the then state of alarm, anxiety and fearful expectation, was presumed to be the fulfilment of the purpose and attempt every one believed there were too well founded reasons to expect.

If this be not the just conclusion, the firing in its commencement must have been of direct purpose and arrangement; this presumption, however, as extending to the Officers or Crew and Guard generally, is rebutted by every circumstance that took place; for hurry and confusion mark every act and step; the Arms are to be loaded; the watch and Guard are below; the running to and fro on the deck and the various outcries that succeeded each other, the continual change of position taken by the Officers during the firing, and particularly the comparative inefficacy of the firing, strongly prove the unsteadiness and feeling generally attending a sudden surprise and uncertain conflict. The Captain of the Guard takes to the Cuddy with such force, as he can collect, to make the last resistance against an enemy, who, the alarm proclaims, is already in possession of the Deck, his first charge to his men is to be cool and not fire hastily, words unsuitable but to a notion of expected attack, and with the greatest difficulty restrains his men from rushing to the place of supposed contest.

The language made use of at the time seems not to be unworthy of observation. The Commander of the Ship, after the firing has continued some length of time, uses words of challenge rather than revenge or punishment, exclaiming with epithets of reproach "why don't you come on now" (which Sentence as of challenge it would certainly seem, for it can admit of no other construction applicable to the occasion, was chalked on the Ship's boats from time to time on the voyage), and afterwards cries aloud, so as to be heard in every part of the Deck, that the Convicts had said "they would shew no mercy"; and the assertion indeed, however unaccountable and most probably in truth arising in mistake, seems at the moment to have been believed by all, and has strong evidence to support it as actually expressed by the Prisoners. The women heard it as repeated, and clasped their hands in terror and despair. Nelson then between decks speaks particularly to hearing it in strong terms. "They stopped from firing twice and asked the prisoners if they would have quarters; I heard several of the People asking the Prisoners below, whether they would have quarters, they asked several times but received no answer. At last something was said and it was immediately called out on deck the prisoners would have no quarters"; and he and Crawley state themselves to have participated in the

general panic, and to have believed that the Prisoners were making an actual attempt to take the Ship and were already on deck; this occurrence at the same time tends to shew, that no cry of the Prisoners for Mercy, even if made, had in fact been then heard on deck; if it had and was not had in regard, it is difficult to account for the idea or motive for such an idle pretence; if it had not, it reflects the true impression of all in the Ship, even at this time.

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It is also sworn that, on the Sentry at the after hatchway calling for more ammunition, the Prisoners were heard to say and it was reported "their ammunition is all out," "now is our time, we'll shew them no quarters." The firing however did not last long after this, the cry for mercy is soon made or, as the Case might be, repeated with effect and the expression made use of on the occasion is worthy of remark "will you have quarters then; if so, then come and kneel down round the hatchway," as the term "quarters" applies not but to an idea of conflict and concession; nor can it be well imagined, that such words would have occurred at such a moment to him, who had wilfully been destroying the lives of others, having no power to resist his cruel and sanguinary purposes. During the whole period of the firing, there seems upon the evidence no reason to believe that the general panic or its influence at all subsided; the blood no where or in any degree appears to have cooled; the Officer of the Guard remained on the Cuddy to the last shot, and some little time only before it begs of the chief mate for God's sake to go below and see, if the prisoners are breaking out aft; and on the Mate's return the doubt remained unsolved and uncertainty as to the issue, still kept the Officer on the poop.

During the firing every Officer of the Ship, who was on Deck, seems to have joined in the firing not at one point but moving to different parts of the Ship. Baxter is spoken to particularly as every where using arms, active encouraging and directing the fire in the most effectual and destructive manner and using expressions of determined bitterness and fell design. But to him as to all still is the observation and consideration due, what the probable influence and ideas, that led and prevailed on the occasion; nor must the general habits and measure of feeling naturally belonging to them be altogether overlooked.

Participation
of Baxter in
the shooting.

The Superintendent it seems clearly to be ascertained took no active part whatever in the scene; he is found at the beginning and termination in or near the Cuddy, where the women on board, it is to be noticed, had betaken themselves for protection and defence, and to whom, overwhelmed with terror and grief, he is stated to have used the pointed expressions "take patience and pray to God!"

Actions of
the surgeon.

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Want of control
of officers over
soldiers and
sailors.

Some of the Witnesses (both Soldiers and Sailors) swear that no exertions on the part of the Officers could have availed to stop the firing sooner, and that any orders given in that respect would have been disobeyed, and that, in consequence of the officer prohibiting those on the Cuddy from firing, one of the Guard (Hooper) said, "let us lay down our arms and let them take the Ship"; and there does appear to have been some difficulty on the part of the Officers, even at last, entirely to stop it, as the Soldiers continued to slip down from the Cuddy on the contrary side, from where the Officer was standing, and to get to the hatchways; and in one instance the Officer himself had to take the piece out of the hands of the Soldier (Hooper) to prevent the continuance of his firing it.

It seems to be almost impossible, but that the Prisoners must have been aware, from the Incidents that had taken place during the day, of some strong and new feeling and sensation having arisen with respect to them, however innocent of the crime they were in fact suspected of; the close inspection of Irons and the punishments that followed, the dismissal of the Cooks from deck, and general preparation as to arms upon it, must have had its natural influence upon whatever were their particular feelings and designs; and at least one would imagine upon a Shot fired afterwards upon them, as well as the noise and running at this moment upon deck, would urge to speed the retiring steps of those, whatever their true number, who at that particular time were not in their proper place.

Condition of
nervousness
throughout the
crew and guard.

It remains still to be observed that whatever in fact was the principle or feeling of the hour was, in every sense general and universal throughout the Crew and Guard, every one from stem to stern, whether Officer, Soldier or Sailor, appears to have felt the same impression, and a like, if not an equal degree of alarm. The Act of one may be considered the Act of all, as far as intention had part in the circumstances; and whatever Judgment justly belongs to the conduct of any single one almost, on the occasion, would seem with equal force and justice, as far as purpose extends, to involve and await all concerned; while in truth the presumption of extreme danger, and therefore of the necessity of self defence or a determined purpose of committing savage and ruthless Massacre, appears indeed the only alternative that the facts will naturally allow of.

If any doubt could possibly remain as to this sense of extreme danger, and the intensity of it actually existing in its disastrous influence from the commencement to the termination of the firing, the conduct of all the Officers, the Crew and Guard, after it was over, would seem at once to justify the dismissal of it, and

procure conviction on the point, for all on board to a man, instead of then even feeling a state of security or safety from the dangers, which late were thought to threaten, are proved to have kept anxious watch during every hour of the night; during which the Sentries (as spoken of by one of the Prisoners examined) several times threatened, upon the least noise, to fire into the Prison; the feeling of alarm was still strongly felt, and even with the Officer himself in such a degree, as to impose upon him, as a matter of duty, to remain with and keep his Guard under Arms during the whole night. And indeed such was the terror produced by the attempt, which was so fully believed to have been made by the Prisoners that night to accomplish the intentions never doubted to be entertained by them, that for 2 or 3 Weeks afterwards, it seems clearly to appear on the evidence, neither Crew nor Guard and some even longer, on this Account as it is sworn, and not the heat of the weather, dared not go at nights to their births or, if they did, to undress themselves; but slept about on the Deck with their Musquets at their heads, till, as the Mates suggest, they could scarcely on account of the general lassitude in consequence, get the Sailors to work the Ship; and so far was this carried, that it appears upon the evidence (Celia Mahon's) that, if a Soldier felt himself so overpowered as to yield to the influence of sleep, he would ask his comrade to watch for him that night, and he would watch for him in return another. What must have been and continued the impression, which produced this state of things, necessarily arises in suggestion to the mind, and what will be its conclusion, if it can trace in every succeeding Incident but one and the same Character and Influence.

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Prevalence
of anxiety
throughout
night.

Continuation
of feelings
of alarm.

Whatever might have been the fatality occasioned by the firing, it remained unknown, as has been already suggested, till the next morning; when however it, even then, does not become the first object of attention.

The circumstance strikes cold upon every feeling; but still as reflecting upon the Character and Conduct of one, who stands arraigned, as it were at once of savage inhumanity and cruelty, it becomes matter of proper pause and reflection whether the cause as the principle and defence of it may yet be found in any possible reason or suggestion belonging to it. "It was not deemed safe to open the Prison that night," "and if I myself had been willing to make the risk, I could have found no one hardy enough to have accompanied or assisted me." This is the declaration made by the Surgeon, whilst it cannot be doubted that without attendance little effectual assistance to the wounded could have been rendered.

The question
of the neglect
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Narrative of
events on day
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firing.

Domination of
the crew and
guard over
officers.

And here again the enquiry irresistibly recurs, could any Officer or Soldier in H.M.'y's Service, or Seamen in any service, in such number as on Deck during that night, be possibly found as to hear unmoved, or hearing hesitate to or be restrained from relieving the anguish of the unhappy Prisoner (be his colour or condition or conduct what it might) whose groans for so many hours implored his pity, unless an irresistible and overpowering feeling to preserve their lives, then certainly presumed, and no matter as to this with reason or not, to be in hazard, stopped the ear to mercy and rendered the heart callous to every sympathy.

The occurrences of the following day (the 18th April) are as strongly marked with peculiar character as Circumstances; at a very early hour, a message is sent to the Prison to send up within a few given minutes all the Saws, files, and Instruments, which they have, or that the firing will recommence, and not cease, till every one is destroyed; but the prison is not opened, and the messenger only gives it through the hatchways; compliance is promised, and some few things are soon collected on Deck, but not in any such quantity or of a nature to effect any thing serious, or to warrant any well grounded alarm for the safety of the Ship; it was suggested, but not at all proved, that the Prisoners took an opportunity of throwing things from the Scuttles. Soon afterwards "the Conspirators," or the Ring-leaders at least, as they are immediately denominated by all, are hastily called for by the Crew and Guard, who appear to have considered themselves and indeed to act as being the arbiters of their fate, who had thrown them into that risk of life, which, on this account, placed them equal at once in this respect with any Officer of the Ship. One fact takes place, which strongly shews that the Officers of the Ship did not, in the first instance, even encourage the men in this procedure; for it appears that Baxter is twice ordered out from the Hatchway by the Chief mate immediately, but by the Master himself, when he is about to descend for the Prisoners. Baxter is certainly very busy on this occasion also, full of action and words to the Crew and Guard, whom he is proved to have addressed in a very improper and inflammatory manner, as to taking the affair into their own hands and not in this respect attending to the Officers, alleging that "as the Prisoners had tried to take their lives, they would now take some of theirs"; and Crawley, Nelson and others swear, that the Soldiers and Sailors were heard to say that, "they had threatened to take their lives, and they would take theirs"; the speech of Baxter at the moment is represented by the Officer of the Guard to the Master of the Ship, who only answers that he cannot help it and who, it is also suggested by the Officer, did not exercise in

his opinion a proper authority over his men; though it is allowed by him, and is full proved, that the Soldiers of the Guard were a little mutinous at first, and expressed their wish to have the prisoners shot, in general outcry and a tumultuous manner; and that the Sailors were in a mutinous state; in these points all the evidence agrees. Several of the Prisoners are however brought upon deck, whom the Soldiers and Sailors of themselves, as the Officers did not assent, were about immediately to shoot; and by some it is suggested, that one from every Mess of the 17 Messes formed of the Prisoners should be shot. Two or three of them were actually placed on their knees as for their last moments; but the Officers at length, with great difficulty, prevailed on the Men, by persuasion and not authority, to spare their lives and only to punish. The Officer of the Guard Swears "the Men were punished to quiet the minds of the Soldiers and Sailors, or otherwise, he really thinks, they would have taken their lives, they were so inflamed; and but for this reason he does not think the Superintendent would have punished the Men." And in this the other evidence strongly confirms him.

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Domination of
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Severe corporal punishments immediately took place; three of the Convicts receiving 3 Dozen lashes each and eight about 2 Dozen, more or less; nor perhaps is it to be wondered at, that they were so, under the evident impression upon and conviction of the Crew and Guard, that they were punishing those who justly deserved Death at their hands, and in such measure of punishment, however severe, were only enduring much less than they deserved. This impression most unhappily for the prisoners never left them; and, from this moment to the end of the voyage, all feeling and consideration were lost to the wretched Convicts, whose sufferings and privations in consequence, it is indeed painful to allude to or have in recollection; but however strongly pity and compassion are provoked in their cause, it must not be overlooked what the series and nature of those circumstances and feelings, and particularly in what sort of Persons, which occasioned them in the first Instance and from time to time continued to make them the subjects of miserable distress, coercion and cruel treatment. Nor must it be forgotten that the Sailors of the Crew in Irons on the poop were treated, if possible, with greater severity and more pointed personal odium, enduring equal punishment and hardship. Whatever the Convict prisoner suffered, surely awaited the freeman and the Messmate, when he, in like manner and on like evidence, was deemed chargeable with equal criminality and guilt.

Infliction of
severe corporal
punishments.

Subsequent
cruel treatment
of convicts.

Sailors treated
in similar
manner.

Wm. Leo, of the 4 principal conspirators as alleged by Collins, and punished on this occasion, states that after the punishment

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Leo by sailors.

pickle was put on his back; this however is positively denied by all, who had the means of knowing the fact one way or another; and, as it appears quite clear upon the evidence that the prisoner was guilty of wicked and no doubt wilful perjury in charging Baxter with shooting Kelly afterwards on the Poop, the fact remains entirely uncertain; he was, however, after his punishment in his Chains, and as he himself states, in handcuffs, cast overboard and towed some minutes in the Sea; a particular cause is assigned by one of the Sailors, who took part in it, who acknowledges it was done with a view also to frighten him, though as stated in vain, and that the Officers had given no sanction or had any knowledge of the circumstances at the time. Also on the evidence it appears that one of the mates prevented some one of the Soldiers and Sailors from cutting Leo adrift, while overboard, and that in fact the relative situations of the Superintendent and other Officers with respect to Leo, the barricade, &c., being between them, would make it impossible for them to have seen what was doing at that part of the Ship; while Leo was on his Knees, the Superintendent pressed him to confess as to the Prisoner's intention against the Ship, and is answered, as acknowledged by Leo, in a maner by no means satisfactory one way or the other, and not likely to produce any good opinion of or softened impulse towards himself.

Confessions
made by
convicts.

It is sworn however by the Chief mate that Murphy informed against as another ringleader, and also placed on his knees that morning to be shot, did with the prayer book in his hand confess, that it had been the intention of the Prisoners to take the Ship and the lives of all on board; to this is soon added the confirmation of another Informer, brought forward by Collins (named John Ryan), who on examination before the Committee acknowledged that he told the Officers of the Ship at the time that all every tittle, that Collins had stated, was true, but endeavoured to convey that he was forced to make the confession and the terms of it put into his mouth by the Superintendent himself. This however is most satisfactorily proved to be false by the evidence of the Officer of the Guard, who was present during the examination (as others also) and was solicited by the Superintendent to interrogate him. The statements, made by Collins* and Ryan, were written down at the time and those very papers produced before the Committee, and are inserted in the Appendix.

To finish upon this point, Leo himself confessed to the same effect, as Collins, Ryan and Murphy, some time before the 28th April, when a 2nd firing into the prison took place, and was afterwards followed in that respect by Donohaugh and one or two others in like manner during some remaining part of the voyage.

* Note 137.

But notwithstanding, the body of the Prisoners from time to time and on many occasions strongly and solemnly protested their innocence, as to the charge made, to the Superintendent and other Officers of the Ship, who at the same moment told them "that they had reason not to believe them"—that every one in the Ship did believe, and as it seems, judging from all or indeed every thing that afterwards took place, did really and in truth believe, "that an attempt had been made on the night of the 17th April to take the Ship with an intention of murdering all on board"; from that day, at least, there was a total absence of every feeling but mistrust, alarm, and cruel, if not vindictive, severity of treatment; the prison and prisoners seem entirely then to have been committed to Baxter, the 3rd Mate, and punishments were most frequent upon charges, as they stand reported even in the Superintendent's Diary, of a very trifling nature; upon this however the observation in justice occurs, how easy it would have been here to fabricate charges of more serious aspect, if it had been in purpose to color the facts. During the whole voyage, any the least noise in the night, and at last even of a cough, which was construed into a Signal, was punished, and the alarm and apprehension, still most unaccountably and with spell-like force binding up and harrassing the hearts of all on board, magnified the most insignificant occurrences and things to fearful combinations and overt serious acts of treachery, mischief and danger; no one seems to have been free more or less from the impulse. Baxter himself, who seems to have been altogether without any feeling almost, is proved to have been sensible of it, and is represented by Talbot, as expressing his apprehension that the Prisoners are swearing in at a moment, when Talbot suggests, that they were only dividing out the Messes. Strange to say, the Soldiers seemed to have surrendered themselves up, Sense and Courage, to a groundless panic, and are as much in terror of the prisoners almost, as if they themselves were chained and confined in the prison and the convicts in full possession of the Deck.

In an anxiety to find the truth perhaps (for sheer cruelty would not have troubled itself for any such pretext) every story is listened to by the Officers, and has its certain consideration and consequences; to escape punishment, which is soon found to result from confession and Information, the Officers became the victims of fraud and Deceit in very many instances and were no doubt induced, thus deceived, to inflict some and perhaps many undeserved serious punishments, which it will answer no end, it is conceived, further here to refer to; as the Diary of the Superintendent seems very faithful to report them according to the fact and the evidence.

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General
opinion on ship
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General feeling
of panic during
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Effects of panic
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Treachery of
convicts to
one another.

After the first firing, knives and forks were taken away, and the discovery of any thing like one or any other Instrument in the prison was matter of fear to the Ship's Company and punishment to those, in whose place it happened to be found, or against whom any Informer thought fit to award it by any representation on the subject. Upon the evidence indeed it seems to have been perfectly understood among the Prisoners as a system, that, to save from punishment or obtain personal relief of any kind, each was justified in discarding any consideration for the other, however grievous the consequences; many instances of this treachery were acknowledged* before the Committee, which at the time however must have strongly affected the opinions and feeling of the Officers of the Ship generally against the Prisoners.

A whole mess was punished at one time on 31st May for a cutting of the upper deck as charged against them; little examination was or perhaps could be taken, and a charge of any sort from Baxter or Talbot, as Captain of the Deck, never failed to bring the Prisoners complained of to punishment; and this too, it is to be particularly observed, when every possible ground of just or even possible alarm of the prisoners, one would have thought was, as it should have been, removed by the introduction of the Chain Cable into the Prison, on which at first about 50 or 60 and afterwards 100 and upwards were fastened, during the night, by passing it through the Irons and frequently for 14 or 15 hours; in consequence of which the Prisoners not only suffered as to want of rest and every other point of personal comfort and relief, but were, especially not having then their due rations, greatly weakened and impaired in general health and strength; in despite of all, however the apprehension of a rise or mischievous purpose among the or some of the prisoners still remains to the last, and general threats of every kind or to particular Convicts are added to continual punishments and privations.

No cause for
alarm when
convicts
fastened to
chain cable.

Continuance
of feelings of
apprehension.

And it seems not at all doubtful, upon the evidence from very many circumstances too various and numerous to enter into the detail of, but that general apprehension, as to the Prisoners renewing an attempt, ceased not to have influence upon all and in every thing that took place on board; the Superintendent, the Master, Baxter, all in turn and in very many occasions, charge the Prisoners with having brought all on themselves, but assured them of security, if they remain perfectly quiet below and do not disturb the Soldiers; on one occasion a prisoner (Kiernan) states the Doctor to have said in the prison, "if you mind how you behave yourselves, there shall not a man of you be hurt"; and it is more "than once suggested by the Superintendent that the

* See evidence of Leo, Sheridan, Wood, Crawley, Ryan.

Soldiers would all fire and would not stop, till all were killed, upon the least noise in the prison; that the Soldiers went against their orders and would not be stopped by the Captain or Officers"; and the Prisoners below and on the Poop speak to orders being given to the Sentries to fire directly upon either on the least noise that is made. But this, in truth, might be only to alarm, as it is proved to have been Part of the charge at the relief of the Sentries after the first firing (which must not escape note, as marking so early the intention and feelings of the Officers in that respect) that they were not to fire on any account without particular order from the Officer, who states himself to have made a particular report on arrival in this respect against one Man to the commanding Officer of the 46th Regiment; additional Stanchions are put, and 4 more holes are made in the strong bulk head to fire through into the Prison during the voyage, and probably after the 2nd firing; and the imprisonment of Lucie, a Seaman, on the 21st May on suspicion of being connected with the Prisoners, upon the information of Collins, while it shews his influence over them undiminished, also proves how strong the Idea was entertained that the Prisoners had not abandoned some design upon the Ship, and were supposed to have power and influence enough even to tamper with the Crew on the purpose; such too, hence was the general mistrust and asperity of suspicion, that the Soldiers and Sailors in common mutually had each other in apprehension and watch, and every one fearfully looked on the scene, expecting every day, that he might himself soon be in some way charged and become the victim of outrage, Jealousy and suffering; and it appears, upon the evidence, that each was in fear even of life, and hardly dare breathe his thoughts or fears on the passing circumstances.

But regard must be had to an event of more serious import, a second firing into the Prison, which took place on the 28th April. On the night before, upon an alarm that the Prisoners were again attempting to rise (the slightest noise at this time was sufficient to raise it and the state of the Ship was perhaps accurately and strikingly described by one of the Witnesses, who stated that a slap of your foot on the Deck would have raised the whole Ship in a moment) all Were under arms, and a noise was reported to have been heard in the Gun room; happily upon search and enquiry, the cause was found to have arisen in some of the Prisoners getting too hastily out of bed, and thus all further mischief prevented, tho' on this occasion a mere malicious purpose and desire of destruction as to the Prisoners had no sufficient obstructive cause to its immediate indulgence; and hence appears, how trifling a Cause would bring all in dismay to Arms,

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and how little security was, in fact however erroneously, placed in the safe-guard of the prison or comparatively helpless state of the Convicts. Several punishments took place on the morning, and during the day; one of the Prisoners actually charged another to the Officers with swearing in his Messmates and others 2 days before only to assist in again attempting to take the Ship, at the same time to fight, until reduced to 10 men, and who was punished on that account. In consequence of this alarm and which demonstrates its effects, the Chain-Cable was passed 4 turns on the mid-ship scuttle, and an Anchor stowed upon each of the Scuttles on the fore-scuttle.

Details of the
firing on the
second occasion.

The Circumstances, immediately leading to and taking place just before the firing into the Prison, that appears to have commenced about half an hour after 8 o'Clock in the evening of this day (28th April) could not clearly or determinately be obtained in evidence (unless that of the Prisoners, presently to be noticed in this respect, be found worthy of Credit) farther than that one of the Sentries, the particular person not being ascertained, posted forward, fired on a sudden upon or into the Prison; and in Consequence, from the irritability of the Crew and Guard in apprehension of the Prisoners and alarm of the occasion, bringing all immediately to Arms, a general firing in a degree unhappily took place for a short time, differing so much on the Evidence indeed as to duration as 2 or 3 or 5, 6, 7, 10, or 15 minutes, and rather strange to observe, of about $\frac{1}{2}$ an hour by the Officer of the Guard, continuing all the while he was collecting his Guard.

In this (however strong a proof of that Officer having no intention to color or misrepresent the general facts) all the evidence and the facts themselves seem to prove him mistaken; for one of the Prisoners (Talbot) states that he is sure there could not be 20 Shots, but he thinks more than 12; and Leo, then on the Poop, only 5 or 6 Shots before he heard "Ho avast firing"; and indeed it seems impossible to believe that general firing could take place for half an hour in such a confined space, and no greater mischief and casualties follow than one man killed and 4 others wounded; or that the Officer could have been so long occupied collecting his Guard, during which time only the firing continued.

It is stated in the Diary and log, and is supported by the evidence of Wood, a prisoner, that at 7 o'Clock 30 minutes "the same Evening the Sentinel forward gave the alarm that parties of the Convicts were consulting each other," and that another of the Guard (James Clements) stated, "that he overheard some of them say, half of us attempt the fore-hatchway, the other half the sick bay and after-bulk head into the Guard-room."

The firing, it is to be observed, does not take place for an hour and half after this, when, as it is entered in the Diary, "the Alarm was given, that a party of the Convicts were rushing aft, causing several Musquets to be fired down the hatchways which soon restored quietness in the Prison." In addition to this, in the log, which is proved by the Chief mate to be in the hand writing of the master, but made it is to be noticed after the arrival of the Ship at Port Jackson, it is suggested that this information was reported by the Sentry (Clements) to the Serjeant (Mahon) who gave certain Orders, which, as not confirmed or perhaps indeed proveable in evidence from the death of the Serjeant and other Circumstances, it seems not necessary longer to dwell on, than just to mention, that it does appear from the evidence of one of the prisoners (Wood) that the Sentry did challenge them in fact before the firing, and complained of the noise made in the prison.

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Details of the
firing on the
second occasion.

The evidence of the Prisoners is as contradictory in tenor as to the circumstances immediately preceding the firing on this occasion as on the former, and on so serious a point it seems proper not to pass it even in the detail. It is stated by Kiernan (a prisoner) that he heard Baxter say to Clements "This is a good time to begin"; to which Clements said, "it is too soon yet." Then Baxter said, "this is the best time, for the Officers are all in the Cabin and we shall have the longer time to play at them"; Clements said then, "I'll let go"; and immediately fired from the fore scuttle and a firing commenced as on the former evening from the same and from different parts of the Ship. I don't recollect how long the firing lasted but I heard Baxter say to Clements "fire away my *brave* Boys, don't be commanded by Captain, Officers or Superintendent and I will be accountable for it."

Critical
examination of
the evidence *re*
circumstances
preceding the
firing.

The next witness, who speaks particularly to the commencement, is Sheridan (for Smith and Fagan state themselves to have been awakened from Sleep by firing, and that of course there had been no sufficient noise in the Prison to break it before), who states, "I heard Baxter giving Orders to the Sentry, he said, Sentry list, don't you hear a noise? The Sentry said, yes, I do; he said, don't you hear them cutting through the deck; they said, yes, we do; this was after the 1st Shot; they then fired several Shots through the Scuttles, when the Prisoners cried out for Mercy and Baxter said fire away, and don't leave a B——r of them alive. There was only one Shot fired, when Baxter said this. I am sure the first shot waked me."

Another prisoner (Wood) states he was awake; and, when the 2nd firing began, there was some men at the main hatchway on

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deck, and I heard one say, d——n his eyes, if he would not go forward and raise a row that night; I cannot swear to his voice; he then said, swearing, that he would go forward and give them a Squib. He then went forward to a Sentry of the name of Clements, and Clements hailed the Prisoner and asked what noise was that below; he was answered and told there was no noise whatever; he said, we were d——d lyars and he would let go; and a 2nd time he said, he would let go and did fire; they then fired from all parts of the Ship, one after another, from all the hatchways, the Scuttles and the Soldiers' and Sailors' births." This witness however allows, "there was an alarm by the Sentry, that the Prisoners were breaking out, and that there might be 10 minutes between the time I heard the Sentry say, he would give us a Squib, and the time the firing took place"; and then takes upon himself to swear, that the firing continued nearly an hour. A different account again is given by the next witness (Talbot) "that he heard a Sentry of the name of Clements sing out, Murray you are making a noise; you have got a great noise there below; who is that out of their beds; there is no one, said Murray; you are a d——d liar, said Clements, there is, I see them now. I know his voice amongst all the men in the Ship. Murray said, you may ask Talbot, if there is any noise. I immediately sung out, there is nobody stirring; that every body was in bed, and so they were; all the Prisoners about the fore hatchway might have heard this; Some did hear it, I am sure; he said, I will let go Murray, I will let go; and the second word, he did let go, and the 2nd firing commenced."

One of the Guard, standing Sentry at the after hatchway, states, "The firing took place from some of the Guard on deck and not any of the Sentries; the first fire was from the quarter deck close to the main deck. I cannot say, whether it was down into the Prison. There was an alarm given, that some of the men were coming up, where the windsail was. I don't know who gave the alarm. The windsail was forward; it was given loud; About one at a time could come by the hole of the windsail. The Guard was turned up and some of them began firing. I don't know who they were. To prevent them from coming up I stopped at my post." This Witness adds "there were a very few Shots fired, there might be a Dozen more or less."

It may be proper to notice the evidence in this respect of Margaret Wardrosse, who states that "Serjeant Mahon was below going to his bed, and the first thing she heard was, the Serjeant saying they are going to begin their noise again; the Guard at this time were slipping up one after another taking their arms with them, without saying anything at all." The

Witness it seems went on deck, and was sent down below again by her husband, and adds what deserves observation:—"a few minutes after there was a Shot went off, and Serj't Mahon then came and ordered 2 men below into the Sailors' and Soldiers' births to keep a good look out to see if they were coming there; that 2 men did come down, one stood at one place and one at another." That is one at the Soldiers' and one at the Sailors' births; from this it would seem, that the alarm had so far an effect upon the Serjeant of the Guard as at least to urge upon his care to be prepared for an attempt by the Prisoners at any point, and that in his opinion at least the bulk head was not such a Bulwark, as to dismiss all fear from a rush in that quarter.

Unless therefore the true facts can be collected from the so essentially differing testimony of the Prisoners in points, where the incident, spoken to by all, must refer to the same moment of time, and so marked in its consequences must have made an impression strong enough to prevent any confusion of memory or facts; the true result of the other evidence, as to the commencement of the firing on this occasion, seems to be that the Prisoners had been challenged by a Sentry, who, after a time with or without communication with any other person, suddenly fired and produced, in the alarm occasioned by it, so much of firing as actually took place. In one particular, however, all the Evidence agrees and proves satisfactorily that, The Officer of the Guard, The Superintendent, the Master of the Ship and Mates, and the brother of the Master (engaged just before, as on the former occasion of firing, at Cards in the Cuddy) did, even at the moment the alarm and firing hurried them on Deck, do every thing possible by Command and personal exertion to stop the firing, though for some time they could not and did not effect the object. And this appears to be the fact from the evidence of one of the Prisoners (Talbot), who states, "Both the Soldiers and Sailors were eager to fire immediately after the order was given to cease; I heard Baxter say to a Sailor, what have you got there; have you got a Musket? the man said, yes; then said he, bring it aft for the Captain has been jawing me to knock off"; as far therefore as all the Officers of the Ship are concerned, the firing commenced without their privity whatever the Cause or reasonable or not, and was stopped as quickly, as their authority and private exertions enabled them to accomplish the intentions, which immediately and throughout influenced them on the occasion. The behaviour of the Officers at the time generally marks them, at least, as by no means then indifferent with regard to the lives of the Prisoners, and even, if so kind a principle be denied, at least of that caution and policy as to consequences and their

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own responsibility, which directly lead to and confirm the same conclusion as to their actual conduct; while their inability to stop the fire for some time reflects the general impression of the Crew and Guard towards the prisoners, and how far the Circumstances happening during the voyage had tended to diminish the authority due to them respectively, as the Officers of the Ship.

Visit to the
prison.

The prison was visited the same night; and if it were a barbarous want of common humanity, that influenced in this respect on the former firing of the 17th, when it was not so, one is at a loss to account for it; but if the Contrast arose from the different degree of terror excited on one occasion and the other, and the circumstances on comparison warrant that degree, as, in truth, less on the first than the second firing, all difficulty is resolved either as to the fact or the true principle. Immediately at or just about the commencement of the firing on this day, Bryan Kelly a prisoner on the poop was killed; but, as upon the investigation before the Committee such facts appeared with regard to his death, so distinguishable in incident and apparent principle from the other cases of fatality occurring at the time of the general firings during the voyage, as to have led to the commitment of a party for trial in that respect, it seems fit and becoming Consideration only not to pass the subject unlamented or unobserved. At the just tribunal of the Country, Judgment in mercy will distinguish every shade of circumstance, Intention and Consideration, in which the Charge may stand involved, ere the expiatory sacrifice of life for life be rigidly exacted.

Killing of
Bryan Kelly.

Killing of Lucy
and Jackson.

The like consideration of delicacy refrains from all remark on the Deaths of Lucy, one of the Crew, on the 24th May, and of Jackson, a prisoner, some days afterwards, from wounds that day also received, further than, to conduct the view to that dark suspicion, cruel mistrust and selfish apprehension, which, gathering for some time over the Ship, thus burst in fatal destruction on the deceased.

Convicts'
request to be
fastened to
chain cable.

To avoid the total destruction threatened by this hair-trigger Terror of the Ship's Company, the Prisoners in body, it appears, had requested of the Superintendent before the 2nd firing to be fastened on the chain Cable of the Ship during the night, as the period of most alarm, thus to shame the dastardly, and convince the doubtful at once of their helplessness and Innocency of purpose:—but the Superintendent on the ground of the Injury their general health might sustain, did not comply with the Solicitation:—but when, upon the renewed shock of the 2nd firing, Solicitation was thus wrought into entreaty, the Superintendent

entered into the views and yielding to the feelings of the Prisoners; for all examined allow the measure to have arisen in their own wishes and adopted on their earnest suggestion, sad as convincing proof certainly of their grievous condition and peril! No firing into the Prison took place however afterwards, but even still continued menaces of renewed firing were denounced, and proved not only the painful acme of wretched condition come to by the Convicts, but the harassing and excessive terror also of those, who could thus raise such objects into cause of alarm. To infuse an equal degree of it into the feelings of the prisoners, punishment was again to be refined, and particular individuals were placed nearest the bulk head to meet the fire, which on the first noise was to and would probably have destroyed them. As the Ship advanced towards her port of destination, and deliverance on all sides, one is disappointed in the expectation of finding these fears gradually dispersed or the suffering of the Prisoners in consequence assuaged; for the number on the Chain Cable every night, it has already been observed, in fact increased by degrees to 106. Punishments continually recurring and endured even by those, restrained hand and foot from actual, as from irresolution and imbecility of Spirit, one would presume from even a thought of mischief. Nor can sufferings and coercions, like these, in any light be considered, but as most cruel, undeserved, and unfeeling as regards the long and painful endurance by the prisoners, though doubtless in some degree attributable to those Informations, falsely fabricated by one or other among themselves, and which a detestable policy and self Interest were continually suggesting to a credulity whose weakness could not but be vindictive.

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One of the prisoners (Fagan) speaks as to seeing the Guns drawing out in the morning after the 2nd firing, a proof at least of real apprehension mingling with the cruelties, that resulted from or characterized the subjects of it; and another (Talbot) stated a 3rd firing was about to take place a fortnight or 3 weeks afterwards, upon the Sentry giving alarm of prisoners being collected under the fore-castle, when however a fortunate enquiry made by the Officers averted all mischievous consequences.

Such was the exasperated odium and bitterness of feeling against the Prisoners, that when brought up for punishment even, or to be served with wine rations, they received blows and bruises, tho' not of any serious nature, from those of the Crew and Guard, who happened to be on Deck. And this even continued against the positive Orders of the Officers, as certified by the entry in the log to this effect on the 5th May.

III-treatment
of the convicts.

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smother
convicts.

It is stated by one of the Prisoners, tho' not supported by any other evidence, that, about 3 weeks after the 2nd firing, buckets were for several nights brought aft for the purpose as declared of smothering all below; whether this was in thought or of mere threat it reflects perhaps, as to the exciting principle, more of timidity than cruelty; for if the latter, why not satisfied? the mind, that from such a motive could give birth to the design, would have found no difficulty from any discordant feeling of less atrocious impulse; impatience would have allowed of no delay, nor the darkness of the night be sought to cover so fiend-like a sacrifice.

Removal of tow
from the
hospital
bulk-head.

It is fit too in just consideration not to omit noticing the circumstance of the Superintendent giving directions to remove some Tow and other Articles from near the bulk-head in the Hospital, that might chance to take fire from the Musquets discharged over that part of the Hospital into the Prison, and which might seem to shew something of previous knowledge, at least as to predetermined firing; especially as one of the Witnesses stated the Directions to have been given, on the very day, that the 2nd firing actually took place, when he even expressed his alarms on the occasion to the Superintendent; it is however perhaps only in fairness and principle to give credit to the other Witness, who alone speaks to this fact (Smith) the witness of all the prisoners most worthy perhaps of credit but certainly not less so than any, and who from his situation and the general circumstances was most likely to have the fact in recollection, that the Superintendent gave the order to remove the things not on that but another night some time after the 2nd firing. And as no firing into the prison afterwards took place, any Inference in Prejudice of the Superintendent's Conduct on this occasion is necessarily destroyed.

No report made
on personal
responsibility
of officers.

It may not be required of the Committee to give any opinion as to the particular conduct of each respective Officer, as it may be noticed in the several transactions as they occurred on the Voyage, or how this or that different line at particular periods and moments of crisis might have had the effect, as presumed, of affecting moderating or preventing them; for the evidence, bearing upon each particular occasion, will be the only criterion of that opinion, and as the Decision belongs to particular Departments, to which the evidence will be referred, it seems proper and of due deference not to venture any suggestions whatever on points of such great consideration to those whose character and future Interest seem to be so seriously involved in it.

It has already been cursorily noticed, that the Rations served out to the Prisoners, as stated by them, were deficient in quantity;

this fact is admitted as to the Issue of Beef and Pork in a correspondence* between the Superintendent and the Master of 30th June and 1st July; and deficiencies in that respect have since been returned into His M'y's Stores at this place, and are suggested to have taken place in consequence of the irregular weight of the pieces of Beef and Pork in the Government Casks, some Pieces weighing 10 lbs. and some 7 or 6 lbs., instead of the proper weight of 8 lb. per piece, and the Gunner (at that time acting as Steward) serving out by the weight and not the piece. It does not seem clear that this would satisfactorily account for it, as if the entire quantity of the Cask is always, as is also suggested, correctly marked as to weight, although a piece may be more or less than proportionate weight, when the whole Cask had been served out, the proper quantity will be given, altho' not fairly perhaps, as it regards every Ration delivered; be that as it may, it is too certain that the Prisoners were not duly supplied in this ration, at a time when they most required the strength of its nourishment; but not only in this Article, but in every other of every kind; all the Prisoners examined declared that a very great deficiency took place after 17th April till about 1st July, when application and Complaint were made to the Superintendent and found to be well founded; and immediately a Prisoner was appointed to see the Messes weighed out. Except as to meat, all deficiency is solemnly denied on the part of the Ship. The Stewards during the periods swear positively that the Master always gave particular directions, that the rations should be served out according to the establishment, an account of which was made out on a board, and one affixed in the Hospital and another given to the Stewards. All knowledge is denied by the Master, as also on the part of the Superintendent, to whom after the 1st firing till the particular time, the Prisoners state, they dare not make any Complaint on the subject. General probability seems indeed to support the evidence of the Prisoners, that no great attention was paid to them in respect of provisions, quantity, kind, manner of delivery, or cooking, in consequence of the general state of the Ship and the little or no consideration bestowed on those, who were looked upon as the wilful and atrocious Authors of it. Nor, but for that impression and its consequences, does there seem any ground to suppose on the part of the Officers, that there would have been any occasion of the complaint, or, as it is, that the Superintendent designedly sanctioned or countenanced, any more than the Master caused, any such deficient delivery of the Stores to the Prisoners, as, up to the 17th April, there was perfect satisfaction and which, as soon as the representation is made by the Prisoners, was again given.

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Report of
judge-advocate
Wylde and
D. Wentworth.
Deficiency in
rations issued.

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Report of
judge-advocate
Wyld and
D. Wentworth.

Mortality
during the
voyage.

Absence of
definite proof
of a conspiracy.

Though this neglect occurred and such general suffering and duress took place, it is a relief to find that during the passage only two Convicts died, except of Gun-shot wounds, making up the total killed —, while some unhappily remained cripples for life. And this observation leads back again to the night of such Calamities; two points of just enquiry, connected with them, have, designedly, not yet been the subject of that particular remark and attention the importance of them demands. First—Did a Conspiracy on board the Ship in fact ever exist during the passage in question? No other answer to the enquiry seems, upon all the evidence, allowed to be given, than that such Conspiracy, as suggested, might have existed there, though the evidence goes not so far as satisfactorily to prove it; and that it cannot possibly be doubted, from the facts proved, that such a Conspiracy was *believed* to exist by every Soul on board the Ship from the time of Collins giving Information, and so to remain in existence at least long after the period of the 2nd firing. Every witness examined swears most solemnly to their belief and conviction, at the moment of examination even, of the Conspiracy having actually existed and influenced the Prisoners during the whole of that period; while the Prisoners examined as strongly and solemnly deny and protest against all knowledge of the fact and of course any association of such a nature.

This conclusion in some degree resolves the next important Question (to which the same Observations, facts, and the same conflicting evidence as strongly apply) was the prison of the Ship in fact ever broken or any such Violence used against it, as to shew and prove an actual attempt to do so on the part of the Prisoners? and to this query it can only be subjoined, as proved, certainly not, in either respect; yet one could not be more satisfied of such a fact from being on the Deck, when an attempt to break the Prison actually takes place and the prison becomes then broken in our sight, than the evidence tends, in every little and single circumstance of the occasion, to satisfy as to the fact of a positive and absolute belief, entertained by every Officer, Soldier and Sailor to a man (it seems only barely possible that there might have been a solitary exception or so on board) that at the moment of the firing commencing and of the run or rush aft by the Prisoners on the 17th April, the Prisoners were at that time putting into effect that intention of taking the Ship, and, if taken, of murdering every one on board, which the Crew and Guard equally believed those Prisoners deliberately and desperately on oath to have adopted.

Hence it follows, that the very apprehension of the Prisoners so intending at that moment to break and escape from the Prison

No evidence of
an attempt to
break prison.

and murder all on board (the Crew and Guard being then in a situation, which even if the Prison remained unbroken, cannot in a Ship, at open Sea and with such a number of Convicts on board, be justly considered perhaps as one apart from one and all personal Danger) the very apprehension alone seems to have been and become the only cause of the firing and of course the consequences, which took place on the 17th April. The main question thus arises as to reasonableness of that apprehension. And on this one point in Justice as in law, it is conceived, entirely depend the true judgment and conclusions to be drawn and pronounced on it. For this end and purpose only and in consideration of its so great and serious Importance, whether it regards the public Justice of the country, or the Character of this Government, or the personal responsibility of this very report, has it been deemed incumbent to submit so much of statement and observation, on which the opinion rests and is declared that the Officers, Guard and Crew had probable grounds for apprehending, and did in fact apprehend, that the Prisoners on the night of the 17th of April intended, at the time the general firing then commenced and took place altho' it does not appear satisfactorily that there was any such design, to break the prison, and if so, to murder all on board, and acting upon the moment, did believe that the only certain and therefore necessary means of preventing the attempt or supposed attempt at Prison-breach, and the presumed consequences to themselves, was by the use and dint of Arms.

With regard to the firing on the 28th Day of April, in its commencement, altho' the general circumstances of situation remained the same and the degree of alarm then felt generally on board was perhaps increased, yet still are wanting that strong sudden impulse and impression, which characterized and continued throughout the former firing. Hence it seems to be attributable, if not to actual misapprehension in the strongest point of view, to no other or apparent further cause than to the weak suspicions and alarm of a Sentry or one or more other persons, as the Case may really have been, arising from a number of Prisoners being out of bed, engaged in consultation or conversation with each other and not immediately dispersing on the challenge of the Sentry; the reasonableness therefore of this apprehension appears to be so much more questionable, that if the party or parties commencing the fire could have been particularized and identified, a different conclusion and procedure with respect to them would on this account have been considered proper and therefore have obtained. But this observation applies

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Report of
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Probable
grounds for
belief of
convicts' intent
to break prison.

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Wylde and
D. Wentworth.

Probable
grounds for
belief of
convicts' intent
to break prison.

only so strongly to those who first on such a ground commenced the fire, as to those who joined in it after the first original commencement, the Cause being unknown, the same principle and Judgment as on occasion of the first firing seem in some degree to be justly applicable. But whatever might be the just consideration, either as to those who commenced or joined in the firing, that took place on the 27th of April, it seems at least that no particular persons are so distinctly pointed out and designated in proof or upon Evidence worthy of such Credit, it is conceived in this respect, as would warrant the criminality and personal responsibility of having actually taken part in the firing to be fixed upon any single Individual or more of the Crew or Guard; while it cannot be doubted that the firing in fact stopped as soon after the discovery of there being no probable or sufficient Cause, as the earnest endeavour of every Officer on board the Ship, urged even at the first moment (and in whom therefore no ground of culpability as to the immediate accident or its consequences seems to be found) could counteract the strong, though causeless, alarm that generally prevailed.

The general
treatment of
the convicts.

With regard to the treatment of the Convicts during the passage, their long continued and great personal sufferings from punishment or other violence, loss of rest, comfort and liberty of every kind during the whole time, as well as the improper and deficient supply of their Rations in part or whole during a greater part of the period, have already been the subject of particular observation and Concern; but as it would be inconsistent and even absurd to consider those acts, whence these evils arose, as evidence of Malice against the Prisoners on the part of the Crew and Guard or any Individuals on board, in respect of any thing that happened on either occasion of the General firing, because *previously* taking place and already accounted for in the opinion suggested as arising from and wholly attributable to *sudden* and unexpected Causes, and therefore, in the very term as in the principle and Character, on that account deduced and applied, rebutting at once every Idea of and founded altogether in the *absence of all* positive malice prepense:—and as no instance of loss of life or limb, except from natural Illness or Gun shot wounds has been proved to occur; on these Considerations, no principle of law will be found, it is conceived, to raise the criminality, however great and serious it might be considered in a moral point of view, even of the Officers, much less of any of the Crew or Guard, in these respects above that of Misdemeanor, if even beyond the liability of a Mulet under the Condition and stipulations of the Charter party; it is deemed fit therefore, under the Circumstances, to leave entirely the Question and degree of

Officers and
crew guilty of
misdemeanour
only.

Delinquency upon the evidence to that authority, which alone has the power of carrying its Judgment upon the subject into full and just effect.

JNO. WYLDE, Judge-Adv'e, N.S.W.

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Report of
Judge-advocate
Wylde and
D. Wentworth.

Having heard the above Report of the Judge Advocate, and concurring altogether in the Opinion and statements therein contained, I deem it unnecessary to make a separate Report and therefore thus subscribe my Assent thereto.

November 15th, 1817.

D. WENTWORTH, J.P.

[Enclosure No. 4.]

SECRETARY CAMPBELL TO GOVERNOR MACQUARIE.

Sir,

Secretary's Office, 15th Novr., 1817.

Report of
John Thomas
Campbell.

In Obedience to your Excellency's Warrant, dated the 13th of Augt. last, addressed to and Constituting the Honorable The Judge Advocate, The Superintendent of Police, and Myself, A Committee to inquire into the Proceedings on board the Ship Chapman, John Drake Master, on her Passage from Cork to this Colony with Male Convicts. We assembled for that purpose on Wednesday the 20th of Augt., and Continued Our Sittings from time to time until the 4th Ult., at which time the examination of Witnesses and the Defence of the Parties implicated finally closed.

Sittings of the
committee.

The length of time Occupied by the Investigation by reason of the Number of Witnesses examined, I trust will at least shew the Anxiety by which Your Excellency's Committee was actuated in endeavouring to possess themselves of every information that could be procured, in Order to rescue the British Name and Character from the imputation of suffering with impunity such Violations of Law and humanity, as the present Case has in My humble Opinion been Most indelibly marked by. This is most unhappily exemplified in the Several instances of those ill fated Convicts, who met their Deaths by Violence, as well as in the innumerable punishments and Severities inflicted on others, and to Crown the whole, in the famished and exhausted state, in which the Survivors arrived in this Port Owing to their being deprived of their due and proper allowance of food and other Comforts during a great part of the Time Occupied in the passage hither. All these facts are on Record in the Minutes of Evidence, which I took personally during the Investigation, and may also be Collected from the Diary of the Surgeon Superintendent, and the Log of Captain Drake.

Ill-treatment
of the convicts.

It is however matter of most sincere regret to Me that I have eventually found myself under the imperious Necessity of

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Report of
John Thomas
Campbell.

Disagreement
amongst
members of
committee.

Variations
in notes of
evidence.

Criminality of
responsible
officials on
the ship.

Conveying My Sentiments in this detached form to Your Excellency, on a subject where I had hoped the facts would have appeared to each Member of the Committee in exactly the same point of View, and that no difference of Opinion (on any essential point at least) could have arisen in the Construction of the Evidence to render such separate report necessary on My part. In this I have been disappointed; and the importance of the Occasion, Combined with what I feel Owing to public Justice and to My Own Conscience, impel Me to this line of Conduct, and will I hope plead My Apology with your Excellency.

The Judge Advocate was pleased to put into My Hands for a short time a *Transcript* of the Evidence, taken down by his Clerk during the Course of the Enquiry. The time this Copy remained with Me was not sufficient to enable Me to peruse but a very small portion of it; And I cannot refrain from Observing here that, on My reading a few Sheets of it, it Occurred to me from recollection that there were some Material Variations between the Evidence, recorded in that Transcript, and in the Minutes, I had Myself taken down with Much Care and Attention. On proceeding to a More accurate Comparison, this Discrepancy was fully ascertained. How far these Alterations may be traceable throughout the entire Evidence, I am not enabled to Judge, having had the Transcript in My hands only long enough to Compare as far as the first Three Witnesses, namely Tiernan, Smith, and Fagan.

Altho' the impression on My Mind, as this Enquiry proceeded, left me little or No Room to doubt of the high Delinquency of the Accused Parties, Yet I have not rested altogether on those impressions, but have cautiously and repeatedly perused My Own Minutes, and deliberated seriously, and as far as in My power *Maturely*, on the nature and extent of the Evidence brought forward, before I Ventured to make up my Mind on a Matter involving Considerations of high Moment. I need not trouble Your Excellency with a Detail of these proceedings, for I have the honor to put into your Hands herewith My Own Original Minutes, and now proceed to deliver My decided Opinion, which I have no hesitation in declaring to be that the firing on the Convict Prisoners on the Three Nights of the 17th and 28th of April and 24th of May, Whereby 12 of them lost their lives (besides Two Seamen) and Several were severely Wounded, the Excessive Corporal punishments, Amounting to upwards of Four Thousand Lashes on their Backs and Naked Breeches, and the Neglects, privations and Cruelties, exercised in a variety of forms towards unoffending Men loaded with Irons, closely confined, and Strictly guarded, Amount altogether to such systematic

Criminality, that I do most humbly conceive public Justice cannot be satisfied, unless the Delinquents be brought or sent before a Competent Tribunal to answer to their Country for their Conduct. In enumerating Punishments, Neglects, Privations and Cruelties, I am aware that no One or even all of these constitute a Capital Offence in the eye of the Law; but I do feel that a long Continued system of Cruelty must stamp a *determinate Character* on the More desperate Acts, whereby so many fellow Creatures were hurried out of Life, and to which I can give no other Name than base and wanton Murders.

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Campbell.
Criminality of
responsible
officials on
the ship.

Without being guided by those legal Discriminations, which Professional Advocates may apply in such cases, but viewing this in all its bearings with a Cool unbiassed and impartial Mind, devoid of that prejudice, which Public Opinion and Report are in some Measure calculated to engender, I have Considered that the primary Object of the Committee was to enquire into and ascertain the Number of Persons killed on board the Chapman and the Cause of their being put to Death. The result has been that We found, by the Evidence adduced (as Well as by the Journals of the Surgeon Superintendent, and of the Master of the Ship), That Twelve Convicts met their Deaths by being fired on at three Several times at hours of the Night, when they had retired to rest, and when it is totally unsupported by Evidence (Altho' asserted in the Captain's and Surgeon's Journal) that they either had effected or were Attempting any Act indicative of an intention to seize the Ship; but on the contrary were One and All of them so secured in their Prison and by the Chains, which fetter'd their Bodies, as to render it impossible for them to act offensively. The Very direction, taken by the Balls by which they were killed or Wounded, proving that they must have been stretched along the Deck or in their Births, when they received them and Consequently not in a posture of Offence.

Number of
convicts killed.

Whatever might have been the nature of the information given by Collins and Ryan, the Two Convict Approvers, whether it was true or false, it is obvious to Common sense and reason that, if it was in any shape Credible, it afforded the Master of the Chapman, The Surgeon Superintendent, and the Officer of the Military Guard, the very best opportunity to be prepared for and of guarding against any sudden irruption of the Convicts, and of resorting in proper time, and from time to time, to such effectual Measures as must have rendered any Attempt on their part totally abortive.

Possibility of
preventive
measures.

But, instead of resorting to Measures of precaution to guard against An expected Attack, it Appears that they adopted no such Measures, either by Extra Watches or by any Additional Military

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Guard, to Counteract such Design (I am alluding more particularly to the first business on the Night of the 17th of April, Altho' the Information was given two Days previous thereto, as appears by the Captain's and Surgeon's Diaries), which fact alone leaves a rational inference that they themselves totally discredited the Information.

Conduct of
Baxter.

Guilt of the
master, surgeon,
and officer of
the guard.

It appears that the information of Collins and Ryan was Obtained by Mr. Baxter, The Third Mate, and that He reported it to Captn. Drake; it is most Certain that this Mr. Baxter was all along most particularly forward and Active in this Work of Destruction, and He unfortunately appears to have had a very great influence over both The Sailors and the Soldiers; but this does not in My Mind at all exculpate the Master of the Ship, whose Duty it was to exert and Maintain his Own proper Authority in the high trust, reposed in him by the Transport Board; whilst his Drunkenness, instead of being an Excuse for such Criminal Neglect, tends rather to aggravate it; and, in as Much as it was the incumbent and bounden Duty of the Surgeon Superintendent and Military Officer, in their relative situations, to interpose and restrain (even at the risk of their Own Lives) such enormities, I deem *them* no less guilty for the apathy and indifference with which they beheld these scenes of Slaughter. The Cold blooded manner, in which they stood by and Witnessed the infliction of Punishments in so wanton and barbarous a manner on Leo and others, must of Necessity implicate them in the guilt and responsibility of that Affair. Whilst the withholding most fraudulently from these Miserable Wretches His Majesty's bountiful Allowance of Rations, until they were One and All of them Nearly in a starving and expiring Condition, exhibits but too Clearly the *quo Animo*, by which those Three Officers were actuated, and fixes on each of them a proportionate share of Delinquency.

Neglect of the
wounded.

The Circumstance of leaving the Wounded Men (after each of the Three several occasions of the Prisoners being fired upon) all Night without any Medical Assistance was in itself such an instance of savage barbarity, of brutal inhumanity, that no Comment can be made on it to Mark sufficiently the abhorrence such peculiar Atrocity necessarily excites in every feeling breast.

Drake,
Dewar and
Busteed to be
sent prisoners
to England.

In recapitulating these circumstances, as they have appeared in Evidence, I have obeyed the Warm impulse of My Own Mind, actuated solely by the purpose of pointing out *where* I think the Chief Criminality attaches, and *to what extent* it reaches; and hence I am now arrived at the Conclusion, I have been Compelled to draw, Namely, That Captain Drake, Mr. Surgeon Superintendent Dewar, and Lieutenant Busteed, on whom the Chief

responsibility rested, and who exercised the Authorities, with which they were Vested in so questionable a Manner, at least should be sent Prisoners to England; that Mr. Milbank, the First Mate, Mr. Aldridge, the Second Mate, and Mr. Baxter, The Third Mate, for being actively engaged in the Atrocities, should be also sent *Prisoners* to England to abide their Trial on these Charges; it is further My Opinion that the Three Soldiers of the 46th Regiment, Namely, Clements, Hogan and Jordan (who are now in Confinement), should be likewise sent Home as Prisoners to abide their Trials as Principals in these Sanguinary proceedings; and that such Witnesses, as may be deemed Necessary to establish the facts, should be also sent to England. In this Number, I would beg leave to recommend that Terrence Kieran, Patrick Smith, Michael Woods, and John Fagan, Convicts, and Cornelius Crawley and William Nelson, Seamen, be included.

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Report of
John Thomas
Campbell.
Three mates
and three
soldiers to be
sent prisoners
to England.

Whatever regret I may feel (and I do feel much) in differing in Opinion from The Honble. The Judge Advocate and the Magistrate Superintendent of Police, associated with Me on this Committee, it is in some degree Counterbalanced by the Consolation I feel in the reflection that My Own Heart and Conscience alike dictate and approve the Sentiments, I have expressed, and I derive a further very great Gratification from understanding that My Opinion Coincides with that expressed by the Honourable Mr. Justice Field.

Witnesses
required in
England.

I have, &c.,

J. T. CAMPBELL, Secy. and J.P.

[Enclosure No. 5.]

[A copy of the muster of convicts on the transport ship Chapman was also forwarded by Governor Macquarie with his despatch, numbered 29 of 1817, and dated 12th September, 1817; see page 486.]

[Enclosure No. 6.]

[1] SECRETARY CAMPBELL TO CAPTAIN DRAKE.*

Sir,

Secretary's Office, 30th July, 1817.

The Surgeon Superintendent of Convicts, on Board Your Ship the Chapman, informed Me Yesterday that you had declined striking the Irons off the Convicts previous to the Muster, which I am to hold on board to-morrow Morning, unless you should receive Special Instructions from Me; this was subsequently Confirmed by a report from the Superintendent of Convicts, who had an Official Communication with you on the Subject.

Drake's refusal
to remove irons
from convicts
before muster.

As I presume Your refusal to Comply with the Usual Regulation in that respect is dictated by a sense of the Necessity for strict Discipline being kept up so long as they remain on Board, I cannot but approve the Measure, if adopted on those

* Note 131.

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Drake's refusal
to remove irons
from convicts
before muster.

Grounds; but, as you have not made Me Any Official Communication thereon, I have now to request that you will inform Me in Writing, in order to My Making a Communication thereon to His Excellency The Governor, on what Grounds your Non-Compliance with the uniform Custom in regard to liberating the Convicts from their Irons, previous to their being Mustered, is founded, And also whether or no their being continued in Irons is deemed equally necessary, either for the Security of the Ship or of their Persons in Sydney Cove, by the Surgeon Superintendent and the Officer in Command of the Military Guard on Board, as by yourself.

I am, &c.,

J. T. CAMPBELL, Secy.

[2] SECRETARY CAMPBELL TO GOVERNOR MACQUARIE.

Sir,

Sydney, 1st August, 1817.

In pursuance to Your Excellency's Commands conveyed to me in the Government and General Orders of the 28th Ulto., I proceeded at Nine O'Clock yesterday Morning on board the Hired Male Convict Transport Ship Chapman, John Drake Master, lately arrived from Ireland, to Muster the Convicts on board, and to make report thereon to Your Excellency.

Although the Master of this Ship had been duly apprized of Your Excellency's Government and General Order for the Muster being held at Nine O'Clock, yet he did not appear on board for fully One hour and one quarter after that time, during all which time I remained on Deck waiting his return on board, He having gone on Shore a very short time before My going on board. A Wish to forward the Public Service induced me to Wait his arrival, which took place at $\frac{1}{4}$ after ten O'Clock, when I felt it due to Your Excellency's Authority and to my own Station to tell him that his Conduct was highly disrespectful, and that I should not fail to report thereon to Your Excellency. No Apology was made, Captain Drake only asserting that his Conduct was not disrespectful.

Having been informed by the Superintendent of Prisoners (Mr. Hutchinson), and also by Mr. Dewar, the Surgeon Superintendent on board the Chapman, on the 29th Ulto., that Captain Drake would not release the Prisoners from their Irons previous to their being Mustered (as has ever been uniformly the Custom), unless He should receive Special Orders to that effect from Me, and concluding that this resolution must have been adopted in consequence of the danger he apprehended from the Prisoners, either in regard to their Security or the safety of his Ship, I addressed a Letter to him (a Copy whereof I now transmit for Your Excellency's perusal) on the 30th Ulto. informing him that his refusal to strike the Irons off the Prisoners had been reported

Drake's delay
in attending
muster of
convicts.

Drake's refusal
to remove irons
from convicts
before muster.

to me, and if it was on the score of Danger being apprehended, I could not but approve of the precaution, but requested to be informed by him what were the actual Motives for thus refusing to comply with the Accustomed rule as to Prisoners being relieved from their Irons previous to their being Mustered. To this Letter I received no Answer, and in consequence I asked Mr. Drake if he received it; to which he answered that He had, and did not answer it because he thought from the Stile of it that I was offended.

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Drake's refusal to remove irons from convicts before muster.

Shortly afterwards I asked Captain Drake why he kept the Men in Irons at that time contrary to all usage, and the Instructions conveyed to him by the Superintendent of Convicts; to which He answered in an insolent Tone that he received them on board in Irons and would land them in Irons. I did not feel it necessary to hold any further correspondence with him on that subject, but asked for the County or Jail Lists in order to proceed on the Muster, and was told by Him that he got none.

I beg to remark here, that as I was aware that much disturbance had taken place on board the Chapman with the Prisoners during the voyage, I did not Commence the Muster until Captain Drake came on board, in order that he might have an opportunity of meeting any Complaints, which the Prisoners should prefer against him or any of the Persons having Authority on board; and also that he might have the opportunity of reporting on the good or bad Conduct of them, as he felt them meriting of Commendation or Censure.

Reasons for delay in holding muster.

Owing to the Melancholy circumstances which occurred during the Voyage, whereby Twelve of the Convicts had been killed and 22 Wounded, My enquiries were necessarily rendered more Minute than in ordinary Cases, in order to ascertain as nearly as possible to what causes could be assigned the desperate Measure of firing upon Prisoners loaded with Irons and close confined in their Prison. The general result of these enquiries fully convinces me that no Plot or Conspiracy existed among the Convicts to seize the Ship, or to act in any way Mutinously or unbecomingly of their Situations as Prisoners. All such intention has been most solemnly denied by 174 out of the 176 whom I mustered, The other two, Namely Michael Collins and John Ryan (Nos. 20 and 104 in my Muster Roll), being the Persons who gave Information and who persisted in their original Statements; Surgeon Dewar and Captain Drake both gave good Characters to several of the Prisoners, and those very Persons; One and all of them denied that any Plot or Conspiracy had existed. I find that the Prisoners had been well treated from the time of sailing (the 14th March) until the 17th of April, and they have made few

Inquiry *re* cause of killing and wounding of convicts.

No evidence of plot amongst convicts.

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Complaints previous to that day. An Alarm was given on the 12th of April at Night that the Prisoners had got on Deck, and that some of them were in the Shrouds. Lights being procured, it was discovered to have been altogether an unfounded, false Alarm, they being all found quiet in their beds. Suspicions were from thenceforward propagated, and on the 17th, about or rather between 7 and 8 O'Clock in the evening, an alarm was given that the Prisoners were forcing up the grating on the fore hatch, a Sailor having said that he felt the grating rise under his feet. This report was deemed sufficient to warrant a general firing down the several Hatchways and thro' the Bulk heads for upwards of One hour on the Miserable Wretches in the Prison, the Soldiers and Sailors all firing at them; it was 9 O'Clock before the firing Ceased on the cries of Mercy being sent up from the unfortunate Sufferers; 3 were killed outright and twenty-two Wounded; the killed and Wounded were nearly all Naked in their beds, or lying Naked on the prison floor, whither some of them had for Coolness removed from their births, the Weather being very hot in 14° North latitude. The Dead were not removed, or the Wounded dressed, until next day. The sufferings and apprehensions of these poor creatures, Cooped up as they were and fired on fore and aft, need not be Commented on and can scarcely be exaggerated. Floggings on suspicion then commenced, and I find that the same Person has been repeatedly flogged on the most frivolous, if not unjust, Charges; 74 to 100 Men were chained *Naked* to the Iron Cable, the first set for nearly 24 hours, and never fewer than 74, sometimes 106, were thus Nightly chained to the Cable. The System of Terror was carried to such a cruel excess that, when these poor Creatures were on the Cable, they were afraid to express having a call of Nature, least a brutal fellow, the 3rd Officer, called Baxter, should beat them with his fists or cut them down with a Cutlass or Bayonet; and if they voided their excrements under them, rather than risk being beaten by One or the other of the Ship's Officers, they were sure to be flogged for filthiness. If a Man's Chains were heard to rattle, he was flogged, and if he muffled them to prevent Noise, he was likewise flogged for disobedience of Orders; after the 17th April, they were not allowed knives to cut their Meat with, and some of the Convicts broke off the Tin handles of their Mugs to use as knives; for this they were also flogged. Thus were these most unfortunate Men so tyrannized over that, as many of them said on their examinations, they would rather they had been hanged for their Original offences than subjected to the hardships they endured. To aggravate their Miseries, they were nearly famished with Hunger, having been, after the business of the

Account of
first firing
on prisoners.

Floggings
administered.

Convicts
chained to cable.

Ill-treatment
of the convicts.

17th April, deprived of One half their allowance in every thing; and this Severity was continued until the 10th or 11th of July last, being a period of Nearly 3 Months. From the time of leaving Cork until they arrived in Sydney Cove, they were never once allowed to be out of Irons; even those, who were lame of Arms, lost as Soldiers and Sailors in fighting the Battles of their Country at Copenhagen and Waterloo, were thus Starved, double Ironed and Chained to the Iron Cable. Many fainted from pure Weakness on the Cable, arising from hunger. A hurried Letter can but ill give an Idea of these people's various Miseries; Let a humane Man figure to himself a fellow Creature double Ironed, chained to an Iron Cable, and handcuffed for 3 Months, except when taken off to be flogged; he will then be able to form some idea of the sufferings these Men have endured; referring Your Excellency to the Muster Roll itself for many particulars in regard to the Cruelties committed, and too Numerous to be contained in this Letter, I hereby declare that I consider the Conduct of the Captain, His Officers, and the Surgeon Superintendent and many of the Crew, inhuman, barbarous and Cruel beyond all reason, or what even Mutiny itself, if the Prisoners had been Guilty of it, could have at all warranted. In including the Surgeon, I have to observe that in every instance, which has come before me, in his Professional Character, he appears to have conducted himself kindly and humanely; but in his Character of Superintendent, he seems to have lost sight of all Compassion and of all Judgment in adopting the false accusations of a Couple of Informers and of some of the Ship's Petty Officers. When the Prisoners were stripped in Order to be searched for Weapons and tools, their Clothes were carried upon Deck, and all the Money they contained was Plundered; several articles of Apparel were also kept from them. I pray Your Excellency to be Pleased to Order a full Investigation of these Atrocious Circumstances to take place, and that Evidence may be called from among the Prisoners themselves in order to the substantiating the Charges I now submit to Your Consideration, trusting that either by some evidence, which I cannot anticipate, the Conduct of the Ship's Officers may be justified, or that they may suffer condign Punishment according to the overflowing Measure of their Cruelty and Guilt.

I have, &c.,

J. T. CAMPBELL, Secy.

P.S.—In the Multiplicity of circumstances, which I have been anxious to lay before Your Excellency, I find I have omitted to state that this Muster, which detained me yesterday until nearly 5 in the Evening, was only finished this day, a few Minutes before 3 O'Clock.

J.T.C.

1817.
12 Dec.

Rations withheld.

Sufferings endured by convicts.

Cruelty of captain, surgeon and crew.

Robbery of convicts' money.

Inquiry proposed.

Time occupied in the muster.

1817.
12 Dec.
Surgeon's
return of sick,
killed, and
wounded on the
ship Chapman.

[3] A GENERAL RETURN of Sick killed and Wounded on Board the Convict Ship Chapman between the 14th day
of March and the 26th July, 1817.

Diseases, etc.	Number put on the Sick List.			Number cured on Board.			Number died on Board.			Number killed on Board.			Number now on the Sick List.			Number confined to Bed.			Fit objects for the Hospital.			
	Convicts.	Guard.	Seamen.	Convicts.	Guard.	Seamen.	Convicts.	Guard.	Seamen.	Convicts.	Guard.	Seamen.	Convicts.	Guard.	Seamen.	Convicts.	Guard.	Seamen.	Convicts.	Guard.	Seamen.	
Amputated Finger.....	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fevers	3	1	...	3	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Pulmonic Inflammation...	3	...	...	3	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Gun Shot Wounds	28	...	...	18	...	...	7	...	...	...	...	5	...	...	...	...	...	...	...	...	...	...
Dysentry ..	34	3	4	28	2	4	2	...	1	...	...	...	...	1	...	...	...	...	...	...	...	...
Stricture	1	...	...	..	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Syphilis.....	1	...	...	..	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Total	71	4	4	53	2	4	9	...	1	...	2	5	2	...	...	...	...	...	...	...	...	...

ALEXR. DEWAR, Surgeon & Superintendent.

[4] SECRETARY CAMPBELL TO CAPTAIN DRAKE.

1817.
12 Dec.

Sir, Secretary's Office, 2d August, 1817.

I hereby inform you that I have exhibited, in an Official Despatch of this date to His Excellency the Governor, certain Criminal Charges against you, the Commander and the Officers of the Ship Chapman, for various frauds and a series of Tyrannical conduct, oppression and Cruelty, exercised or alledged to have been exercised by you and them against the Convicts on board the Chapman, on her Passage hither from Ireland, especially on the 17th of April last, and from that day until the 10th Ultimo, inclusive. And I have prayed His Excellency to be pleased forthwith to institute such proceedings, as may be deemed expedient, in order to bring the parties Implicated to Condign Punishment. I further apprise you in My Capacity of Secretary to the Government, and as a Magistrate of the Territory of New South Wales and its Dependencies, that I shall hold you responsible for the Personal appearance of all your said Officers, and most particularly of Mr. Baxter and the petty Officer or Officers, who served the Government Rations to the Prisoners on board, whenever and wherever you and they shall be called upon to answer the charges in question. I have also to require you to send to My Office for the Perusal of His Excellency the Governor, in the Course of the present Day, Your Log Book or Journal of the Voyage of the Ship Chapman under your Command from Cork to Sydney Cove.

Criminal charges preferred against Drake and his officers.

Drake to be responsible for appearance of his officers ;

and to produce log-book.

I am, Sir, &c.,

JNO. THOS. CAMPBELL, Secy. and J.P.

[5] SECRETARY CAMPBELL TO SURGEON DEWAR.*

Sir, Secretary's Office, Sydney, 2d August, 1817.

I do Myself the honor to transmit herewith, for Your information and guidance, an Attested Copy of an Official Communication, which I have deemed it my Duty to make under this Date to Captain Drake of the Ship Chapman for alleged Criminal conduct towards the Prisoners on board that Vessel during her Passage from Cork to Sydney Cove.

Transmission of charges to Dewar.

I have, &c.,

J. T. CAMPBELL, Secy.

[6] SURGEON DEWAR TO SECRETARY CAMPBELL.*

Sir, Convict Ship Chapman, Sydney Cove, 2 Aug., 1817.

I have the honor to acknowledge the receipt of Your communication of this Day's date, and beg leave to request you will be pleased to give directions for the Persons, named in the

* Note 131.

1817.
12 Dec.
Witnesses
required by
Dewar.

Margin,* to be kept in readiness to answer such Questions, as I may have occasion to put to them at the Enquiry about to be established relative to Captain Drake and his Officers' Conduct towards the Convicts while on board of this Ship.

I have, &c.,

ALEXR. DEWAR, Surgeon and Superintendent.

[7] REPORT ON SURVEY OF PRISON.

Report on
survey of prison
on ship
Chapman.

WE, whose Names are hereunto Subscribed, do Certify that in conformity to His Excellency the Governor's directions we have been on Board the Transport Ship Chapman, Mr. John Drake, Master, and taken a careful and strict survey of the Prison Room and Bulk heads belonging thereto, and are of Opinion that there is not any appearance of Violence having been Committed, or attempt to break open any Doors or Locks in the said Ship's Prison Room; also it is Our Opinion that the said Ship's Prison Room is in the same State of Security, as when the Ship left England, and it is our further Opinion that the Prison Room is fitted up in as secure a manner as other Ships that have been fitted out for the Purpose of Conveying Prisoners to this Colony.

Given under our hands at Sydney, New South Wales, this fourth day of August, 1817.

WILLIAM COSAR, Master Builder.

STEPHEN MILTON, Boatswain of H.M. Dock Yard.

JOHN REDMAN, Chief Constable, Sydney.

[8] SECRETARY CAMPBELL TO JOHN PIPER, NAVAL OFFICER.†

Sir,

Secretary's Office, 9th August, 1817.

Ship's register
of the Chapman
to be retained
by naval officer.

The circumstances, which Occured on Board the hired Convict Transport Chapman whereby Several of the Convicts were Killed, wounded, and otherwise severely punished, requiring that the strictest investigation of the whole proceedings should take place, I have to convey to you His Excellency the Governor's desire that you do not on any account whatever return the Register of that Ship to the Captain, or deliver it out of your hands to any person whatever without His Excellency's special authority being Conveyed to you to that Effect.

The Object of this injunction is to guard against any risk of the Master of the Chapman endeavouring to Escape from the Harbour, which would be facilitated by His possessing the Register.

I have, &c.,

J. T. CAMPBELL, Secy.

* And'w Murdoch, Patk. Smith, Jas. Burn, John Fagan, Michl. Collins, John Ryan, Thos. Morgan, Michl. Woods, Jas. Talbot, Thos. Shields.

† Note 131.

[9] SECRETARY CAMPBELL TO JUDGE-ADVOCATE WYLDE.*

1817.
12 Dec.

Sir, Secretary's Office, 9th Augt., 1817.

I have the honor to transmit herewith for your perusal the following Papers, Vizt:—

1st. An Attested Copy of Charter Party of Affreightment between the Commissioners of H.M. Transport Service on the one Part, and Robt. and Jonathan Chapman for and on behalf of the Ship Chapman of the other part, &c. Documents submitted to judge-advocate.

2nd. A Letter from Said Commissioners to His Excellency the Governor of New South Wales, dated Transport Office, 3d January, 1817, accompanying the above Mentioned Copy of Charter Party, &c.

3rd. A List of Stores for the use of 200 Male Convicts embarked on the Chapman for New South Wales, and

4th. An Attested Copy of the Assignment of the Convicts on board The Chapman to His Excellency the Governor of New South Wales.

I received the foregoing papers yesterday evening from His Excellency Governor Macquarie, just as He was setting out for Parramatta, and now hasten to send them to you, requesting at the same time that they may be returned to my Office when you shall have fully effected the Object you have in View in desiring to see them.

I have, &c.,

J. T. CAMPBELL, Secy.

[10] WARRANT APPOINTING COMMITTEE OF INQUIRY.

By His Excellency Lachlan Macquarie, Esquire, etc., etc.

WHEREAS several Convicts under Sentence of Transportation to this Colony, who were in Ireland put on Board the hired Ship Chapman, John Drake Commander, now lying in the Sydney Cove, have met their Deaths, and many others have received divers severe Wounds and Personal injuries from the effect of Fire Arms used against them during their Passage hither on board the said Ship. And Whereas serious Complaint and Charge of general Cruelty and Oppression, and of unjustifiable, improper and unauthorized treatment on the part of the respective Officers in Charge and Command of the said Ship and Convicts during the said Passage, have been Publicly declared, made and preferred, Which Complaint, Charges and Allegations, it seems fit and expedient Minutely to enquire into, examine and gravely to resolve. Be it therefore, and it is hereby Ordered and directed by the Authority aforesaid, that a Special Committee of Inquiry be forthwith appointed, and held on this Occasion, and that the said Committee consist of John Wylde, Esquire, LL.B., The Honorable The Judge Advocate of the Territory, John Warrant appointing committee of inquiry.

1817.
12 Dec.

Warrant
appointing
committee
of inquiry.

Thomas Campbell, Esquire, J.P., Secretary to the Government, and D'Arcy Wentworth, Esquire, J.P., Superintendent of the Police.

And You the said John Wylde, John Thomas Campbell, and D'Arcy Wentworth, as the said Committee, so constituted as aforesaid, are hereby directed, Authorized and empowered to hear, inquire into, and examine All such Testimony, Matters and Information, as may relate to or shall be adduced before you, touching the Premises and the Complaint, Charges and Allegations, therein referred to, and duly to make full and true report thereof, upon and with Minutes of the Evidence taken in respect thereof, together with all other the Incidents, Circumstances and Concerns, of or in any way belonging or relating to the Management of the said Ship and Convicts during the Passage aforesaid. And for so doing this shall be, as well to you, as to all others whom it may concern, a sufficient Warrant.

Given Under My Hand and Seal at Government House,
Parramatta, this Thirteenth Day of August, 1817.

To

L. MACQUARIE.

The Honorable Judge Advocate Wylde;

John Thomas Campbell, Esqre., J.P., Secretary to Government;

And D'Arcy Wentworth, Esqre., J.P., Superintendent of Police.

[11] SECRETARY CAMPBELL TO MR. THOMAS WYLDE.

Sir,

Secretary's Office, 14th Augt., 1817.

I have it in Command to inform you that His Excellency the Governor has been pleased to constitute and appoint The Honble. Judge Advocate Wylde, J. T. Campbell and D. Wentworth, Esquires and Justices of the Peace, a Committee to hear, inquire into, and examine such Testimony, Matters and Information as may relate to the Complaints and Charges of Cruelty made against the Officers in charge and Command of the hired Transport Chapman and Convicts on board said Vessel, during the Voyage hither from Ireland; and I have to Convey to you as Clerk of the Peace and Solicitor for the Crown, His Excellency desires that you Officially attend the said Committee, and render it such Assistance in bringing forward Evidences and Documents as may be required for the ends of Justice on such Investigation.

I have, &c.,

J. T. CAMPBELL, Secy.

[12] SECRETARY CAMPBELL TO JUDGE-ADVOCATE WYLDE.*

Sir,

Secretary's Office, 15th August, 1817.

I have the honor to transmit you herewith a Warrant, which His Excellency the Governor has been pleased to address

* Note 131.

Thomas Wylde
to assist
committee
as solicitor.

to the Honble. The Judge Advocate, the Secretary of this Government, and the Magistrate Superintendent of Police, Constituting them a Committee to enquire, &c., into the Complaints, Charges and Allegations, made against the Officers of the Ship Chapman for cruelty, oppression and unjustifiable, improper, unauthorized treatment towards the Convicts on board Said Ship, on and during the Passage hither from Ireland.

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12 Dec.

Warrant
appointing
committee.

I have, &c.,

J. T. CAMPBELL, Secy.

[13] SECRETARY CAMPBELL TO D. WENTWORTH, SUPERINTENDENT OF POLICE.

Secretary's Office, 15th August, 1817.

[*This was a duplicate of the letter numbered 12, except that the words "an Attested Copy of" were inserted after the word "herewith," and the word "and" before the words "unauthorized treatment."*]

[14] SECRETARY CAMPBELL TO THOMAS WYLDE, CLERK OF THE PEACE AND SOLICITOR FOR THE CROWN.*

Sir, Secretary's Office, 15th August, 1817.

Having addressed you under Date of Yesterday on the Subject of the Investigation, which has been committed, by His Excellency the Governor's Warrant, to the Honourable the Judge Advocate, The Secretary to this Government, and the Magistrate Superintendent of Police (a Copy of which Warrant accompanied my said letter to you), I have now further to Convey to you His Excellency the Governor's Desire that you Officially apprise the several Officers of the Ship Chapman, in Charge of the Said Ship and of the Convicts embarked on her in Ireland for this Country, of the proceedings which are to be instituted, and of the Time and place where and when the Honble. The Judge Advocate will appoint for opening the said proceedings, and require them to attend the said Court of Enquiry on their Peril.

Officers and
convicts to be
summoned to
attend inquiry.

I have, &c.,

J. T. CAMPBELL, Secy.

[15] CAPTAIN DRAKE TO SECRETARY CAMPBELL.

Sir, Ship Chapman, Sydney, 19th August, 1817.

In consequence of the ill treatment My Ship's Company have received from the *People here*, particularly on Sunday Night last, when several of them were unmercifully beaten, and their lives threatened, as was Mine and My Officers, and, as we are to attend to Morrow at the Court Room, I beg you will have the goodness to give us protection to and from that place; Several

Request for
protection for
officers and
crew of the
Chapman.

1817.
12 Dec.

of the People on shore were heard to say last night that tomorrow should be their day for revenge and that they would have My life. Under these Circumstances I beg you will take it into consideration.

I have, &c.,

JOHN DRAKE, Commander.

[16] SECRETARY CAMPBELL TO MR. D. WENTWORTH.

Dear Sir,

Secretary's Office, 19th August, 1817.

Police
protection to
be given to
officers and crew
of the Chapman.

Captain Drake having expressed apprehensions for his and his Men's safety during their Attendance on the Court of Enquiry, I request that you will order Two or more Constables to receive them tomorrow Morning at 10 o'Clock at the Governor's Wharf, and to escort them to the Judge Advocate's Office, where they will of course be under the immediate protection of the Court itself. They will also require a similar protection on their return to Ship board, which I hope you will order to be given daily during the progress of the Examination.

I am, &c.,

J. T. CAMPBELL, Secy.

[17] SECRETARY CAMPBELL TO CAPTAIN DRAKE.

Sir,

Secretary's Office, 19 Augt., 1817.

Altho' I trust the ordinary operation of the Police would be sufficient to repress any attempts, such as those you express apprehension of in your Letter of this date, yet as your attendance and that of your Ship's Company has been required by the Court of Enquiry, which is to sit to-morrow at the Judge Advocate's Office, I shall order Constables to receive you and the Crew at the Governor's Wharf, where on this Occasion you are hereby authorized to Land them, and to give you safe Conduct from the Wharf to the Judge Advocate's Office and thence back again during your daily attendance on the Court.

I am, Sir, &c.,

J. T. CAMPBELL, Secy.

[18] SECRETARY CAMPBELL TO LIEUTENANT-GOVERNOR MOLLE.

Secretary's Office,

Sir,

$\frac{1}{2}$ past 2 p.m., 2nd Sepr., 1817.

Report *re* illegal
departure of
the Chapman.

Having obtained information that it is intended to Carry off, in the course of the ensuing Night, the Ship Chapman by her own Commander and Officers, I feel it my Duty to make You this Communication in His Excellency the Governor's absence, leaving it to your Honor's consideration what precautionary Measures should be adopted to prevent such Occurrence.

I have, &c.,

J. T. CAMPBELL, Secy.

[19] SECRETARY CAMPBELL TO LIEUTENANT-GOVERNOR MOLLE.

1817.
12 Dec.

Secretary's Office, Wednesday mornng.,

Sir, ¼ past 11 O'Clock, 3rd Sepr., 1817.

I have had the honor of a Communication from you by Lieut. Watts, His Excellency the Governor's Aide-de-Camp, to the following effect, "That the Ship Chapman had hoisted a Blue Peter and fired a Gun as Signal for her leaving the Port, and that Your Honor was ready to give such assistance as might be required to prevent that Measure."

Proposed
unlawful
departure of
the Chapman.

Having suggested in my letter of yesterday to your Honor My having some grounds to apprehend that it was the intention of Captain Drake to carry off that Vessel contrary to the Regulations of the Port, I feel that I have done My duty; and not having learned what measure has been adopted on the occasion, I have it not in my power to Offer any Suggestion in regard to the present Appearances of the Business.

I have, &c.,

J. T. CAMPBELL, Secy.

[20] CAPTAIN DRAKE TO GOVERNOR MACQUARIE.

Ship Chapman, Sydney Cove,

Sir, Thursday, 4th Sepr., 1817.

I beg to inform your Excellency that the Ship Chapman under My Command is perfectly ready for Sea, and that We are laying here at a very great expence of about £400 per month, and that the most serious consequence May arise from her Detention here by losing our Freight in India, and arriving there at the breaking up of the Monsoon, and in Justice to Myself and My Owner I wish to shew and prove to him that the Ship is not kept here for My Private Mercantile Concerns.

Cost of
detention of
the Chapman.

I have, &c.,

JOHN DRAKE, Commander of the Ship Chapman.

[21] SECRETARY CAMPBELL TO CAPTAIN DRAKE.

Sir, Secretary's Office, 8th Sepr., 1817.

Having submitted your letter of the 4th Inst. to His Excellency the Governor, on the subject of your departing from this with the Ship Chapman, late Hired Convict Transport under your Command, I am instructed to inform you, that His Excellency knows of no Detention resting against you, other than what arises from the Circumstances now under Investigation with the Committee of Enquiry, and should none arise thereout for further detention, His Excellency will have no Objection to your Departure.

Drake detained
by court of
inquiry only.

I am, &c.,

J. T. CAMPBELL, Secy.

1817.
12 Dec.

Drake's letter
re detention of
the Chapman.

[22] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Adv. Office, Sydney, 20th Sept., 1817.

I feel it my Duty to forward to your Excellency without delay the enclosed Letter* from the master of the Ship Chapman. I informed the Messenger that there was no intention on the part of this Government to detain the Ship, although some of the Officers on board would not be cleared till the pending Investigation was brought to an Issue. I further mentioned that the Public Business being terminated that interrupted necessarily the progress of the Enquiry, the same would commence next Monday and proceed with all possible dispatch; with this Intimation, the party (the Master's Brother) seemed to express himself satisfied, but still I would suggest the expediency of a public Intimation from your Excellency in this respect.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[23] SURGEON DEWAR TO SECRETARY CAMPBELL.†

Sir, Ship Chapman, Sydney Cove, 20th September, 1817.

Request for
rations.

I beg leave to request you will be pleased to move His Excellency the Governor of New South Wales, &c., &c., &c., to give directions for my receiving the usual Rations due to me as Surgeon and Superintendent of the late hired Transport Ship Chapman.

I have, &c.,

ALEXR. DEWAR, Surgeon, R.N.

[24] SECRETARY CAMPBELL TO JUDGE-ADVOCATE WYLDE.

Sir, Secretary's Office, 20th Sepr., 1817.

I have the Honor by His Excellency the Governor's Command to acknowledge the receipt of your letter of this date addressed to His Excellency, and accompanied by One from Captain Drake of the Ship Chapman to yourself, regarding the continuance of that Ship in Port Jackson, &c.

No detention to
be placed on
ship Chapman.

His Excellency altogether approves of the answer you gave to Captain Drake, in saying, "There was no intention on the part of the Government to detain the Ship," It never having been His Excellency's purpose to prevent Her sailing in the Ordinary Course of other Ships resorting to Port Jackson, His Views being altogether Confined to the making the Persons of those, chiefly implicated in the Atrocities perpetrated on Board the Chapman, answerable for the same.

I beg to express my readiness to attend the Business of the Committee daily, commencing with Monday Morning at 9 O'Clock, and hope no further interruption will occur to prevent the business being brought to a final Determination.

I have, &c.,

J. T. CAMPBELL, Secy.

* Note 138.

† Note 131.

[25] CAPTAIN DRAKE TO SECRETARY CAMPBELL.*

1817.
12 Dec.

Sir, Ship Chapman, Sydney, 22nd September, 1817.

In reference to the Letter, which I had the honor to receive from you of the 8th of the present Month of September, wherein you inform me that His Excellency the Governor knows of no Detention resting against Me, other than what arises from the present Investigation with the Committee of Enquiry.

I beg leave to Solicit that You will do me the favor to inform Me, how I am in that case to account for the guard of Soldiers, which have been on Board the Ship Chapman under my Command Since the 2nd of this present Month September, with Orders as I am informed to prevent the Ship Chapman from Sailing.

The ship Chapman detained by guard of soldiers.

The very large property confided to me and the very great expence daily Occurring by the Dentention of the Ship induces me to request that you will honor me with a communication on this Subject.

I have, &c.,

JOHN DRAKE, Commander of the Ship Chapman.

[26] SECRETARY CAMPBELL TO DEP. COMMISSARY-GENERAL ALLAN.*

Sir, Secretary's Office, 24th Sepr., 1817.

Please to Victual, in the usual way and according to the present Scale of Ration, Mr. Alexr. Dewar, Surgeon and Superintendent of the late Hired Convict Ship Chapman, Commencing from the Day on which the Convicts were landed from that Vessel.

Dewar to be victualled from the public stores.

I have, &c.,

J. T. CAMPBELL, Secy.

[27] CAPTAIN DRAKE TO GOVERNOR MACQUARIE.

Sydney Cove, 14th October.

I TRUST when your Excellency takes into consideration that the Charges preferred against Me and the Officers of the Ship Chapman were made by Mr. Secy. Campbell as far back as the 2d of August last,† you will not deem my addressing you at the present Moment either intrusive or precipitate.

As Mr. Campbell, not only in his Capacity as Secretary but as Magistrate for the Colony, held Me responsible for the personal Appearance of My Officers by his Official letter to Me of the 2d of August, from that Circumstance alone it was impossible the Ship Chapman could proceed to Sea. I gave Official Notice that the Ship would be ready for Sea on the 31st of August; and on the 2d of Sepr. the Naval Officer Announced to Me that the Chapman would be Occupied by a Military Guard, and shortly afterwards a Detachment of Troops did come on board, the Officer Commanding which told Me the Soldiers had Orders

Statement re detention of ship Chapman.

* Note 131. † Note 139.

1817.
12 Dec.

Statement *re*
detention of
ship Chapman.

to fire on us in Case the Ship offered to Move; in addition to this Circumstance, Captain Piper demanded the Ship's Register in Your Excellency's Name, which I readily granted; and in Answer to My Written application to him for to return it, on the 24th Sepr., he replied he had no Objections, whenever he had received your Orders so to do; these Circumstances in themselves places the Detention of the Ship on the part of Government beyond a doubt; I have already stated to your Excellency, in My letter of the 4th Sepr., the heavy expences incurred in consequence of this Detention, and what is still of greater Importance the probability of the whole Voyage being rendered Abortive; in the Name of the Owners as well as the Underwriters, I do now, as I have hitherto done, most solemnly protest against this Detention.

Protest against
the detention.

Application
for muster of
ship's company;

On the 10th Sepr., I wrote Mr. Secy. Campbell requesting to know when he would be pleased to Muster the Ship's Company, inclosing also a Certificate from the Judge Advocate's Office Certifying that there were no Detainers against the Chapman's Officers or Crew, to which I received No reply.

and for
certificates *re*
convicts landed.

I also think it necessary to state to your Excellency that, On Application on the 6th Sepr. for the Certificates for the Prisoners and Soldiers landed from the Chapman, the answer was from Mr. Secy. Campbell that I never should have them.

Request for
prompt decision.

I stated to the Special Committee, appointed to examine into the occurrences that had taken place on board the Chapman on her Passage to this Settlement, on the 4th Instant that I had nothing further to Offer in evidence; the same indecision seems still to pervade their Councils; the Ship's Register is withheld; the Ship is occupied by a Military force, and laying at heavy expences ready for Sea. I should deem myself unworthy of that Confidence my Constituents has reposed in Me, were I longer to with hold urging Your Excellency to a decision on a business so important in regard to the Ship and her future Voyage, as the whole Transactions will be laid before the highest Authorities in England.

I have, &c.,

JOHN DRAKE, Commander of the Chapman.

[28] CAPTAIN DRAKE TO GOVERNOR MACQUARIE.

Duplicate
copy of letter
transmitted.

I HAD the honor of addressing your Excellency on the 14th Instant, and the apprehensions entertained, in consequence of having received no reply, that my Letter has escaped your attention thro' pressure of Business, together with the anxiety of Mind I must naturally feel for the long detention of the Ship Chapman under my Command, will I hope plead my excuse for troubling your Excellency with the enclosed copy of the same, and to solicit that I may be favored with a reply.

It is now approaching three Months when the Committee of Enquiry began their proceedings, and their indecision appear still to exist. I shall not dwell on the personal wrongs I have suffered, but conscious in my own breast of the falacy of the Charges exhibited against me, I feel confident that, whenever they make their report, they will entirely acquit me of them, but that circumstance will be no remuneration to the Owner of the Ship In the loss incurred from the Detention by this Government.

I have, &c.,

JOHN DRAKE, Commander Ship Chapman.

October 28th, 1817.

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Delay of report
from committee
of inquiry.

[29] SECRETARY CAMPBELL TO CAPTAIN DRAKE.

Sir, Secretary's Office, 29th Octr., 1817.

His Excellency the Governor has received your letter of Yesterday's date, accompanied by the Copy of One dated the 14th Inst., the Original of which had been conveyed to me, and which I did not consider it necessary to trouble His Excellency with under the peculiar Circumstances of the Case.

I have it now in Command from His Excellency to inform you that He cannot possibly interfere in your Case, until the Court of Enquiry shall have reported on the Circumstances of the Charges alledged against you.

Refusal of
Macquarie to
take action.

His Excellency desires it to be perfectly understood that the Detention of Certain of the Officers of the Ship Chapman on Criminal charges need not at all interfere with the Ship proceeding, conformably to the Port Regulations from hence, as has been already repeatedly notified to you, On proper Officers being appointed to take Charge of Her.

I am, &c.,

J. T. CAMPBELL, Secy.

[30] CAPTAIN DRAKE TO SECRETARY CAMPBELL.*

Ship Chapman, Sydney Cove.

Sir, Monday, 3rd November, 1817.

It is with considerable Surprize that I learn, by the Letter which you did me the honor of writing on the 29th Inst., that my Letter of the 14th on Public Service was withheld from the perusal of His Excellency on the Grounds that you did not think "it necessary to trouble His Excellency under the peculiar Circumstances of the Case."

The Repetition to me that the Ship Chapman is not detained by Government is so completely at variance with the Opinion of every Man in the Colony, whom I have consulted and made

Detention of the
ship Chapman.

* Note 131.

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acquainted with the Circumstances attending her detention, that the mere denial of the fact is an insult to the meanest understanding.

Delay in
completion
of inquiry.

The Special Committee, who were appointed to enquire into the Occurrences that took place on board the Chapman, were I presume appointed by His Excellency the Governor; but in case they think proper to consume 3 Months (and for ought I know it may occupy three Years) in investigating a Matter, which ought to have been according to the best Opinions brought to a Conclusion in one Week, is not a just reason that a large Ship Should be detained here at an enormous Expence, deprived of her Register by order of the Governor, and occupied by a *Military* Guard; but, as this subject must go before a higher Tribunal in England, I shall forbear saying anything further on this Head than entering my Protest against it.

Attempted
departure of the
ship Chapman.

If there are criminal Charges against any of the Officers of the Ship Chapman, the Line of Conduct to be pursued in that Case is very clear. You bear in recollection I gave you notice that the Ship Chapman was ready for Sea on the 31st August; and I now think it necessary to acquaint you on my giving Orders to Mr. Milton, the Harbour Master, to unmoor the Ship on the 19th Ult., the Corporal Commanding the Guard said he had Orders to oppose the Vessel moving, which was a further proof, if any was necessary, that the Government had determined on the detention of the Vessel from the first Occupation by the Troops; these Troops I presume could not have been sent to occupy the Ship without the Orders of His Excellency the Governor as Commander in Chief.

Threatened
surrender
of ship to
government.

I now beg leave to state to you for the Information of His Excellency the Governor that, unless I receive some satisfactory reply on or before friday next, in justice to the Owners as well as to the Underwriters I shall feel fully warranted in throwing the Vessel entirely on the hands of the Governor, and shall accordingly discharge the Officers and Crew giving you Official notice of the same.

I am, &c.,

JOHN DRAKE, Commander of the Chapman.

[31] CAPTAIN DRAKE TO GOVERNOR MACQUARIE.

Ship Chapman, Sydney Cove,

Sir,

Saturday, 8th November, 1817.

Request for
explanation *re*
detention of
ship's register.

It appearing, as well from a Letter from Mr. Secretary Campbell of the 29th Ult. as from well authenticated reports, that the Ship Chapman is not understood to be detained here by the Constituted authorities of the Colony, I beg leave to enquire for the information of my Constituents for what purpose the said

Ship's Register continues to be withheld from me and my Port Clearance refused, and for the performance of what Duty a Military Guard is placed on Board.

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I have again to declare that the Chapman is ready for Sea, and that, if the above named Documents were in my possession and the Military Guard withdrawn, I should immediately proceed to Sea, of course under the necessary Compliance with the Port regulations.

The Chapman
ready for sea.

If the detention of the Chapman's Register, my being refused a Port Clearance, and the establishment of a Military Guard on Board, under orders to fire upon us if we attempted to move, don't *in effect* Constitute a detainer of the Ship, I am at a loss for a perfect definition of the word. If there be specific Charges against any of the Officers or Crew of the Ship Chapman, I have to solicit that those of the Officers or Crew of the said Ship so charged be withdrawn from on board by the proper authorities, that arrangements may be forthwith made for their being properly Succeeded in their different Stations on Board.

Evidences of
practical
detention
of ship.

I have, &c.,

JOHN DRAKE, Commander Ship Chapman.

[32] EXTRACT OF A LETTER FROM THE HONORABLE THE JUDGE-ADVOCATE, ETC., ETC.

Judge-Advocate's Office,

My Dear Governor, Sunday Aft., 4½ O'K, 9th Novr., 1817.

Your letter of 4 O'K was this Moment almost put into My hand. I have only perused it, and think the subject of such Importance that I must beg leave to take a little time before I write or see you on its particular Import, and the proper procedure thereon. I do indeed assure you that I am Working day and Night (such hours as are not necessarily devoted to unavoidable intrusions on my purpose only excepted) officially to report that Determination I have now for some time been Obligated to adopt. It has proved most unfortunate, on public as well as private considerations, that the Members of the Committee have not been able to arrive at the *same* Conviction and Conclusion; the partial perception of this difference of Opinion has naturally *prolonged* the Enquiry before the Committee; and as upon the Meeting last Night, the necessity was forced upon us of making *distinct reports* to you, it will, I feel distressed to think, throw a most unpleasant Weight upon Your Excellency. Yet what can be said or done; equal Probity, I am persuaded, influences either Conclusion; while Duty and responsibility of the highest nature forbid an Acquiescence with any Decision esteemed by both Contrary to their Influence and Obligations. My System is really Much exhausted; My task *frightfully* I may say, however strong

Want of
unanimity
amongst
members of
committee.

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12 Dec.No evidence to
incriminate
officers.Concurrence of
Wentworth
in report.Disagreement
of Campbell.

the Term, increased by this to be regretted Disagreement; but, sensible as I am of the real Circumstances, I will try all of Power and Strength, believe me, to furnish you Officially with that report, which I will at once so far inform your Excellency of as to suggest that it will not tend so far to Criminate any of the Officers of the Ship Chapman, that is, *the Captain, The Officer of the Guard, the Superintendent and Surgeon, Milbank, the Chief Mate, or Aldridge, the 2d Mate*, as to justify their commitment for Trial in respect of the Prisoners killed during the Voyage in question. As *An Act of the Magistracy* in this, D^y Wentworth has stated his opinion to concur fully with My Own. Most probably Your Excellency is already aware, what I still however lament to Mention, Mr. Secy. Campbell feels himself obliged to differ in this point. I sincerely wish I could relieve you in this; with this View I have called many more Witnesses than I should have done, in hope that there would have been a Concurrence of Opinion One way or the other; 'tis quite hopeless now, but enough of this, I will do my utmost to unfold the grounds upon which My resolve rests. I hope it will at least shew that I have some reason on my side, and perhaps at least Open some View of the subject, which may enable Your Excellency to arrive at a satisfactory Determination.

[33] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.*

Sir, Judge-Advocate's Office, Saturday, 15th Novemb'r, 1817.

Transmission
of report.

I beg leave to present to your Excellency the report with regard to the Ship Chapman, the Members of the Committee having determined to report separately in that Respect. Having given the subject the most laborious attention, I have to deliver the same as my deliberate and fixed opinion upon the facts of the case.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[34] GOVERNOR MACQUARIE TO JUDGE-ADVOCATE WYLDE.

Sir, Government House, Sydney, 17th November, 1817.

Acknowledg-
ment of report.

I have the honor to acknowledge the receipt of your Letter of date 15th Inst., transmitting for my Information your report on the unhappy Occurrences, which took place on board the Ship Chapman Transport on her Passage from Ireland to this Country, with the various Depositions and other Documents connected therewith, and Informing me that the Members of the Committee, at the Head of which you were placed, appointed some time since by me for the Investigation of those Occurrences, had determined to report separately in that respect.

Having perused the report of the Examinations, the several Depositions, and the Log Books and Journals, which accompany

* Note 131.

them, and having maturely considered them and the whole of the proceedings on board the Chapman from first to last, I lament to be compelled, from my Sense of Public Justice, to dissent entirely from the Opinion given by you and D'Arcy Wentworth, Esqre., one of the associated Members of this Committee, as to the degree of Criminality of the Parties concerned, and of their not being sufficient Grounds for committing them for Trial in England. For after all that has taken place, and appears so fully in Evidence, I cannot possibly entertain a Doubt as to the Criminality of the proceedings on board the Chapman, which appears to me as marked with unparelled cruelty and atrocity, wantonly inflicted and totally unprovoked on the part of the Convicts, in some Degree originating in and ascribable to the unfounded and pusillanimous apprehensions of the Parties concerned; Since by taking the common precautionary Measures, all possible Mischief might have been prevented.

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Macquarie's
disapproval of
report by Wyld
and Wentworth.

With this Conviction strongly impressed on my Mind, I feel it my indispensable Duty to request you will, as soon as practicable, reassemble your Committee of Inquiry for the purpose of revising your own and Mr. Wentworth's reports. I must also request that the Honble. Mr. Justice Field may be solicited to join the Committee, and give his *legal* Opinion as to the Course which ought to be adopted in regard to the Commander of the Chapman, The Surgeon Superintend'g, The Officer commanding the Military Guard, and the three Mates of the Chapman; one of whom Mr. Baxter appears to have been the most active and sanguinary in the long series of Cruelties and Atrocities committed on board the Chapman.

Committee
ordered to
revise report;

and to obtain
justice Field's
opinion.

After having revised your report and added thereto the Honble. Mr. Justice Field's legal Opinion, I request you will favor me as soon as possible with the result, that I may adopt such measures as may then appear expedient on the occasion.

I herewith return you the report and Documents I rec'd from you yesterday. I beg to add that I have received the separate report of J. T. Campbell, Esqr., one of the associated Members of the Committee, and that I entirely concur in the Opinion therein expressed by him.

Macquarie's
concurrence
with Campbell's
report.

I have, &c.,

L. MACQUARIE.

[35] GOVERNOR MACQUARIE TO MR. JUSTICE FIELD.

Government House, Sydney,

Monday, 17th Novr., 1817.

Sir,

The notoriety of the proceedings, some time since instituted by my Authority in regard to the Conduct observed towards the Convicts on board the Ship Chapman, renders it unnecessary,

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Criticism of
report of Wylde
and Wentworth.

for me to advert further to that circumstance at present, than to inform you that I have received separate Reports from the Members of the Committee of Enquiry. The Reports of Mr. Judge Advocate Wylde and of Mr. Wentworth have to my utter astonishment expressed the opinion that there is not ground of Criminal Charge against the Officers of that Ship or others on board, sufficient to Warrant any of them being committed for Trial before a Competent Court in England. I cannot refrain from again expressing my astonishment that such should be the opinion of a Lawyer of Mr. Judge Advocate Wylde's professional knowledge and experience; for from My perusal of the various Documents accompanying that Report, but principally from the Log Book and Journal of the Captain and Surgeon and from the Minutes of Evidence themselves, I have been obliged to entertain the opinion that great criminality attaches to several persons on board the Chapman, and such as imperiously calls for investigation before a Competent Tribunal. This difference in opinion has led me this morning to return the Judge Advocate his Report and the documents, which accompanied it, and to request that he would reassemble the Committee and revise that Report.

Campbell's
report.

Mr. Secretary Campbell, who was associated with the Judge Advocate and Mr. Wentworth on the Committee, has likewise furnished me with his Report and opinion, which, being in unison with my own, has furnished me with an additional motive to require a revision of the Proceedings and of the Judgements formed thereon by the Judge Advocate and Mr. Wentworth.

Committee
to revise their
report.

Field requested
to assist
committee.

In my Letter on this subject of the present date to the Honble. The Judge Advocate, I have suggested the expediency of the Committee soliciting your able Legal assistance; and I trust, from the high importance of the case and the serious weighty considerations connected therewith, that you will cheerfully comply with that solicitation, whereby I will be enabled to act with the greater confidence in the future progress of this Business.

I have, &c.,

L. MACQUARIE.

[36] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Judge-Advocate's Office, Sydney, 17th Novr., 1817.

Sir,

Monday Evening, 9 O'clock.

I have the Honor to acknowledge the receipt of your Excellency's Letter of this Day's date, put into my hands at 4 O'clock as just returned from attending the Court Martial now assembled; and although I feel almost incapable, from the excessive fatigue arising from my late Unceasing public Duties, of

attending to any business whatever, much less one of such important considerations, yet I am anxiously urged to suggest to your Excellency that the report in question by no means, as you seem to apprehend, goes the length of asserting the Opinion that there are not sufficient grounds for committing the parties concerned, whomsoever this term may include, for trial in England; but giving what was considered the just result of the facts in a general point of view draws the inference only that there is not sufficient evidence to justify the Commitment of the Officer of the Guard, the Superintendent, or the Master of the Ship, on a Charge of Murder, or any other such Charge of a Criminal Nature, as would exclude them from being admitted to Bail thereon; at the same time expressing the same feeling and Opinion as your Excellency, as to the unparalleled cruelty and atrocity, and therefore consequent criminality of the proceedings on board the Ship, not amounting nevertheless in Opinion to that Degree, which in Law or fact could justify under all the circumstances the Magistrate in proper discretion to hold the parties concerned as chargeable with wilful Murder. Your Excellency's Letter does not intimate whom you intend by the Term "*parties concerned*," and I must confess myself as laboring under the difficulty of feeling myself totally unadvised in what particular respect I am to, or can with any Effect, follow your Excellency's directions to revise a Report of such a Nature so lately delivered in, and which in fact obtained the consideration of several Weeks arduous and painful attention. I have already given directions to the Members of the Committee to reassemble to Morrow Morning, and as the Opinion of your Excellency is entirely concurrent with the report of J. T. Campbell, Esqr., and who will therefore be able to fully explain your Excellency's views upon the subject, and thus point out the Grounds of the Opinion adopted, I shall on my own part very readily take them into Consideration, as possibly affording the hope of forming a Judgment more consistent with your own on this subject. It was my intention to have addressed a Letter to your Excellency as suggested, I have no doubt you will recollect more than once, as to the measures which appeared to me fitting to be adopted, supposing the result found as to the facts had been satisfactory to your Excellency; but I can have no hesitation to adopt any procedure you are pleased to consider more efficient and proper. I have also informed Mr. Justice Field of your request that he may be solicited to join the Committee, and give his legal Opinion as to the course that ought to be adopted.

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Elaboration of
opinion given
in report.

Suggested
revision of
report.

Committee to
re-assemble.

Willingness
to adopt any
procedure
suggested by
Macquarie.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

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[37] GOVERNOR MACQUARIE TO JUDGE-ADVOCATE WYLDE.

Sir, Government House, Sydney, 18th November, 1817,
Tuesday Morning.

I have the honor to acknowledge the receipt of your Letter of yesterday, which was received by me at a quarter past ten last night.

Persons concerned in cruelty to convicts.

In reply thereto and in explanation of my Public Letter to you of yesterday, I beg leave to inform you that the Persons, whom I therein alluded to as immediately concerned in or conniving at the cruelties committed on the Convicts on board the Chapman, are the Commander of the Ship, the Surgeon Superintendent, the Officer of the Guard, the three Mates and the three Soldiers already committed and now in the Sydney Jail.

Field's refusal to meet the committee.

The Honble. Mr. Justice Field has declined meeting or joining the Committee* on the ground that he has already given you his opinion privately on the occurrences on board the Chapman, and which he is ready and willing to give me Publicly if required.

Campbell to explain Macquarie's opinions.

Mr. Secretary Campbell, one of the members of your Committee, will farther explain to you my sentiments on any Points connected with my opinion on this very important subject, and to him I therefore beg leave to refer you.

I have, &c.,
L. MACQUARIE.

[38] GOVERNOR MACQUARIE TO JUDGE-ADVOCATE WYLDE.

Sir, Government House, Sydney, 19th November, 1817.

Refusal of Wylde and Wentworth to revise report.

I have received a Communication from you by Mr. Secretary Campbell to the effect that you and Mr. Wentworth feel yourselves so fully satisfied of the accuracy of your late Report on the affairs of the Ship Chapman, that you do not Conceive you can by any further revision be induced to alter it, and at the same time suggesting that, in the present Stage of the business, you Conceive that the proceeding most proper for Me to adopt would be to call on you, as the Chief Law Officer of the Crown, to furnish me with your Opinion and advice in regard to the Measures to be adopted in the further prosecution of this Affair. Yielding to your Suggestions, I embrace the earliest Opportunity, afforded by Mr. Campbell's Communication, to request you to make me an Official Statement of the Conclusions you have drawn, and the Opinion you have formed, from the facts found in your Examinations and Report, as well in regard to the Nature and extent of the Criminality of the Actions, which have caused the enquiry, as also to whom the Criminality is in any degree

Wylde to give legal advice.

legally imputable, not Omitting to state the Measures which you conceive should be adopted by this Government to bring the Parties implicated to Speedy and effectual Justice.

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Wylde to give
legal advice.

Feeling Necessarily very anxious to get rid of a Business, which has already Occupied so much time, and being for this purpose most desirous to avail myself of the Sailing of the Ship Harriett, which is to take place on or before the 30th Inst., to send such Prisoners and Evidences by her, as the present Case may require, I trust I need not add any further Motive to induce you to Make the Communication required with the least possible delay.

I have, &c.,

L. MACQUARIE.

[39] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Advocate's Office, Wednesday, 19th Novr., 1817.

I beg leave to acknowledge the receipt of your Letter of this day's date, Stating that your Excellency has received a Communication from Mr. Secretary Campbell to the effect that Myself and Mr. Wentworth felt Ourselves so fully satisfied of the *Accuracy* of our late report on the Affair of the Ship Chapman, that we could not by any further revision be induced to alter it, and Suggesting to your Excellency's Consideration the Mode of Procedure, in Our apprehension, best to be Adopted, with due regard to Your Excellency, and further Containing, your Excellency having been pleased to yield to the Suggestion, certain Directions to me in that respect.

Acknowledg-
ment of letter.

With regard to the report itself and its revision, as directed by your Excellency, I certainly am Satisfied, not of the *Accuracy* as Suggested, but in fixed and certain Impression no further Consideration of the same facts could induce me to change, or justify me in changing, that decisive Opinion on the Matter, which, with so much Labor and Deliberation and upon obligations of conscience, I have been urged under so heavy a responsibility officially to Submit to your Excellency. I have already taken the Liberty of addressing your Excellency in an official Letter, though for obvious reasons marked private, as to what Only was found, and to be concluded in effect, by that report, and in which respect, from the Language of your Letter dated 17th Inst., it seemed not to have been in that Purport perfectly understood. In Explanation I would beg leave to add only, that, in the assistance I was called upon to render your Excellency as to drawing up the Warrant for constituting the Committee, I did not understand myself as instructed, and I certainly should not have advised that the Committee should have any further powers given than to ascertain and report what were found as the *facts* and their

The scope of
the report and
the committee's
labours.

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Limitations
on the report.

Legal advice to
be tendered.

Causes of delay
in inquiry.

Opinion of
Justice Field.

result, so referred for Consideration, leaving it altogether with your Excellency afterwards to determine what were the proper Steps to be taken; as to the nature and propriety of which, it was then open to your Excellency in any the Most effectual and expedient way in your Judgment to resolve yourself. In my Sincere Anxiety to lighten as much as in my power the Serious weight of Consideration, which could not but at last in this Matter devolve upon you, I should, of my own purpose if the Members of the Committee had happily agreed in the Tenor of the report, Suggested my Opinion on those very points, on which I am now called upon to advise; but under the actual Circumstances of a difference of Opinion in the Committee, it seemed not fit, but for me to await your Excellency's further Instructions; having now received them, I hope no assurance on my Part is necessary to Satisfy your Excellency that I will, with as little delay as my present State of health and the unavoidable other Official Duties allow, fully and as satisfactorily as I can, perform the Duty imposed by them, which at the same time involves so many points of difficult consideration and of so serious responsibility as not to be accomplished without Due opportunity of Deliberation. With regard to the time occupied by this business, it will not be forgotten I am sure, as far as I am personally concerned, that in the interval I have had to preside at a Court of Criminal Jurisdiction from the 29th Sept. to the 1st of November, as also having had to attend as Judge advocate on a Court Martial; but allow me further to Suggest that the lapse of time has perhaps, after all, chiefly arisen from the length of the Minutes and the inability of having but one person engaged in Copying; while the Committee could come to no report, till an Opportunity had been had of perusing the whole of the Evidence taken, which neither Member but Myself had been able, from the intervention of Other Official Duties, throughout to attend the delivery of, and which the difference of Opinion entertained by the Members rendered so indispensibly necessary to have in regard.

I shall have in Care to transmit to your Excellency the Letters* containing the opinion of the Judge of the Supreme Court on this subject, and with respect to which I am informed by him that he has already communicated with your Excellency.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[40] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Advocate's Office, Sydney, 24th Novr., 1817.

Having been requested by your Excellency to make an official Statement of the conclusions drawn and the opinion formed by me upon the facts found upon the report made and

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examinations taken as to the Occurrences on Board the Ship Chapman during the late passage, as well in regard to the Nature and extent of the Criminality of the Actions which have caused the enquiry, as also to whom that criminality is in any degree legally imputable, not omitting to state the measures which I conceive should be adopted by this Government to bring the parties implicated to Speedy and effectual Justice.

Having taken into Consideration the points Suggested, I have to advise that, consistently with the Opinion and report already submitted to your Excellency, there does not appear to me found on the report any charge of felony of such a nature or degree of criminality as to render it incompetent to Magistrates, taking the examinations as Such, to admit to bail, under all the circumstances, any of the Persons implicated in the transactions therein referred to. The power of admitting to Bail upon Charges of a Criminal nature is vested by the *Statute wholly* in the Committing Magistrates, who exercise it in discretion as to a due construction of and adherence to the Act altogether upon their Own Serious responsibility. I am not therefore prepared to say, that a refusal, on the part of the Magistrates to admit the parties to Bail in respect of the Occurrences referred to in the report, would induce upon them, so refusing, any Charge of Misdemeanor "punishable at or by the Suit of the party or Indictment." But as even in certain cases of Manslaughter (with which alone, if the Inference from and opinion upon the facts found in the report be just, any one of the officers or Men on Board the Chapman can be chargeable), it is held competent for the party, under the Statute, to be admitted to Bail; and as, if the Commitment of the parties in question be, in conscientious opinion, legally avoidable upon the general terms and fair construction of the Statute, of the Nature of the charge and the Proof in Support of it, I am not aware of any reason that peremptorily, either in consideration of the general circumstances of the further Proceedings and great Expense thus Necessarily devolving upon the Crown, or of the private and personal consequences of Commitment upon the parties themselves, calls for the exercise of the Power to commit (yet perhaps without any personal risk as to responsibility to be put in force); it would certainly be, and is my own personal Discretion and Determination as a *Magistrate*, upon the best consideration I can give to this Case under its many and very peculiar bearings and circumstances, that the parties in question may be admitted to Bail *generally* in respect of the, or any, charge of Felony or otherwise to be exhibited against them within a certain period after due appearance in Great Britain before a competent Tribunal; and

No evidence
of offences of
non-bailable
character.

Persons
charged to be
admitted to
bail.

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Names of
persons
involved.

thus far only, it seems necessary at the present to resolve the question or degree of criminality imputable with regard to the particular persons, who should be held bound to answer any charges that may be brought against them at the Instance of the Government at Home; no suggestion could, it seems to me, be more proper or just than that made by your Excellency, and which includes Lieut. Busteed, Surgeon Alexr. Dewar, John Drake, Commander of the Ship Chapman, and John Milbank, Robert Aldridge, and William Baxter, the 3 respective Mates. The above Observations apply however altogether only in respect of the Jurisdiction and, as conceived, the proper exercise of it under the circumstances, by the Magistrates, as such:—but inasmuch as Sufficient Bail may not be possibly attainable to the parties at this place, I have further to Suggest to your Excellency's consideration, as the Procedure, in My apprehension, the most advisable, in Order as effectually as may be with due consideration to all the various Interests involved, to Secure the due appearance of the parties to any prosecution that may hereafter be brought in England, that Lieut. Busteed and Surgeon Dewar R.N. should be *sent back to England in close arrest*, there to Answer in respect of their Conduct on board the Ship Chapman and the occurrences, that took place during the late passage, as may be considered most proper and expedient, either before Courts Martial or of Criminal Jurisdiction. With regard to this Step in reference to Lieut. Busteed, I presume there can be no doubt of your Excellency having perfect authority, and if your opinion of this officer accords with my own, as to the Discharge of the Duty entrusted to him as such on board the Chapman, of exercising that authority upon equally strong grounds of Justification; and with regard to Surgeon Dewar, whatever question might be raised as to his being amenable to a Court Martial in respect of Charges arising in Service as Surgeon and Superintendent of a Convict Transport during the passage, yet in consideration of the full and general Powers of your Excellency's Commission, as Governor, I can only give my *Opinion* that Your Excellency will be equally empowered and justified, upon the report made, to adopt, at least in *limine*, the same Measure and Proceeding as against Lieut. Busteed, leaving Surgeon Dewar to be in England "proceeded against and tried as the Merits of his Offence shall require." With respect to the Master and the 3 Mates, against whom the only proceeding can be as of the Magistracy in Commitment for trial or admission to Bail, the amount of the recognizance to be taken (if Bail be allowed) should, I think, be *each* in the sum of £500 and Two Sureties of £150 each; and if sufficient Bail to this amount cannot be procured and

Busteed and
Dewar to be
sent to England
in close arrest.

Bail proposed
for master and
mates.

given, the Master should be Called upon, under the circumstances, to hypothecate the *Ship* itself as a security, whether questionable or not, as ultimately valid or not, yet at least as justified by the Occasion and *in terrorem*, for the due appearance of himself and the 3 Mates, according to the Exigency of and for the satisfaction of the amount of the Sums, so to be taken, upon the Several recognizances. The Bail as required given, or the hypothecation made, and the *individual* recognizances only taken, I should consider the parties might be duly suffered to proceed with the Ship.

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Proposed hypothecation of the ship Chapman.

The only point of proceeding, which remains for consideration, is as to what persons shall be sent to England, or shall enter into recognizances to appear as witnesses in Support of any charges to be preferred against the parties; and upon the best opinion I am able to form, I beg to refer your Excellency in this respect to the list enclosed. The Evidence taken and respective Documents put in will of course I presume be duly forwarded. It does not seem necessary to make any Suggestion as to the particular cases of Jordan, Hogan and Clements, privates of the Detachment as guard on board, whose commitments and the recognizances given therein will take in every respect the usual Course in such Prosecutions under the established Police of the Colony.

Evidence required.

The case of Jordan, Hogan, and Clements.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[41] THE NAMES OF WITNESSES TO BE REQUIRED TO ENTER INTO RECOGNIZANCE OF £100 EACH IN THE MATTER OF THE SHIP CHAPMAN.

List of witnesses required to enter into recognizances.

Giffard Campion.	Cornelius Crawley.	Henry Jennings.
Peter Cocker.	William Nelson.	Robert Kirby.
William Jones.	John Fierdaunt.	John Clift.
Michael Arnold.	Alexr. Johnson.	

Soldiers to be sent to England as Witnesses.

Alexander Wardrope.	George Cooke.	Robert Vickery.
John Brown.	William Hutchins.	John Hooper.
Thomas Turner.	Edward Joy (gone by mistake with his Regt. to India).	Mich'l Desmond.
William Hawkins.		
John Young.		

Convicts to be sent to England as Witnesses.

Patrick Smith.	Peter Allan.	John Sullivan.
John Fagan.	Michael Wood.	
Terrence Kiernan.	John Ryan.	
Francis Murphy.	Thomas Kelly, brother of the deceased Kelly.	
James Talbot (gone by Mistake to Van Diemen's Land).	Michael Collins.	
	William Leo.	

JNO. WYLDE, Judge-Adv., N.S.W.

Sydney, 24th Novr., 1817.

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[42] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Adv.'s Office, Sydney, 26th Novr., 1817.

Having requested in your Letter, dated the 17th Inst., that the Honorable Mr. Justice Field might be solicited by me to attend the Committee (then ordered to be reassembled to revise the report made by myself and assented to by Mr. Wentworth with regard to the Occurrences on board the Ship Chapman), and to give his legal opinion as to the course which ought to be adopted as to the Officers of the Ship, and the Judge having begged to decline the same upon the Ground of having already communicated that opinion to Myself, or rather, as I had every reason to conclude, to the Committee, I beg leave in order to afford your Excellency every facility of forming a Judgment upon the proper Proceedings to be adopted in this important affair to enclose Copies of the several Letters* addressed to me in that respect.

Referring to the Letter, dated 6th Ult., which it seems best to have in consideration as the only one written after an entire perusal of all the Evidence, the Judge, it appears, expresses himself "as having no doubt the Convicts intended to take the Ship, and still less so that the Crew and Guard sincerely believed they did"; and further "that the freemen had such reasonable Grounds for *believing* that the Convicts had a felonious Design against them, that mistaking or being misinformed as to the overt Act (which is *still always* the Judge adds necessary) the first firing would in its inception be only misadventure." Thus far therefore there is no difference of opinion between the Judge and myself.

The Judge further remarks, "that it seems to be admitted that the Alarm, which occasioned the second firing, was purely false; the same law of reasonable mistake will therefore clearly apply to this firing, and the only question will be as to its duration beyond the discovery of the Mistake and the reasonable Aspect of security as in the former case." The ground of reasonable Mistake does not appear to Me, as the report states more fully, so clearly to apply to this firing in its inception, but only to those who joined in it afterwards; and as to the Duration beyond the Discovery of the mistake, there seems no question upon the Evidence of the firing having then immediately and entirely ceased.

It is not my Intention to intrude upon your Excellency an Argument, at any length, as to the true legal Principle in my apprehension applicable to the Case under consideration. I have already suggested, in the Official report delivered in to your Excellency, that in my view of it the true Principle is to be found

* Note 141.

in the *reasonableness* and *degree* of the Apprehension excited at the Time, which may or may not appear as proved to have existed on probable Grounds with or without *the overt Act* of Prison breach; that the Question of reasonableness must be determined as collected from all the circumstances of the occasion, and although not in certain cases to be judged independently of, yet in no case wholly to depend upon, an overt Act, at least not such an One as would make the object, instead of apprehension, a real, subsisting, actual and extreme personal Danger; for the term "Apprehension would then become entirely merged in the positive fact, and existence of actual Peril and its consequences, where no doubt could be entertained of measures of extreme resistance being not only excusable but justified; and the point of reasonableness turns, I conceive, upon the *real Impression* on the *party* at the time from the influence of the existing circumstances as to the effect of any apprehension not of course to be fanciful or without any Probability of Incident, rather than upon the cause of it being well founded and in every respect justifiable; otherwise no allowance in the due application of the principle in that case could be made for different natures and feelings as to power of resolution and courage, though in truth what might urge one party in Alarm to an Act of fatal Violence as the only supposed means of self preservation, in another more firm might excite no possible apprehension, and of course lead to an Act even as of personal resistance. It is I therefore cannot but conclude the *believing* and the supposition of Danger upon probable Grounds rather than the Degree and cause (though not to be left out of Consideration) of that Probability itself, which reduces the charge against the party killing to Manslaughter or Misadventure, according to the degree of Caution used and the probable Grounds of such belief. And indeed it is observable that the Judge, while stating his opinion to be that the *overt Act* is *always* held necessary, allows that in fact the parties on board the Chapman were mistaken or misinformed as to any overt Act, but yet that the first firing was in its Inception only misadventure; thus affording an Instance in conflict with his own principle, suggested for a directly contrary Inference, where the reasonably believing, without any Overt Act founded in fact for doing so, reduces the Act even to misadventure. I quite agree with the Judge in the *Case put*, as to the duration of the necessity to justify or excuse any act of Violence committed; and if the Apprehension of Danger (not Danger only) be no longer in Influence upon the party, no reasonable excuse will belong *to such* a case; but it appears to me that the Case of the Ship Chapman bears more strongly and is

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Legal question
of reasonable
justification in
acts of firing
on board ship
Chapman.

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Legal question
of reasonable
justification in
acts of firing
on board ship
Chapman.

mainly to be considered upon another legal Principle of equal weight in decision, as to the degree and nature of the criminal offence, and that the enquiry will be whether the deadly Purpose was effected, after the blood had in fact cooled and an interval for reflection, conviction of mistake and self Moderation allowed to the subject, once hurried, agitated and inflamed by the attendant circumstances. This seems to be the Question chiefly to be decided, and certainly not by the committing Magistrate but a Jury; but before it comes to the point of Decision, the Magistrate has to determine under the directions of the Statute whether the charge to be preferred against the party is of so grievous a Degree, be the nature what it may, as in his Discretion, exercised upon his own personal responsibility, to require, in respect of the enormity of the Crime and the comparative exigency of preventing all escape, the actual Imprisonment of the party; but this decision of the Magistratè is perfectly extrajudicial with regard to, and has nothing in common with, the final Jurisdiction of the Jury over the case.

Persons
involved as
"firers or
abettors of
firing."

It might not certainly be matter of doubt "that the firers or abettors of firing on the first night should be sent before a Jury," and the admitting to Bail or committing to Custody the parties in question cannot justly, it is presumed, be taken as contrary to any such purpose on the part of the committing Magistrate; but it would have been satisfactory if the Judge, having read all the Evidence, could have pointed out "all the persons proved to have been so by the Evidence in respect of the 2 general firings, and as to all those who fired into the Boat on the third Night"; as with regard to the Occasion of the first firing, I have had to conclude that there was scarcely one of the Crew or Guard on board that did not come within the term of "firers or abettors of the firing"; and inasmuch as the Alarm was not excited in my opinion unreasonably or on improbable Grounds, I was unable to draw so strong a line between those, who followed up their Impressions with greater Heat and determined Effect, although destructively and fatally upon the Convicts, and those, who only did not exert all Influence in their Power to arrest the Calamitous Proceedings, as to consider the conduct of the latter as excusable, and of the former as of wilful Murder. Whoever may have been alluded to by the Judge as "the firers or abettors of the firing, he is so" solemnly of opinion should be sent to a Jury, "the Difficulty of ascertaining the point does not seem to be at all diminished, when he proceeds to state that he thinks both the Captain" and the Surgeon, as Officers, stand in too responsible a situation, with regard to the Care of the Convicts, not to be immediately sent home *to await the Pleasure of the Secretary*

of State, either as witnesses or Defendants; and further "that Lieut't Busted should go home to account for his want of command over his Men, as well as in the capacity of a Witness." Your Excellency is aware that I have felt it my Duty to advise that no such alternative should belong to the cases of these respective Officers, as to the Character in which they should be allowed to return to England; but at the same time I must in truth confess myself at a loss to determine who on board could be intended by the Judge as "Abettors of the firing," if the Captain and Officer of the Guard were not comprised in that Denomination. It does not seem necessary further to enter into the points suggested by the Judge, and I have only to add in this respect that, from pressure of other Duties upon my time, I am obliged to indite and transmit; at the moment I have had no opportunity therefore of acquainting the Judge himself with the particular Tenor of this Communication; though in proper Candor I should have been glad to have done so, and the more particularly so, upon obvious motive, if your Excellency should think fit to forward all the Letters on the subject to His Majesty's Secretary of State, in which case however I should hope such an opportunity may still be open.

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involved as
"firers or
abettors of
firing."

I have been induced thus far to observe upon the Judge's opinion and suggestions, which I have had reason to think have had considerable Influence upon your Excellency, as well as upon one of the Members of the Committee, in order faithfully to discharge that Duty I am ever ready to pay Your Excellency, as Governor, of fully informing you, and thus enabling you the better to judge of the Grounds upon which I may have been urged to adopt any particular opinion or to advise certain Measures as expedient and proper in that respect.

Reasons for
criticising
Field's opinions.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[43] GOVERNOR MACQUARIE TO JUDGE-ADVOCATE WYLDE.

Sir, Government House, Sydney, 27 Novr., 1817.

I have the honor to acknowledge the receipt of your two letters of the 25th and 26th Inst. with their several Inclosures and Documents referring to the Business of the Ship Chapman.

Firmly adhering to the Opinion I have already expressed as to the Justice and expediency of sending, as *Prisoners* to England, the Commander and three Mates of the Chapman, the Surgeon Superintendent, and Officer Commanding the Military on board that Vessel for *Trial* for the parts they have taken in the Criminal proceedings, which occurred on board during the Passage hither, and that Opinion resulting from the pure dictates of conscience and my sense of what is due to Public Justice,

Macquarie's
opinion *re*
procedure
to be adopted.

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And not as you have suggested from the influence of Mr. Justice Field's or any other person's Opinion on this subject, however much I may and do respect that Gentleman's high legal Authority, it remains for me only to express my regret that I should be obliged to differ so essentially from you on this Important Business; as it would however be incurring too heavy a responsibility for me to adopt any proceeding in direct Opposition to your high Official Authority And Advice, I am prepared to yield thereto by sending Home in Close Arrest the Surg'n Superintendent and Officer of the Military Guard, if You give it as your legal Opinion that the Surg'n Superintendent is *on this occasion* liable to such Military Arrest, of which I own I am myself inclined to entertain very considerable doubts.

Wylde's
proposals
to be adopted.

I shall also Comply with your suggestion of admitting the Commander and the first and 2d Mates of the Chapman to bail, as your Opinion is that theirs is aailable Offence; But Viewing Mr. Baxter's conduct as peculiarly Criminal, I am decidedly of opinion that He ought to be sent Home a Prisoner, as well as the Three Soldiers already Committed for Murder; and on this subject I hope and request that you will give a further and full consideration to the Circumstances of Baxter's Case, who appears to have taken all along so very prominent and sanguinary a part in the Various enormities committed on board the Chapman.

Wylde to advise
re Baxter.

As soon as you shall have determined on these two points now referred to your final Decision, you will please to Cause the Necessary recognizances, bail Bonds, &c., to be entered into without further Delay, so that the Chapman may be enabled speedily to proceed on her voyage from hence.

Recognizances
and bail bonds
to be completed.

Your Suggestion in regard to hypothecating the Ship as a More effectual Security of the Appearance of the Parties in England will of course conduce to that object, and will no doubt be adopted by you for that desirable purpose.

Recognizances for the appearance of the Seamen of the Chapman, required as Evidences in England, must be also taken before that Ship leaves the Harbour.

The Military and Convict Witnesses, I intend to send home by the Harriet now under Dispatch.

I have, &c.,

L. MACQUARIE.

[44] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Judge-Advocate's Office, 27th November, 1817.

Sir,

Thursday, after 4 O'C.

I have the Honor to acknowledge at the moment the receipt of your Letter of this date, and should feel obliged if your Excellency would return me *for a time* the Letter, I last had the

Honor to address, *or a Copy of the Same* (having been able as I then Mentioned to take none at the time), as I am quite at a loss to conceive, how I could have been led to adopt any expressions therein as to have induced your Excellency to remark in such manner upon the observation as to any Influence of the Judge of the Supreme Court or any other persons in the opinion you have been obliged, you are pleased to observe, from the pure dictates of conscience and sense of what is due to public Justice to form upon the proper mode of procedure in the matter of the Ship Chapman.

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Denial of
imputations
against
Macquarie.

I would more particularly request a sight or copy of my Letter as it was Impressed on my mind that I had therein stated the Ground on which I had not been able to find any Distinction so strong as would warrant but one mode of Procedure with regard to the Mates of the Ship.

As soon as I have duly considered the points adverted to and referred to me, I will more fully inform your Excellency of the opinion I may have adopted thereon.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[45] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Judge-Adv.'s Office, Sydney,

Friday, 28th November, 1817.

Sir,

Having the Honor to advert particularly to your Excellency's Letter of yesterday, as generally, to your recent Communications with me in respect of the Ship Chapman, I have to express serious Concern that I cannot derive the satisfaction of perceiving, that I have at present been so fortunate as to have perfectly conveyed to your Excellency the grounds of that Opinion in Law and the Scope of those general Conclusions in fact, which necessarily, as it appears to me, result from and belong to this Case on the Evidence taken. I cannot however believe that I should do myself Justice in not feeling perfect Confidence in your Excellency having such a knowledge of me, as to be assured of the cautious deliberation with which I have so anxiously advised, as of the sincere Desire by which I am actuated to conduct your Excellency to the true points of decision, whether in accordance or not with that I may have arrived at in a matter of some Difficulty, of such responsibility and Interest, and involved in questions of a legal nature and Construction.

Interpretation
of Wylde's
opinions.

The difference of opinion, which you are pleased to express your regret (and I would beg leave duly to acknowledge the Consideration) as being obliged to entertain on this Subject, arises chiefly as it strikes me, from your Excellency viewing every

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Causes of
difference of
opinion.

Act and Incident, which took place on board the Ship during the whole Passage, as forming one entire Transaction; and that inasmuch as Deaths occurred by Violence, and various Enormities, as your Excellency terms them, afterwards prevailed, that the whole must be taken as arising from one and the same principle, and at least as making up One general Charge against all concerned. Whereas it appears to me, that in legal Consideration and Principle, and your Excellency will be aware that I can know of "Justice and Expediency" in no other sense, the occurrences necessarily divide themselves from the respective and inherent causes into distinct and separate Questions of conduct, to each of which attaches a certain fixed Character and measure of responsibility, and in each of which varying and distinct degrees of Criminality and its penal consequences are to be found.

Occurrences on
the Chapman to
be considered
separately and
not collectively.

Under this Conviction I, as a Magistrate, have in mind the occasion of the firing, that took place on the 17th of April, and its circumstances as perfectly independent of the 2nd firing on the 27th, or the Measures of Duress, that subsequently were adopted, as if either of the latter Incidents had occurred on board another Ship; and from a like Impression, I withdraw from either occasion of the general firing the Consideration of the Punishments, restraint and general Treatment of the Convicts, as if such a Proceedure had never at all taken place. This Distinctiveness, and the inferences arising from it, result altogether from one or two facts, or I should express myself more correctly in saying the attributes of one or two facts, which, from as pure dictates of Conscience, it will, I am sure, be allowable to me to affirm, as can influence your Excellency (and more pure, from what I know of your Excellency in this or any other point of Public Judgment and Conduct, I believe they cannot be) seem to me, I beg to repeat, incontrovertibly to be found as proved on the Evidence given before the Committee, and on which but one principle, as to opinion, and one particular Course of Conduct as to the subjects of it, can *justly or consistently* influence, direct and determine.

To refer then immediately to these paramount circumstances, that so totally, in *my* feeling and apprehension, controul every conclusion and Proceeding belonging to them, they may have been, and I believe have been, more than once suggested, but the occasion I trust will excuse the repetition; first then, the Cruelty of treatment whether in corporal Punishments, Deficiency of due care or Victualling, or personal Duress of any kind, whatever the degree of positive Suffering, that the objects of it, the Convicts, may have and certainly did endure during their Passage to this Colony, can amount, considered independently of all the other

Degree of
charges to be
preferred.

circumstances, to no higher crime in Law, or expose to any other penal Proceedings, than as for a Misdemeanor (though it is matter of doubt with me, if it even can be raised to this) *unless* it appeared that the loss of life in any Instance took place in consequence, which would be Murder, Manslaughter or Death by Misadventure, according to the *particular* circumstances belonging to the Instance and the motives influencing the party, against whom any charge in that respect might be brought. No such Instance however from *these causes* has been proved against the Officers of the Ship; speaking generally, there seems no doubt and, in my consideration, against no individual Officer in that respect. With regard to the Cruelties and Treatment, therefore, if the opinion in Law be correct, there can arise no possible Ground of charge which, in my opinion, would justify a Magistrate in committing to custody the parties or any one of them, so particularly pointed out by your Excellency; while if no degree of Cruelty, short of the effect I have suggested, could amount to misdemeanor, it can answer no desirable end in making Comparison as to this or that more aggravated Conduct of one or other particular Officer in this respect.

The only deduction therefore remaining is, can these Acts and Incidents be referred to and so connected with any other *previously* taking place and of fatal consequences, as to make up the measure of criminal cause, and the personal Criminality of the respective Agents to a charge of Murder or certain positive Manslaughter.

These other Acts and Events are only of course to be found in the firings, that took place into the Prison on the 17th and 27th of April, upon which, "from my sense of what is due to Public Justice" I can not but firmly adhere to the opinion I have already expressed (however much matter of personal regret to me not to approve it to your Excellency) that in consideration of the apprehension, which I so conscientiously believe to have been felt and to have been in Influence upon every Soul of the Crew and Guard on the occasion of the first firing, from the commencement to the termination, I am unable to find Ground of such a Charge against any One of the Officers, as, in the best Discretion I can call in Aid, would, if warrant, justify as necessary or therefore proper any Commitment to actual Custody for Trial on an Offence of such a Nature.

The reasonableness of this apprehension, I conceive, is no further necessary in proof than to resist the conclusion of its being fictitious and not in truth, working the subject of it into a state of actual fear and apprehension of extreme personal Danger. As the occasion arose in apprehension, so the actual

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charges to be
preferred.Validity of a
charge of
murder or of
manslaughter.

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No evidence
of malice.

commencement of the circumstances belonging to it appears to me only ascribable to cause, *sudden* and unexpected; but if so, Malice can not attach as the principle of the Act, because of surprise and Attributable to an apprehension exciting even to an Idea of Self defence and Preservation. But it is true, though the commencement might find Ground of excuse, the so long continuance might or not become an independent, substantive crime of equal Enormity, as if the commencement had originated in Malice prepense; but in this respect I can not still but conscientiously think, that a Principle of most equitable Defence and Construction justly governs and extends to this View of the Case, for I do not find in Proof any such Interval for reflection, recovery and self-moderation, as the Law in Judgment with Mercy always affords to that Criminal conduct, which takes place Subsequently to circumstances creating personal Hurry, Agitation, and Alarm. I cannot find that in Any One Individual on board, the blood was ever cooled during the period in question; whom therefore in Justice could I commit for Wilful Murder under all the circumstances, in whom can I trace Malice prepense, or against whom, individually, thus, as all, influenced by Sudden Alarm at the commencement, and never free from its Effects during the time of the Transaction, can I consistently bring up as Evidence of such Malice, proceedings subsequently having occurrence and, in my view, still more strongly evincing the Degree and intensity of that very Apprehension and Alarm.

Action of
officers on
occasion of
second firing.

With regard to the second firing, I can perceive no possible Ground on which any of the *Officers* can be chargeable so far with having caused, countenanced, or even been privy to the actual commencement, as to render it incompetent to a Magistrate, in discretion, to admit to Bail; the whole Evidence indeed tends to shew them as using every energy in their power to stop its continuance, as soon as aware of its existence; here therefore is every thing to rebut the presumption of Malice, even to the Motives so evidently actuating at the time; And no subsequent Conduct can affect or change the conclusions, that so naturally, justly and positively belonged to the fact at the time of the Action.

Having thus endeavoured, as perspicuously as at the Moment I am able, to inform your Excellency of the general Views I have had to take on this Subject, with all due Deference, I would pay all the regard your Excellency requires to the case of Baxter, individually; he is certainly "all along very prominent"; but it must not be forgotten, that whatever his Disposition might be, his charge on board over the Convicts rendered him necessarily and peculiarly so; any one else appointed to the Same Duty

Consideration
of the guilt
of Baxter.

must have appeared so, if not in the same, at least comparatively in a strong degree. As to being very "sanguinary"; if I rightly apply the term to a desire of causelessly and maliciously shedding the blood of those on board, I find him not so in that sense; which imperatively calls upon the Magistrate to commit for Wilful Murder (and this strikes me as the only question I have to consider, his Moral Delinquency, whatever it be, not being otherwise in Judgment before me); for on those occasions, when *sudden* and general Panic prevailed, and every one believed themselves justified in most effectually, though therefore more destructively as to the objects of apprehension, of counteracting that attempt in the failure of which self-preservation was presumed to depend, if the principle of the occasion be fixed and *universal* in its fullest sense and extent, I am unable to find any justifiable Ground of excepting Baxter from the operation of that general Principle, because he more fatally and determinately followed up and carried into greater effect the purposes which arose to all and are so far excused, And only so far as I conceive in the very inciting Cause as not to render it incumbent to commit him in particular as for Wilful Murder; I find him continually declaring an intention of killing this and that person, whose lives were never lost; and I can see him on no single Occasion, on which he was not under such an Influence, as at least not to render him chargeable in law with such enormity of criminal Conduct as to justify, in my consideration, the exception of him from the general Conclusion and proceedings dependent on it. I am therefore unable to afford myself the Gratification of an Agreement in Opinion with your Excellency, even in this Instance; but if Your Excellency "is so decidedly of opinion, that he should be sent home a Prisoner," I am not aware of any reason why your Excellency should hesitate to act upon it; for I have already suggested that it remains a mere point of discretion in the committing Magistrate, and that under all circumstances, I am not prepared to say, that the actual Commitment of any of the Officers, and of course of Baxter, would under all the circumstances induce any consequences upon the Magistrate as to suit or Indictment, and if not, on a Magistrate, *a fortiori*. I consider not in your Excellency, as Governor; but such a step can not consistently surely be adopted by that Magistrate, who views the whole case in a light, which reflects nothing of the wilful, Malicious Murtherer, who breathes in Malice prepense, and moves, not in Apprehension and Alarm, but in atrocious Conscientiousness and Purpose.

The Official Authority and Advice your Excellency suggests as opposing those proceedings, you would otherwise so conscientiously

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Consideration
of the guilt
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Macquarie's
powers of
committal.

adopt, will, as it appears to me, impose no heavier responsibility, I beg leave in candor to observe, than of one Magistrate differing from another in opinion under circumstances of nice distinction, and where a difference of opinion may not at all be peculiar to ourselves, and as far as I am personally concerned I can have no possible Interest; that my opinion or suggestions should have More weight than in sound reasoning and principle they may appear to your Excellency deserving of, as to the legal consequences, of a procedure, such as your Excellency so decidedly feels just and proper; I can only again repeat, that although I, exercising the best Discretion I am capable of, would not commit, still I think, If I did so, and of course therefore more strongly your Excellency would in such a case incur, I apprehend no actual personal responsibility; as a general Act of your Government, it is not for Me in any way to suggest as to your Excellency's Decision.

Liability of
surgeon to
military arrest.

With regard to my legal opinion as to the Surgeon Superint't being liable on this occasion to Military Arrest, I am unable further to advise than I have already done in my Letter of the 24th Inst., nor am I yet aware that your Excellency, as the Governor of this Territory with such large and general Powers and under all the peculiar circumstances of the case, would incur any personal risk; but I beg your Excellency most perfectly to understand that this point entirely rests upon the validity of my own private Opinion; and as it does so, perhaps your Excellency may think fit to advise, as I personally should wish, with the Judge of the Supreme Court in this respect, whose high legal Authority you are pleased to have duly in such consideration, and from which I beg leave strongly to deprecate any Idea of a wish or intention on my part to detract, as arising justly from any observation I have had the Honor of addressing to your Excellency.

Suggested
consultation
with justice
Field.

The necessary recognizances, bail Bonds, etc., should be entered into at the Clerk of the Peace Office; and if your Excellency thinks fit to leave that Matter with me, I will readily give the necessary Instructions.

Recognizances
and bail bonds.

The manner in which your Excellency is pleased to mention my suggestion as to the hypothecation of the Ship seems to leave it uncertain, whether it is your Excellency's intention to commit the whole Proceedings to be taken as to the Officers of the Ship to myself and Mr. Wentworth, or any other Magistrate, as in any other ordinary case, or whether your Excellency is pleased to act yourself on the occasion; if so, I shall entirely conform to your Instructions, or if acting as the committing Magistrate, take

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very readily any responsibility that may belong to that Office, as to any recognizances or securities the parties may be called on to enter into.

With respect to your Excellency's observation that your opinion on this case has not been formed upon "the Influence of Mr. Justice Field's or any other person's opinion on this subject, however much you may and do respect that Gentleman's high legal Authority," I beg leave with submission to express my hope that your Excellency on reconsideration will be satisfied that the tendency of my observation as to any Influence goes no further than as to legal Construction and principle, not upon the facts merely, but on the facts as involving legal distinctions, proceedings, etc.; and in this Sense, I trust I may be free from any apprehensions that your Excellency would think it unfit to be observed, that your opinion might be influenced not upon the facts abstractedly considered, but "by high legal Authority" on legal considerations and points arising upon those facts, and to which I myself thought it due on a difference of opinion to enter so at large into the grounds as was the only Motive that urged me at all to the remark in general excuse and explanation. I trust that no assurance on my part will be requisite to satisfy Your Excellency that I could not have any Intention of even in the least remarking upon that Independence of Judgment and Conduct, which so peculiarly belong to Your Excellency's Measures and Government.

Suggestion of influence on Macquarie's opinions.

Ever disposed, as I well know Your Excellency to be, to do perfect Justice, you will I feel persuaded wait for no suggestion on my part that the report made by me and the communications, which have passed between your Excellency and myself, may be communicated to His Majesty's Secretary of State, so as to afford me the most favorable opportunity of thus best supporting and approving the Justice and propriety of those Measures and opinion I have been obliged under such conscientious Obligations to suggest to your Excellency on so now to me serious Matter of responsibility and Decision.

Request for transmission of correspondence to England.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[46] GOVERNOR MACQUARIE TO JUDGE-ADVOCATE WYLDE.

Sir, Government House, Sydney, 29th November, 1817.

I have to acknowledge the receipt of your Letter of yesterday evening in continuance of the subject of the ship Chapman, and hasten to reply to it, in order to the final winding up of a business which has from circumstances been unfortunately so long protracted.

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Impossibility
of unanimity
in opinions.

Perceiving that it is not to be further hoped for that a coincidence of sentiment on the occurrences, which took place on board that Ship, or on the measures, which should be adopted thereon, can possibly take place between you and me, and feeling at the same time that in cases, such as the present, involving "questions of a legal nature and construction," it is peculiarly the province of the first Law Officer of this Government not only to suggest, but also to carry into effect, the Measures to be adopted for the ends of Justice, I have now in conformity with that sentiment only to request that you will cause all the necessary Recognizances, Bail Bonds, Instruments of Hypothecation, etc., to be immediately entered into and perfected in the regular Department for such business, for the appearance and surrender of the persons respectively of the Captain and three Mates of the Ship Chapman to His Majesty's Government or Courts of Justice in England on the Charges to be preferred against them.

Wylde to
prepare all
necessary
documents.

Wylde
personally
to take all
required action.

I have to regret that any expression in my last letter (date 27 Inst.) should have left it doubtful with you, whether it was my intention to leave the whole Proceedings to you and Mr. Wentworth, or to take them altogether on myself, as expressed in your Letter of yesterday, and have to state that nothing was further from my view or intention than either assuming to myself the exercise of powers so fully and so well vested in you, or of associating Mr. Wentworth with you in the present stage of the Business. Having yielded throughout to your Judgment and Advice, it was the sentiment I meant then to express and convey, and which I now repeat, that you would in your Official Capacity proceed to adopt the necessary measures, in the manner you had previously suggested, for securing the appearance of the Parties in England to answer to the Charges in question according to the Laws of their Country.

Wylde's
proposals *re*
Dewar and
Busteed to be
adopted.

I am also prepared to conform to your opinion of the superior propriety of sending home the Surgeon Superintendent and Officer of the Guard under close Military Arrest, instead of sending them as Prisoners.

I have, &c.,
L. MACQUARIE.

[47] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Judge-Advocate's Office, Sydney,

Sir,

Saturday, 3 P.M., 29th Nov., 1817.

I have the Honor to acknowledge the receipt of Your Excellency's Letter of this date, in which you are pleased to express yourself as having yielded throughout to the suggestions and advice, I have submitted to your consideration, as to the

measures to be adopted with regard to the Officers of the Ship Chapman, and further directing me without delay to pursue those measures for securing the appearance of the Parties in England to answer to the charges in question according to the Laws of their Country.

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Acknowledg-
ment of letter
and instructions.

In conformity with Your Excellency's communication, I will as soon as possible cause all the recognizances to be immediately entered into and perfected, as suggested to and adopted by your Excellency upon a personal Consideration towards myself, which I beg leave therefore duly and sensibly to acknowledge.

I have also to express my sense of Your Excellency's kindness in the Explanation you have been pleased condescendingly to make with regard to expressions used in a former Letter addressed me on this Subject.

I have, &c.,

JNO. WYLDE, J.-A.

[48] CAPTAIN ANTILL TO LIEUTENANT BUSTEED.

Brigade Major's Office, Sydney,

New South Wales, 1st Decr., 1817.

Sir,

I have it in command from His Excellency the Governor and Commander of the Forces to inform you that the Honble. Judge Advocate Wylde, Principal Law Officer of the Crown under this Government, has given as his Legal opinion to His Excellency that, instead of your being committed according to the forms of Law to abide your trial in England on account of the unfortunate circumstances and occurrences, which took place on board the Ship Chapman on her voyage hither from Ireland, or of your being held under recognizance for your appearance, that the object of Justice will be effected by your being sent to England under a close Military Arrest; and His Excellency having acquiesced in the opinion of the Judge Advocate herein, I have now to convey to you His Excellency's desire and Command that you, being a Lieutenant in His Majesty's 69th Regiment, do hold and consider yourself accordingly, from the date and receipt hereof, under open Arrest, and hold yourself in readiness to embark on the shortest notice on board the Ship Harriet now under dispatch for England, and that, from the date of your Embarkation in the Harriet, you do hold yourself under *close* Arrest, until you shall be released therefrom by the Authority of His Majesty's Principal Secretary of State for the Colonies or other competent authority. His Majesty's Secretary of State for the Colonies will receive the necessary documents from His Excellency for causing such charges to be preferred against you by the Law Officers of the Crown, as may be deemed expedient on your Arrival.

Orders to
Busteed to hold
himself in
arrest.

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12 Dec.

I shall expect your acknowledgement of this Letter and your due submission to a strict compliance with the orders of Arrest herein conveyed to you.

I am, &c.,
H. C. ANTILL, Major of Brigade.

[49] SECRETARY CAMPBELL TO SURGEON DEWAR.

Secretary's Office, 1 Decr., 1817.

Orders to Dewar
to hold himself
in arrest.

[*This letter was a repetition of the letter numbered 48, with the exception that the words "being a Surgeon in the Royal Navy" were substituted for "being a Lieutenant in His Majesty's 69th Regiment."*]

[50] SURGEON DEWAR TO SECRETARY CAMPBELL.

Sir,

Sydney, 1 Decr., 1817.

Dewar's
acknowledg-
ment of orders.

I have to acknowledge the receipt of your letter of this Date conveying to Me His Excellency Governor Macquarie's Commands to consider Myself under open Arrest, and on the shortest Notice to be in readiness to Embark on board the Ship Harriett, now under Dispatch for England, and from the Date of my Embarkation on board the said Ship to hold Myself under close Military Arrest until released by constituted Authorities in England.

I trust that suitable apartments will be provided for me on board the Ship Harriett, consistant with the Rank I held in His Majesty's Royal Navy.

I have, &c.,
ALEXR. DEWAR, Surgeon, R.N.

[51] LIEUTENANT BUSTEED TO CAPTAIN ANTILL.

Sir,

Sydney, 2d December, 1817.

Busteed's
acknowledg-
ment of orders.

I beg leave to acknowledge the receipt of your letter, dated the 1st Instant, and will with due compliance keep myself in close arrest on my embarking on Board the Ship Harriett, until I shall be regularly released by authority.

I am, &c.,
C. BUSTEED, Lieut. 69th Regt.

A True Copy:—H. C. ANTILL, Major of Brigade.

[52] SURGEON DEWAR TO GOVERNOR MACQUARIE.

Sir,

96 Pitt Street, Sydney.

Request for
return of
journal.

In having the honor of addressing your Excellency, I beg leave to request you will be pleased to give directions for the Medical Journal and Diary of the late unfortunate hired Ship Chapman to be returned to me, as, by my Instructions from the

Honorable Transport Board, I am required to deliver it into the Secretary of State's Office for the Home Department on My arrival in England.

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I have likewise to request Your Excellency will be pleased to cause My Instructions to be returned to Me from the Honorable Judge Advocate's Office, and further that I may be furnished with the necessary receipts for the Number of Convicts, Guard, Women and Children, landed from the Chapman at this port.

Request for
delivery of
documents.

I have, &c.,

ALEXR. DEWAR, Surgeon, R.N.

[53] SECRETARY CAMPBELL TO SURGEON DEWAR.

Sir, Secretary's Office, 2nd December, 1817.

In reply to that part of your Letter of yesterday's date respecting your being provided with suitable accommodations on board the Harriett on your Passage to England I have to inform you that the usual allowance of Passage Money to the Surgeon Superintendent of Convicts in His Majesty's Navy namely £95 will be extended to you and a Set of Bills to that Amt. ordered to be made out accordingly by the Dy. Cy. General in your favor which is the only allowance you are to expect from this Government.

Allowance of
passage money
to Dewar.

I am, &c.,

J. T. CAMPBELL, Secy.

[54] SECRETARY CAMPBELL TO SURGEON DEWAR.

Sir, Secretary's Office, 3d December, 1817.

I have it in Command, in reply to your letter (without Date) received yesterday by the Governor, to inform you that His Excellency, under the Consideration of the Circumstances attending the Voyage of the Chapman hither with Male Convicts under your Medical Charge and personal Superintendence, Means to send your Medical and Official Journal to the Right Honorable The Secretary of State for the Colonies, in support of the Charges which are to be transmitted against you respecting those unhappy Occurrences; and Consequently it cannot be returned to You here in the Ordinary way, and on the same ground His Excellency will not grant you a Certificate for the Number of Convicts and Guard which arrived here.

Journal and
certificates to
be withheld
from Dewar.

Your letter or Letters of Instructions from the Transport Board, and which you state having delivered into the Honorable The Judge Advocate's Office, not being required for any Public purpose, You are entitled to require them to be returned to you.

I am, &c.,

J. T. CAMPBELL, Secy.

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12 Dec.

[55] SURGEON DEWAR TO SECRETARY CAMPBELL.*

Sir, 96 Pitt Street, Sydney, 4th Decr., 1817.

I beg leave to acknowledge the receipt of your Letter of Yesterday's Date, acquainting me of His Excellency the Governor's refusal to furnish me with some of the Documents requested in my Letter, received by him on the 2nd Inst.

Dewar's request for copies of journal and charges to be preferred against him.

As I am now apprized that Charges are preferred against me and about to be transmitted to England, touching my Conduct as Surgeon and Superintendent during the Voyage of the Ship Chapman from Ireland to New South Wales, I have to request His Excellency The Governor may be pleased to order me to be supplied with a Copy of the said Charges, also a Copy of my Medical Journal and Diary, so as I may thereby be enabled to adopt such measures as may be deemed expedient for my Defence.

I have, &c.,

ALEXR. DEWAR, Surgeon, R.N.

[56] SECRETARY CAMPBELL TO SURGEON DEWAR.*

Sir, Secretary's Office, 4th Decr., 1817.

Refusal of Dewar's request.

I have submitted your Letter of this date to His Excellency the Governor, and in reply have it in command from him to inform you that the Charges, which may be eventually brought against you, must arise out of the circumstances as recorded in your own Journal, and in the evidences adduced here, and will necessary take such Shape, as the Law Officers of the Crown may consider proper; consequently a copy of them cannot be given to you *here*. On the same Ground, your Journal will be sent to the Secy. of State, and no Copy can be given of it here, which appears the less necessary as it is to be presumed that you retained a Copy before you delivered the Original.

I am, &c.,

J. T. CAMPBELL, Secy.

[57] SURGEON DEWAR TO SECRETARY CAMPBELL.*

Sir, Sydney, 5th Decr., 1817.

I have the honor of acknowledging the receipt of your Letter of yesterday's date, and am, &c.,

ALEXR. DEWAR, Surgeon, R.N.

[58] SECRETARY CAMPBELL TO SURGEON DEWAR.*

Sir, Secretary's Office, 6th Decr., 1817.

I herewith transmit you an order on the Dy. Cy. Gen'l to furnish you with a set of Bills on the Treasury for your Passage Money (as late Surgeon Superintendent of Convicts on board the

Passage money for Dewar.

Ship Chapman) the sum of ninety five pounds. This Communication will be in answer to your letter of this Date and will require your acknowledgment.

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12 Dec.

I am, &c.,
J. T. CAMPBELL, Secy.

[59] SURGEON DEWAR TO SECRETARY CAMPBELL.*

Sir, 96 Pitt Street, Sydney, 6th December, 1817.

Having arranged with the Owners of the Ship Harriet for my accommodation in that Ship to England, I beg leave to request you will be pleased to acquaint me when I am to receive the allowance of Passage Money mentioned in your Letter of the 2nd Instant.

Dewar's request
for passage
money.

I have, &c.,

ALEXR. DEWAR, Surgeon, R.N.

True Copies in 59 Numbers:—J. T. CAMPBELL, Secy.

[Enclosure No. 7.]

[1] MR. JUSTICE FIELD TO JUDGE-ADVOCATE WYLDE.

My Dear Sir, Sydney, 18th Sept., 1817.

I have twice read with the greatest attention the first two volumes of the evidence before the Committee, appointed by His Excell'y to enquire into the treatment of the Convicts on board the Chapman on their Voyage hither, and should have no hesitation (were the evidence to close here) in giving it as my humble opinion that, besides any Measures which the Committee may think proper to recommend His Majesty's Government to pursue with regard to prosecuting the Master and Cashiering the Surgeon Superintendent and Officer of the Guard, His Excell'y the Governor ought to send home the Witnesses and Minutes of the evidence, together with the following persons, in custody, to be indicted for Murder in the High Court of Admiralty, the evidence against them being Sufficient in My Opinion (as a Magistrate) to warrant their Commitment for Trial;—Viz. Messrs. Dewar, Drake, Aldridge, and Baxter, the Gunner of the Chapman, and Clements, Blucher, Wardrop, Mayne Hooper and Jourdan, Private Soldiers of the 46th Regt.

Field's opinion
re committal of
certain persons
on charge of
murder.

These Prisoners ought to be allowed to take home such of their shipmates as they could Shew to be Material Witnesses in their favor, for I have no hesitation in saying that, upon the Evidence thus far, coming as it does from the Mouths of Several Witnesses, who had never been personally ill used themselves, and to whom the Master and Surgeon give Good Characters in the Muster-roll, and also upon the evidence of the officer of the Guard himself, this is a case of the heaviest Nature against the above mentioned Prisoners, and a story of cruelty and Outrage, such as

Prisoners to be
allowed to take
witnesses.

* Note 131.

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Proposals
re further
examinations.

does not often come before the British House of Commons; there seems to be one other Convict, named Shields, who was never punished all the way; and I should recommend to the Committee to examine him; of Course they will proceed in the examination of such of the Soldiers (Particularly Cooke) and sailors as did not take too active a part in the firings; but I should strongly advise that at least Drake and Baxter and Clements should not be examined at all. I have taken the liberty to make a few other Observations in pencil in the Margin of the Evidence.

Firing on
convicts not
justified by
circumstances.

From the course of the examination thus far as it appears upon the Evidence, it seems to me that the Committee have considered the bona-fide impression (upon all the Officers, the Guard and the Crew) that the Convicts intended to seize the Ship and Murder them, too much as an excuse for all the firings. Coupled with an overt Act of attempting to break Prison, I should have no hesitation in agreeing with them; but in the absence of any breaking but a Casual one of an inner door off one hinge, in the absence of any rush but that of going to bed for fear of the firing, I cannot help presuming to differ with such of the Committee as are of Opinion that such a Conviction on the minds of the Sailors and Soldiers (however full and strong and sincere) Warranted them, at any time they pleased, in wantonly taking away the lives of the Convicts, merely because they were bona-fide persuaded the Convicts had intended to take away theirs. If this were so, see to what a length the position might be carried! if the soldiers and sailors were not to wait for an overt Act of Mutiny before they fired, what was to prevent them from suffocating all the convicts at Once between Decks, according to the doctrine of excuse by reason of sincere persuasion of intention to Murder, if they could gain the power, even an extermination would be equally justifiable. The fallacy of the argument lies in not considering that the words "if they could gain the power" imply a Condition; no doubt, one is justified in killing a man who comes to kill us; but then that must be if he has, or appear to have, or attempts to gain, the power. Take the Case of a Burglar, who, if he once got into my house, would have the power, and no doubt would have sufficient intention to Murder me; but that would not justify me in killing him before he had attempted to break into my house; till he gets into my house, he has no power, however ripe his intention may be and however sincerely I may be convinced of it; let him but attempt to break in, and I will not wait to calculate the probability of his Success, but will treat both his intention and power as consummate, and am warranted in putting him to death. It is plain therefore that intention to Murder alone will not warrant the destruction of the

Arguments in
support of
contention.

intender; such intention must be coupled with power or beginning to gain the power. I am therefore of Opinion that unless the Soldiers and Crew of the Chapman can prove a rush, or attempting to break Prison, on every occasion upon which the Convicts were fired at, those who fired, or encouraged the firing, will be indictable as Murderers; and that their sincere persuasion that the Convicts intended to Murder them, uncoupled with any attempt on their part to gain the power to do so, will not avail them in their defence, whatever Effect it may have upon the Mercy of the Crown.

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Opinion *re* guilt of soldiers and crew.

I have, &c.,

BARRON FIELD, Judge of the Supreme Court.

A true Copy:—JNO. WYLDE, J.-A.

[2] MR. JUSTICE FIELD TO JUDGE-ADVOCATE WYLDE.

My Dear Sir,

Sydney, 29th Septr., 1817.

I have perused the rest of the evidence taken by the Committee, concerning the deaths on board the Chapman, Male Convict Ship, and adhere to my Opinion that it is amply Sufficient not only to Warrant but to require the Criminal trial of such of the Officers, guard and Crew, as it points against.

Necessity for criminal trial of officers, guard, and crew.

The examinations, which I before read, were principally of Convicts, properly selected because they had for the most part not been punished themselves; and from their testimony, it would appear that there was never any attempt to break prison (for I understand that we are agreed that this is the Only question, as being the only justification of the firings; and that the question is not whether the free men believed the Convicts intended to take the ship, which I make no doubt the former did believe, and think it very likely the latter did intend, as perhaps there never was a Ship full of Convicts yet that did not intend, if they could).

Want of evidence of attempt to break prison.

The latter examinations, which I have now perused, are principally of the Soldiers and Sailors, more interested witnesses in my opinion than the above examined Convicts. But even from their testimony, it is by no means certain that the Convicts made any attempt to break Prison, even at the first firing. Two or Three Swear to a rush towards the Bulk-head, that seperated the Prison (or rather the Sick Bey) from the free births, but this only upon the first firing, and whether before the report of a gun or afterwards is left very doubtful; but still nobody swears to any other breaking than that of the sick-bey door off one hinge, which the Convict Witnesses attributed to accident; and the fact is clear that not a single Prisoner had even got upon deck. The second firing seems purely the result of a false alarm, an

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acknowledged Mistake, and as for the Murder of Lucie in the boat and Kelly on the Poop (both being in Irons) nothing can even justify those Murders; nor are they affected to be justified.

No justification
for continuance
of firing.

Now grant that, from the darkness of the night at the first alarm, the Sailors and Soldiers were justified in firing into the Prison not being able to see what progress towards freedom the Convicts had made, what can justify the continuing of the firing for half an hour; for some of the soldiers and sailors themselves confirm that period as the duration of the firing; and ought not the Officers of the Ship to be sent home to answer for this protracted and unnecessary firing? It appears too that the second firing lasted a quarter of an hour, upon an acknowledged false alarm; ought they not to clear themselves (if they can) from that? Lucie's Murder seems fixed upon Hogan, the Soldier, a deliberate Murder of a Man in custody by presenting a Pistol to his head! of the course to be pursued upon this, there can be no doubt. It does not appear who killed Kelly, the other man in custody; but some of the free Witnesses are of Opinion that, from his distance on the Poop and the aspect of his wound, he must have been marked out for Murder. Surely, all implicated ought to go home and answer for this.

The killing of
Lucy and Kelly.

Of the after cruelties, I say nothing; but they will be Evidence of the Malice of their perpetrators.

The question
of hearing
evidence in
defence.

I understand you now intend to let the implicated call witnesses in their defence; and perhaps considering the nature of your Tribunal, and the inconvenience and expense of committing home for trial, you will be justified in doing so, although you know very well that the Judges always reprobate the attempts of Magistrates to hear any more than One Side of a prosecution; "Defence is for the trial" is the language they invariably hold.

I beg to apologise for being so minute; but the case is of the last importance, and my Opinion upon it is of the strongest nature.

I have, &c.,

BARRON FIELD, Judge of the Supreme Court.

A True Copy:—JNO WYLDE, J.-A.

[3] MR. JUSTICE FIELD TO JUDGE-ADVOCATE WYLDE.

My Dear Sir, 6th October, 1817, George St.

I have now read all the Evidence, and you shall have my deliberate opinion, to keep with my former Letters, and make what use of, you please.

Intent of
convicts to
take ship.

I have no doubt the convicts intended to take the Ship, still less that the Crew and guard sincerely believed they did, but that there was, Even at the first firing, any "overt act" of

attempting to break prison, is (I think) upon all the Evidence doubtful; still I think the freemen had such "reasonable grounds for believing that the Convicts had a felonious design against them," that, Mistaking or being misinformed as to the Overt Act (which is still always held necessary, and in the case in East, p. 273, consisted in the Bailiffs pushing abruptly and violently into the Gentleman's room) the first firing would in its inception be only misadventure. I say "in its inception," for what says the Law as to the duration of the necessity; see East 293. "Inasmuch as the justification or excuse, of which I have been treating, is founded on the Plea of Necessity, it will not in either case extend beyond the actual continuance of that Necessity, which alone Warrants it:—therefore if the felon were killed after he had been properly Secured, and there were no longer any apprehension of danger, such killing would be Murder." By the Superintendent's Journal, it appears this first firing lasted an hour, by the Evidence about half an hour, but long after any reasonable apprehension of danger in my opinion; others may have a different opinion, therefore who is to decide? the committing Magistrate? No; a Jury. "and all these circumstances (says Blackstone) of justification, excuse, or alleviation, it is incumbent upon the prisoner to make out to the satisfaction of the Court and Jury; the latter of whom are to decide whether the circumstances alledged are proved to have actually existed: the former how far they extend to take away or mitigate the guilt. For all homicide is presumed to be malicious, until the contrary appears upon Evidence." Vol. iv, p. 201.

The same Law is laid down in East's Section VI on Homicide in Execution of the Laws: p. 297. "If the Officer of Justice kill the prisoner after the resistance be over, and the necessity has ceased, it is Manslaughter at least; and if the blood had time to cool, it would (I conceive) be Murder."

I am therefore solemnly of Opinion that the Committee should give the Secy. of State an Opportunity of sending all the firers or abettors of firing, on the first night, before a Jury: and though there is little Evidence to bring the Capt'n within the latter description, and the only Evidence against the Surgeon goes to make him pre-cognizant of the second firing, yet I think both these Officers Stand in too responsible a Situation, with regard to the care of the Convicts, not to be immediately sent home to wait the Pleasure of the Secy. of State, either as Witnesses or defendants; while I am on this Subject, I would call your attention to the different language of the Sup't in his Diary, and in his Defence. In the latter, which has been composed, since he has been taught to view these doings in a different light, he

1817.
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Opinion *re* guilt
of persons
concerned in
first firing.

Necessity for
trial by jury
of firers and
abettors of
firing.

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12 Dec.

Discrepancies
in the surgeon's
statements.

says:—"As soon as it was satisfactorily ascertained that the Convicts were safe in the Prison, every exertion was made by Lieut. Busted, Captn. Drake and myself to stop the firing, but in vain" &c. But nothing of this kind appears in his Journal: "about 9 ceased firing, as"—what? everything was safe? No. "as the Prisoners cried out for Mercy"; with not a word about exertions to stop the firing, which so far from deprecating as unnecessarily protracted, the Journal flippantly calls "A brisk firing was opened upon them by the guard and the Crew." I have not seen the Captain's Journal in order to observe the same discrepancy between that and his defence.

Necessity for
Busted to
proceed to
England.

It is also my Opinion that Lieut. Busted should go home to account for his Want of Command over his Men, as well as in the capacity of Witness.

Questions
involved *re*
second firing.

It seems to be admitted that the alarm, which occasioned the Second firing, was purely false: the same Law of reasonable mistake will therefore clearly apply to this firing, and the only question will be as to its duration beyond the discovery of the Mistake and the reasonable aspect of Security, as in the former case.

Murders of
Kelly and Lucy.

As for the cases of Kelly and Lucie, they are clear Murders in Jourdan and Hogan; and I understand the Committee are agreed to send them home in Custody. I suppose there can be also no doubt that all those who fired into the Boat on the Third night, upon the mere provocation of Men in chains in a boat putting up their heads against Orders, must answer for the Wounds, Capittally.

I have, &c.,

BARRON FIELD.

a true Copy:—JNO. WYLDE, J.-A.

[4] MR. JUSTICE FIELD TO JUDGE-ADVOCATE WYLDE.

Sir, George Street, Sydney, 18th Novr., 1817.

Field's refusal
to attend
committee.

I beg to acknowledge the receipt of your invitation to attend the Committee on the Subject of the Chapman this Morning; but, since the transmission of His Excellency's Letter* to you, I have had the honor of laying before him reasons, which have induced him not to press for my personal attendance, as I have already taken the liberty of writing to you my legal Opinion upon reading the evidence and Superintendent's Journal, and expressed no objection to your communicating it to the other Members of the Committee, when you honored me by asking my permission so to do.

I have, &c.,

B. FIELD.

a true copy:—JNO. WYLDE, J.-A.

[5] MR. JUSTICE FIELD TO GOVERNOR MACQUARIE.

1817.
12 Dec.

Sir, George Street, Sydney, 17th November, 1817.

In answer to your Excellency's Letter* of this day, in which you request that I will attend the revision of the report of the Judge Advocate and another Member of the Court of Inquiry into the transactions on board the Chapman, Convict Ship, on her passage hither, should the Committee require my legal advice, in pursuance of your Excellency's suggestion, I beg leave to submit to Your Excellency that not having had the benefit of *hearing* all the evidence and inspecting all the documents before the Committee, it is too late for me to come in as a Member of the Committee, and give an opinion against that of two Members, who heard all the evidence as it came from the Mouths of the Witnesses, and were able to judge of their veracity from their *Manner*, which in *trials* we always consider as important as the *Matter*, although it is undoubtedly less so in examinations in order to committal *for trial*. Were I to attend and give my opinion upon the facts, I should be always liable to be stopped by the Observation "You only *read*; you did not hear and see." As for an opinion upon law, there can be no doubt as to the law of murder, at least for the purposes of commitment for trial, or for the opinion of the Judges at home; enough for those purposes at least is written on every man's heart.

I shall be very happy to give Mr. Wentworth my opinion upon the Criminal law of any state of facts he may lay before me; but if he, as a Magistrate, has any *doubt* whether certain facts amount to murder or not in law, it is his duty to commit for trial, and the opinion of the Judges, and not to take upon himself to dismiss. He knows that this would be his duty as a Magistrate; and he ought to act upon the same principle, as a Member of the Committee of Inquiry in question.

As to the Judge Advocate, it is not for me to presume to advise him: at your Excellency's request, I *read* the whole of the evidence and the Superintendent's Journal: upon these I had no doubt of the steps, which ought to be pursued, and wrote two friendly letters of opinion as to the law and facts to the Judge Advocate: he asked my permission to shew the other Members these Letters, and I gave it: if Mr. Wentworth has not seen them, he may now, if the Judge Advocate please to shew them to him.

But with submission to your Excellency's commands, I do not see that any good purpose will be answered by my *personally* being called in to this consultation at so late a period. But, if after Mr. Wentworth is apprized of my legal opinion, he shall still persist in the tenour of his report, I can only say that I shall

Reasons for
refusal to assist
in revision of
Wylde's report.Opinions
available at
Wentworth's
request.Friendly
opinions given
to Wylde.

* Note 142.

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be most happy to give the same opinion publickly and officially to your Excellency, which I have privately and friendlily given to the Judge Advocate.

I have, &c.,

B. FIELD.

[6] MR. JUSTICE FIELD TO GOVERNOR MACQUARIE.

Sir,

Sydney, 26th Novr., 1817.

Field's opinions
re affair of the
ship Chapman.

Your Excellency having done me the honor to ask my legal Opinion (as one of His Majesty's Judges for this Colony) upon the Evidence taken before the Committee of Magistrates, appointed by your Excellency to enquire into the Proceedings on board the Convict Ship Chapman, on her Passage hither, and having favored Me with a perusal of the separate and Conflicting Reports of that Committee, the One signed by the Judge Advocate and Mr. Wentworth, and the other by Mr. Campbell, together with the Judge Advocate's two letters of advice* to Your Excellency of the 24th and 26th Inst., the latter accompanied by My three letters of Opinion addressed to him upon the above mentioned evidence during its progress and after its close, I beg leave to acquaint your Excellency that I have perused both those Reports and all those Letters, and that I see no reason to alter the legal Opinion expressed in My above mentioned Letters to the Judge Advocate, of which your Excellency is thus in possession of Copies, and though they were written, as to My professional Colleague, Yet your Excellency having thus been put in possession of them, I have to request that you will accept of them as perhaps the best answer, which I could even now give to Your Excellency's present Application.

No bail should
be granted.

Thinking as I do, that the killings and Woundings which took place on board the Ship would warrant a Magistrate in Committing for Murder and felonious Wounding under the Statutes, and that the question for the Court and Jury will be between Murder and *homicide* and not mere *Manslaughter*, which the present case appears to Me to be nothing like, I cannot agree with the Judge Advocate that the Naval Officers of the Vessel in this case ought to be admitted to bail, particularly Mr. Baxter, who appears by the evidence of many Witnesses to be "Manifestly guilty of the fact,"† whether the Law hereafter shall decide that the fact is either *Manslaughter* or excusable homicide, and not Murder.

I will not make this letter to your Excellency the Arena of any Contention between the Judge Advocate and Me, upon the point of Law, in which I have the Misfortune to differ with his high

* Note 143.

† See Hawke, Ch. 15 f. 34, which says that homicide is only bailable in cases of light suspicion.

Authority. Our Opinions and reasons are in your Excellency's possession, and I have nothing to add to Mine in Consequence of the Judge Advocate's Answer to them, but to explain My Meaning that there must be an Overt Act, committed or believed to be committed, and that mere apprehension, without such, will not do; if the parties were reasonably mistaken in what they took for an Overt act, then the firings would be in their inception Misadventure. There is no Contradiction in my letters; The Judge Advocate confounds what I call reasonable belief in an Overt Act with reasonable belief in a Mere intention to take the Ship.

I have, &c.,

BARRON FIELD, Judge of the Supreme Court.

True Copies, 2 Numbers:—J. T. CAMPBELL, Secy.

1817.
12 Dec.

Wylde's mis-
interpretation
of Field's
opinion.

[Enclosure No. 3.]

[1] JUDGE-ADVOCATE WYLDE TO SECRETARY CAMPBELL.*

Sir, Judge-Advocate's Office, 10th Decr., 1817.

I beg to refer the inclosed Letter to His Excellency through You, and to suggest it seems reasonable to Me that the Application under the Circumstances should if possible be complied with. It is to be observed however that Allan, Leo and Kelly have already been returned as proper Witnesses to be sent home with respect to the Ship Chapman.

I have, &c.,

JNO. WYLDE, J.-A.

[2] MR. D'ARCY WENTWORTH TO JUDGE-ADVOCATE WYLDE.

Sir, Police Office, 10th December, 1817.

I have the honor to inform you that Hogan and Jordan, the Soldiers of the 46th Regt. ordered Home on a Charge of Murder, have requested that the persons Named in the Margin† may be permitted to go to Europe, as they Consider their Evidence as essentially necessary in their Defence.

Witnesses
required by
Hogan and
Jordan.

I have, &c.,

D. WENTWORTH, J.P.

[3] SECRETARY CAMPBELL TO JUDGE-ADVOCATE WYLDE.

Sir, Secretary's Office, 11th Decr., 1817.

I have to acknowledge the receipt of your note of Yesterday, accompanied by one to yourself from the Superint'g Magistrate of Police, both suggesting the propriety of sending four additional Witnesses from among the Convicts Per Chapman

* Note 131.

† Patk. McCusko, Peter Allan, William Leo, Thos. Kelly, Nicholas Savage, John Doyle, Thomas Kennagh.

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Application to
send additional
witnesses to
England.

home, as applied for by Hogan and Jordan, who stand charged with Murder. Having submitted the business to The Governor, His Excellency laments that the application had not been made at an earlier period than the present, when the Ship Harriett is on the point of sailing. Neither can His Excellency, in the short interval previous to her sailing, make arrangements for collecting these persons, and making the necessary preparations for their subsistence during the passage, if he could even procure a passage for them, which, in the present state of the Ship, there is much reason to apprehend could not be effected. His Excellency therefore hopes their proceeding by this opportunity at least will not be considered of material consequence. If however you desire their being sent now as absolutely necessary, His Excellency will endeavour to collect them from whatever parts of the Country they may be dispersed through, if they be not actually sent to Newcastle or Van Dieman's Land.

I have, &c.,
J. T. CAMPBELL, Secy.

P.S.—The Harriet will positively sail on Sunday the 14th Inst.

[4] JUDGE-ADVOCATE WYLDE TO SECRETARY CAMPBELL.

Sir, Judge-Adv.'s Office, Sydney, 11 Decr., 1817.

With respect to the Witnesses suggested in the Matter of the Commitment of Jordan, Clements and Hogan for Murder, there is no further actual and positive Necessity, as it Concerns His Excellency or the Magistrates, than as it may appear to be a Measure of Justice to parties, charged at such a risk with so heavy a Charge, being without those witnesses at the Time of their Trial *as they now suggest as Necessary to their Defence*, and in which sense it wholly remains in the Discretion of His Excellency, The Magistrates having submitted that if possible in their Opinion the particular Convicts named by the Prisoners should be sent. I had no notice of the requisition till I received the Letter forwarded, and if His Excellency should be unable to send them by this Opportunity, they must Apply to the Court before which they are brought for Trial upon the Circumstance, and it will be for that Court to Determine whether on this Ground the Trial shall stand postponed. I am too well aware of the Inconveniences, which May Attend the lateness of the Application, and which Might not unjustly perhaps influence His Excellency in paying no Attention to the Appeal, made to his Equitable Consideration, on which alone the question Depends.

I have, &c.,
JNO. WYLDE, J.-A.

Necessity for
witnesses for
the defence.

[5] JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

1817.
12 Dec.

Judge-Adv.'s Office, Sydney, N.S.W.,

Sir, 11th December, 1817.

I have the Honor to forward to your Excellency with this the recognizances taken in the Matter of the Ship Chapman, as also on the Commitment of Jordan, Hogan and Clements jointly and separately upon Charges of Murder. I return also herewith all the Documents and Papers and Evidence to be forwarded to England, as I understand from your Excellency, on the same Subject.

Transmission of
recognizances
and papers.

I beg to add that my earnest Endeavours to make an earlier Communication in this respect have been from Various Circumstances ineffectual.

I have, &c.,

JNO. WYLDE, Judge-Adv., N.S.W.

[6] SURGEON DEWAR AND LIEUTENANT BUSTEED TO GOVERNOR
MACQUARIE.

Sir, 96 Pitt Street, Sydney, 12th Decem'r, 1817.

Having been ordered by your Excellency to hold ourselves in readiness at the shortest notice to repair on board the Ship Harriet, now under dispatch for England, and to consider ourselves under Close Arrest on our Embarkation, We take the liberty to request your Excellency will cause Us to be informed on the Vessel's arrival at the Cape of Good Hope we are to be permitted to go on Shore under open Arrest, as, from the Mess of the Cabin being broken up while in Port, We shall otherwise be very unpleasantly situated.

Request for
permission to
land at Cape of
Good Hope.

We have, &c.,

ALEXR. DEWAR, Surgeon, R.N.

C. BUSTEED, Lieut. 69th Regt.

[7] SECRETARY CAMPBELL TO SURGEON DEWAR AND LIEUTENANT
BUSTEED.

Gentlemen, Secretary's Office, 13th Decr., 1817.

I have it in Command, and in Answer to your joint Letter of yesterday to His Excellency the Governor, to inform you that His Excellency having found it Necessary to place you in Close Arrest from the time of your Embarkation on the Harriet for England until you shall be released therefrom on arrival at your Destination, His Excellency cannot accede to your request to be permitted to land either at the Cape of Good Hope or else where during the Voyage, as such permission would be literally in Contravention of His own Orders of Arrest to you.

Refusal
of request.

I am, &c.,

J. T. CAMPBELL, Secy.

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12 Dec.

[8] GEORGE JOHNSTON, JR., TO SECRETARY CAMPBELL.

H.M.'s Magazines, Sydney, New South Wales,

Sir, 12th Decr., 1817.

On Making application this Morning to the Master of the Harriet to know if he was to receive the Provisions, which His Excellency the Governor had ordered to be sent on board that Ship for the Subsistence of three Evidences, who are directed to proceed on that Vessel to England, he informed Me that it was impossible for him to receive them, nor could he from the crowded state of the vessel accommodate the Three Persons with a Passage. The necessary Supply of Provisions have been Shipped from His Majesty's Magazines here on board the Harriet for the Subsistence of Seventy One Persons.

In the absence of the Depy. Commissary General,

I have, &c.,

GEO. JOHNSTON, Clk. Commis't Staff.

[9] SECRETARY CAMPBELL TO GEORGE JOHNSTON, JR.

Sir, Secretary's Office, 13th December, 1817.

In acknowledgement of your Letter of yesterday, I am enabled now to inform you (in the absence of Mr. Dy. Cy. Gl. Allan) that arrangements have taken place for the accommodation of the three additional Convict Witnesses, mentioned in my communication of the 11th Inst. to Mr. Dy. Cy. Gl., and I have therefore to request that you will again send the Provisions destined for their support on Board the Harriet.

I am, &c.,

J. T. CAMPBELL, Secy.

[10] SECRETARY CAMPBELL TO DY. COMMISSARY-GENERAL ALLAN.

Sir, Secretary's Office, 13 Decr., 1817.

I have to convey to you His Excellency the Governor's desire that You pay, to the Owners or Agents of the Ship Harriet forthwith, the Sum of Ninety five Pounds Sterg., being the Amount of Passage Money allowed for Lieut. Busted, now proceeding to England in close Arrest on that Ship.

I have also to Convey to you His Excellency's desire that You pay Captain John M. Gill of the 46th Regt. the Sum of One hundred and Ten pounds Sterg., Passage Money allowed him on board the said Ship Harriet, in which he proceeds in charge of the Detachment of Invalids and discharged Soldiers of the 46th Regt., and also of the Prisoners and Evidences proceeding by the same Opportunity to England.

I am, &c.,

J. T. CAMPBELL, Secy.

Rations and passages for three convict witnesses.

Passage money for lieutenant Busted,

and for captain Gill.

[11] SECRETARY CAMPBELL TO LIEUTENANT BUSTEED.

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12 Dec.

Sir, Secretary's Office, 13th Decem'r, 1817.

I have the honor to inform you that I have this day conveyed His Excellency the Governor's Instructions to Mr. Depy. Comm'y Gen'l Allan to pay, into the hands of the Owner or Agents of the Ship Harriet, the Sum of Ninety five Pounds, being the amount of Passage Money allowed for your accommodation on board from hence to England.

Passage money
for lieutenant
Busteed.

I am, &c.,

J. T. CAMPBELL, Secy.

[12] SECRETARY CAMPBELL TO CAPTAIN GILL.

Sir, Secretary's Office, 13th Decr., 1817.

I have the honor to inform you that, by Order of His Excellency the Governor, I have this Day conveyed Instructions to Mr. Depy. Comm'y Gen'l Allan to pay forthwith into your hands the Sum of One Hundred and Ten pounds Ster'g, being the amount of Passage Money allowed to you as the Officer in Charge of the several persons, Civil and Military, now proceeding to England at the Expence of the Crown on Board the Ship Harriet, in which Vessel you have taken your passage. On receipt of the above payment I request you to give me an official Notification thereon.

Passage money
for captain
Gill.

I have, &c.,

J. T. CAMPBELL, Secy.

[13] SECRETARY CAMPBELL TO JUDGE-ADVOCATE WYLDE.

Sir, Secretary's Office, 15th Decem'r, 1817.

In arranging the several Documents and Letters on the Subject of the Ship Chapman, I have not Observed on your Labels, or in your note of the 11th Inst. to His Excellency the Governor, which accompanied these Papers, any Mention of the Hypothecation of the Ship Chapman. May I therefore request you to inform me in which of these Packages it is to be found.

Hypothecation
of the ship
Chapman.

I have, &c.,

J. T. CAMPBELL, Secy.

[14] JUDGE-ADVOCATE WYLDE TO SECRETARY CAMPBELL.

Sir, Judge-Adv.'s Office, 15th Decr., 1817.

The Instrument of Hypothecation, as to the recognizances of the Ship Chapman, you will find in the parcel with the Recognizances and mentioned in the Indorsement made by Myself.

I have, &c.,

JNO. WYLDE, J.-A.

True Copies in 14 Numbers :—J. T. CAMPBELL, Secy.

1817.
12 Dec.

GOVERNOR MACQUARIE TO EARL BATHURST.
(Despatch marked "No. 40 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

12th December, 1817.

1. My last General Dispatch to Your Lordship was dated the 16th of May of the present Year, and was transmitted by the Ship Sir William Bensley,* and the Duplicate per Ship Shipley,† both by the Way of India.

2. Since the Date of the above Dispatch, I have had the Honor to receive Your Lordship's and the Under Secretary of State's several Letters and Dispatches, as Specified in the Margin,‡ with their respective Enclosures, to All which I shall pay the Strictest and Most respectful Attention in Carrying Your Lordship's Commands and Instructions into prompt Effect.

3. I do myself the Honor to report to Your Lordship that the following Male and Female Convict Ships have Arrived here from England and Ireland, since the date of My Dispatch per the Sir William Bensley, Vizt.

First. The Ship Chapman, Commanded by Captn. John Drake, Arrived on the 26th of July last with 186 Male Convicts from Ireland, Guarded by a Detachment of the 46th Regt. under the Command of Lieutenant Christopher Busteed of the 69th Regt., and having Mr. Alexander Dewar as Surgeon Superintendent on Board; the Convicts on board this Ship were most Cruelly Used and Inhumanly treated during the Voyage from an ill founded Apprehension, that they intended to rise and take the Ship and destroy the Officers, Soldiers and Crew, No less than 12 Convicts having been killed and 28 wounded badly; but the Unfortunate Occurrences, which took place on board of this Ship and the Measures taken by me thereon, will form the Subject of a Separate Dispatch§ to Your Lordship by this Same Conveyance.

Second. The Ship Pilot, Commanded by Captn. Will'm Pixton, Arrived on the 29th of July with 120 Male Convicts from Ireland, guarded by a Detachment of the 46th Regt. under the Command of Lieut't Roger Franklin of the 69th Regt., and having Mr. Chas. Queade as Surgeon Superintendent on board. The whole of the Convicts on board this Ship Arrived in Good Health and without a Single Complaint against the Officers, Crew or Guard.

Third. The Ship Canada, Commanded by Captain John Grigg, Arrived on the 6th of August with 90 female Convicts from Ireland, Mr. Allan being the Surgeon Superintendent on board;

* Sailed 8th June, 1817.

† Sailed 18th May, 1817.

‡ 20th and 21st Decr., 1816; 24, 30, and 31st Jany., 6th, 8th, and 14th Feby., 28 Mar., 10, 21, 22, 24, and 29th April, 24, 25, and 26th May, 13th June, and 14, 15th, and 19th July, 1817.

§ Note 144.

Previous
general
despatch.

Acknowledg-
ment of
despatches.

Arrival of the
ship Chapman.

Arrival of the
ship Pilot.

Arrival of the
ship Canada.

the whole of these Women Arrived in Good Health and without any Complaint against the Officers or Crew.

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Fourth. The Ship Almorah, Commanded by Captn. William McKissock, Arrived on the 31st of August with 180 Male Convicts from England, guarded by a Detachment of the 46th Regt. under the Command of Lieut. J. H. Wardrop of the 1st Regt. of Foot, and having Doctor Ed. F. Bromley as Surgeon Superintendent on board. The whole of the Convicts on board this Ship Arrived in good Health and without any Complaint against the Officers, Guard or Crew.

Arrival of the
ship Almorah.

Fifth. The Ship Lord Eldon, Commanded by Captn. Jas. Thos. Lamb, Arrived on the 30th of September with 215 Male Convicts from England, guarded by a Detachment of the 46th Regt. under the Command of Lieut. Norman Maclean of the 1st Regt. of Foot, and having Doctor J. Bowman as Surgeon Superintend't on board; the whole of the Convicts on board the Ship Arrived in good Health and without any Complaint against the Officers, Guard or Crew.

Arrival of the
ship Lord
Eldon.

Sixth. The Ship Larkins, Commanded by Capt. H. R. Wilkinson, arrived on the 22d of November with 247 Male Convicts from England, guarded by a Detachment of the 46th and 48th Regts. under the Command of Captn. John Brabyn of the New South Wales Royal Veteran Company, and having Doctor William Macdonald as Surgeon Superintendent on board. The whole of the Convicts on board this Ship Arrived in good Health; but some of them Complained of being harshly treated by the Commander and Officers of the Ship, and losing Money and other Property, which they had Entrusted to those Officers on the Voyage. These Complaints I shall have fully Investigated before the Ship quits this Port, and redressed here as far as the Case will admit.

Arrival of the
ship Larkins.

4. I have also to report to Your Lordship the Arrival of the Ships Matilda, Lloyds and Dick, Transports, from Ireland with the 48th Regt., Commanded by Lieut. Colonel James Erskine, who on board the Matilda arrived with the Head Quarters Division on the 3d of August; the Lloyds on the 30th of the same Month; and the Dick on the 3d of September; the Whole Effective Strength of these three Divisions of the 48th Regt. amounting only to 468 Non Commissioned Officers and Privates having 83 Women and 58 Children with them, the Troops landed in good Health and it is a very fine Effective Corps for its Strength.

Arrival of ships
Matilda, Lloyds
and Dick with
48th regiment.

Effective
strength of
regiment.

5. The following Free Settlers, with Recommendations from Your Lordship, have Arrived in different Ships, since the Date of My Dispatch per the Sir Willm. Bensley, Vizt. Messrs. Johnson, Henderson, Reid, Clarke, Williams, Stevenson, Downie, Turnbull, Barnard, Florance, Styles, Weston, Dixon, and Whyte.

Arrival of
free settlers.

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Arrival of John
Macarthur.

Arrival of
father O'Flynn.

Mr. John McArthur,* Settler and formerly an Inhabitant for Many Years of this Colony, with two of his Sons, Came out Passengers in the Lord Eldon Transport.

6. I deem it My Duty also to report to Your Lordship that a Roman Catholic Priest, named *O'Flynn*,† arrived lately from England on board the private Merchant Ship "Duke of Wellington," Commanded by Captn. John Howard. On his Arrival on the 9th of November, he waited on me and informed me he had Your Lordship's Permission to Come out to this Colony, and to Exercise his Functions as a Roman Catholic Priest among the Inhabitants of that religious Persuasion; but, as he Could not produce any written Document from Your Lordship or any Other of His Majesty's Ministers, I Concluded that, if he had Solicited, he had been refused Your Sanction; and, thence Considering him an Impostor, I declined giving him Permission to remain in the Colony, but on the Contrary have Instructed him to quit it in the same Ship in which he Came, being well persuaded he would do a great deal of Mischief amongst the lower order of Catholics, were he allowed to remain. These people are at present very quiet and peaceable, and those of them, who are Convicts, I make invariably attend Divine Worship in the regular Protestant Churches in the Colony, where the Distance from their Homes is not too great; and I have never known an Instance of a Catholic Convict refusing to attend the regularly established Church. But it is Seriously to be Apprehended that their Religious Feelings might be worked upon by a designing Artful Priest, so as to excite a Spirit of Resistance, Insubordination and Insurrection, similar to what took place here‡ about fifteen Years ago during the Government of Govr. King, those Disturbances being entirely occasioned by the Machinations of a Couple of unprincipled Catholic Priests. On these Grounds, therefore, I trust Your Lordship will approve of My having Ordered Mr. O'Flynn to leave the Colony.

Orders to
O'Flynn to
return in ship
Duke of
Wellington.

Attendance
of Roman
Catholics at
Protestant
worship.

General
progress of
the colony.

7. It affords Me Sincere Pleasure to have it in my power to report to Your Lordship that this Colony is at the present Moment in a perfect State of Tranquility, and that it Continues progressively Improving in every respect, Notwithstanding the very great Distresses, which the incessant Rains and the Several Consequent Inundations of the Rivers Hawkesbury and Nepean and South Creek occasioned to the Settlers residing on the Banks of those Rivers and Creek in the early part of the present Year, and of which I apprized Your Lordship in My Dispatches by the Kangaroo and Sir William Bensley. The present abundant Harvest has however made great Amends for the Severe Losses and Distresses, occasioned to the Individuals adverted to by the last Calamitous Floods, which swept away or destroyed

Benefits of
abundant
harvest.

* Note 145.

† Note 146.

‡ Note 147.

the entire Property of many of them, including both their Grain and Cattle, leaving the Families of those Persons in the deepest Distress and most wretched State imaginable.

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In order to relieve those Distresses, very liberal Subscriptions were Entered into and made in All parts of the Colony amongst the Settlers, who had not Suffered, and other more wealthy Inhabitants; but, Notwithstanding the Liberality of these private Subscriptions, they fell far Short of the Relief required for the Support of the poorer Classes, many of whom lost their All. In this State of the Colony, I felt it a Duty alike owing to Humanity and good Policy to Come forward with the Resources of Government for the Relief of the Labouring Poor, and the Families of the Most distressed Settlers, by victualling Numbers of them from the King's Stores, until such time as the present Harvest should be reaped to relieve their Distresses. In Addition to this heavy Burthen to Government, the Public Expences were very greatly Increased by the Necessity the Settlers were under of returning to Government, at this Crisis of their Distress, All the Male Convicts which had been formerly Assigned to them as Government Servants *Off the Stores*. By this Circumstance, no less than between *Five and Six Hundred Men* were at once returned to Government, and Consequently have been ever since victualled at the Expence of the Crown.

Raising of flood relief fund.

Assistance given by government to distressed settlers.

Increased expenditure in victualling convicts.

When to those are added almost all the Male and female Convicts, who have Arrived from England and Ireland since the Month of February last, Your Lordship Cannot be Surprized that the Expences of the Colony for the last ten Months should be greatly Increased.

8. In view to the lessening these Expences as much as possible, I sent as many Male and Female Convicts to Van Diemen's Land, as I imagined would prove Useful to and Could be Maintained by the Settlers on that Island; which, Not being Subject to Inundations, I knew had been blessed with a Most Abundant Harvest last Year; deeming the Expence of transporting those Convicts thither a trifling Consideration in Comparison to victualling them here for Seven or Eight Months, and without any Employment that Could Compensate for the Expence of Victualling them.

Convicts sent to Tasmania.

It was a Most fortunate Circumstance that the Harvest of last Year in Van Diemen's Land had proved So Abundant, as the Surplus Wheat, the Settlers had at those Settlements, served to recruit our Resources here, and supply the great Deficiency occasioned by the Successive Inundations in the Interior of this part of the Territory.

Benefit of abundant harvest in Tasmania.

9. Whilst on the Subject of Van Diemen's Land, it may not be Considered an improper time to Allude to that part of Your

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Importation of
wheat to New
South Wales.

Lordship's Dispatch, No. 85 and dated 30th January last, wherein You recommend that, when Wheat is required for the Use of the principal Settlement, it should be Imported from Van Diemen's Land in preference to Bengal. Your Lordship may rest assured that I Cordially Concur with You in this Opinion, and that it is My Sincere wish to afford every possible Support to the Settlers in Van Diemen's Land, and to hold out every reasonable and practicable Encouragement to them to prosecute their Agricultural Pursuits to the Utmost Extent of their Means. I must also Assure Your Lordship (Although I have good Reason to believe You have received Reports* to the Contrary) that I never did Import Wheat at any time, since My Arrival here, from Bengal except when it was positively and Indispensably Necessary to do so to prevent a Famine in this Colony and the Distress and Calamities Consequent thereon. I positively deny, and Can Clearly prove if Necessary, that the Importations from Bengal, Sanctioned by Me, never in any instance interfered with or prevented the Agriculture of the Colony being prosecuted to the highest practicable Extent, either at the Settlements of Port Jackson or on Van Diemen's Land; whilst at the same time I have the Satisfaction to add that My Sanctioning the Importation of Wheat from Bengal had the Effect I wished it to produce, namely keeping the Price of Wheat down to a reasonable Rate, and preventing the principal Growers and Monopolizers of Grain Charging Most Exorbitant prices for it, both to Government and private Individuals, which they have Invariably done whenever it has been in their power owing to any occasional Scarcity of Grain.

Prevention of
monopoly by
importation of
wheat from
Bengal.

Market value
of wheat.

The principal Farmers all acknowledge that ten Shillings per Bushel for Wheat is a fair liberal price, and that it allows them a Very handsome Profit. Yet, in Scarce and Unfavorable Seasons these Same Persons will not Sell their Wheat to Government under fifteen or Sixteen Shillings, and they have repeatedly even raised the Price on Government to Twenty Shillings per Bushel.

Justification of
importations
from Bengal.

Under Such Circumstances, I appeal to Your Lordship's superior Judgment whether it was Not a Just and Necessary Policy to Sanction on such occasions the Importation of Wheat from Bengal for the Use of Government, and with the View of keeping the price of that Article in the public Market at a fair and reasonable Rate. As to Van Diemen's Land, it is only within the last two or three Years that the Settlers on that Island have had any Surplus Wheat at all, and Consequently they Could not heretofore have Supplied our Want, or added Materially to our Resources but now that a Quantity of Wheat is grown there far Surpassing their own Wants, it will hereafter be unnecessary to Import any More from Bengal, and of Course I shall Consider it

* Note 148.

my Duty in future to resort to Van Diemen's Land for Such Supplies of Wheat, as may be Necessary in Scarce Seasons for the Use of His Majesty's Stores at Port Jackson.

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Having lately given Grants of a great deal of *Forest* or high Lands (beyond the Reach of Floods) to Industrious New Settlers, I think there is reasonable Ground to Expect that there will Not be any Occasion after the present Year to Import any Wheat even from Van Diemen's Land for the Use of the Settlements of Port Jackson.

Occupation of forest land.

10. I have the Pleasure to report to Your Lordship that an extensive rich Tract of Country, fit for the purposes of Pasturage and Agriculture, has some little time Since been discovered,* distant about 45 Miles to the Southward of this, on a part of the Coast known generally by the Name of the "*Five Islands*," but Called by the Natives "*Illawarra*." The persons, who have visited it, Speak very favorably of this New Country as possessing Many Advantages and Capabilities for the Grazier and Agriculturist; and I have Consequently already given Several Grants of Land there to some respectable New Settlers. It has been reported to me, both by Natives and a few Europeans who employ themselves on Hunting Excursions, that between *Illawarra* and *Port Jarvis* there is another very extensive Tract of fertile Land. I therefore intend very soon to send Mr. Meehan, the Deputy Surveyor General of Lands, at the Head of a Small Expedition to Explore the whole of the Country, lying near the Sea Coast from *Illawarra* to *Port Jarvis*, in order to ascertain its Extent and Capabilities. In Case the Land lying between those two places should be found of Good Quality and fit for Pasturage and Agriculture, it would in My Opinion be highly adviseable to form a Settlement at *Port Jarvis* as soon as possible.

Discovery of rich land at *Illawarra*.

Reported rich land near *Jervis bay*.

Proposed settlement at *Jervis bay*.

Port Jarvis is by far the finest and Safest Harbour on the Whole Coast between this and *Bass's Straits* to the Southward. Its distance from *Port Jackson* by Sea is between Seventy five and Eighty Miles. The Navigation from hence and into it is perfectly Safe, and it would be a Most Convenient Port for all Coasting Vessels to touch at, either for Refreshments or Shelter from boisterous Weather. *Port Jarvis* also Affords Plenty of Coal, which I understand Could be easily wrought. Disposable Lands are now getting Very Scarce in this part of the Colony, as far as forty Miles in every Direction from the Seat of Government; and as More Male Convicts are now Sent than either the Government or the Settlers can possibly find proper Employment for, I am of Opinion it would be good Policy and add greatly to the Improvement and Resources of the Colony, if a Settlement were formed at *Port Jarvis*, and the Country in its Vicinity

Advantages of *Jervis bay*.

Scarcity of unoccupied land in settled districts.

* Note 87.

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Occupied by Industrious New Settlers. I therefore take the Liberty now to Suggest to Your Lordship the Expediency of this Measure, and to Solicit Your Lordship's Concurrence and Approval of My eventually Carrying it into Effect.

Inability to
drive wild cattle
across Blue
Mountains.

11. I regret to Inform Your Lordship that All my Endeavours to get the Wild Cattle belonging to the Crown driven from the Cow Pastures over the Blue Mountains into the New discovered Country have as yet proved Ineffectual, No practicable Pass having Yet been discovered leading from the Cow Pastures into the Country to the Westward of the Blue Mountains. There have been however between 70 and 80 Head of the Wild Cattle Incorporated into the Government Tame Herds, a considerable

Reduction in
number of
wild cattle.

proportion of which now Graze in the Cow Pastures. They are however now, owing to long and incessant Depredations on them by the Settlers residing on the Banks of the River Nepean, greatly reduced in Numbers, and the Probability is that in a few Years More very few will be left of them. It is hardly possible to prevent these Depredations, the Cattle being divided into a great many Herds and Occupying a Line of Grazing Country along the River Nepean upwards of forty Miles in Extent. I

Soldiers and
police stationed
to protect
wild cattle.

have had Parties, both of Soldiers and Constables, for Some time past Stationed along this Extensive Line for the purpose of guarding the Wild Cattle, and preventing their being killed or destroyed, whereby several Persons have been Apprehended in the very Act either of killing the old Wild Cattle or Carrying off their Calves. Some of those Persons have been Tried by Criminal Courts, and Some few of them have been even Capitally Punished. But, Notwithstanding these Severe Examples, Depredations still

Trials for
stealing
wild cattle.

Continue to be daily Committed on the Wild Herds. These Practices are so difficult to be prevented that All the Idle disorderly Characters in the Colony resort to them, whereby the Wild Cattle, instead of being a Benefit to the Colony, have

become latterly a great Evil and productive of Much Idleness and Many Crimes. I have thought it My Duty to be thus particular in respect to the present State and Circumstances Connected with the Wild Cattle, in Order that Your Lordship May be enabled to Judge and decide as to their future Disposal and the Line of Conduct that I should adopt respecting them. In the Event of its being fully ascertained to be altogether Impracticable to drive the Wild Cattle across the Blue Mountains to the New discovered Country (which Certainly if possible would be the Most desirable way of disposing of them), I would

beg leave to recommend that such of them, as Could Not be Incorporated with the Tame Herds of Government in the Course of twelve months or other limited Period, should be killed (Shot

Proposal for
killing and
salting the
wild cattle.

beg leave to recommend that such of them, as Could Not be Incorporated with the Tame Herds of Government in the Course of twelve months or other limited Period, should be killed (Shot

and Salted down for the Supply of the King's Stores. By this Means, the Wild Cattle would be Converted to a beneficial Account, and the Measure would free the Country of the Banditti of Bush Rangers (Runaway Convicts) and other Idle persons, who now Subsist in the woods by these Depredations, and one of the finest and richest Tracts of Land in the Colony, now ranged over by those Cattle, would be at the Disposal of Government, and would form a Most valuable Settlement for Industrious New Settlers. At this time, the only Person in the Colony, who derives any Benefit from the Lands Called "The Cow Pastures," is Mr. John McArthur, He and a Mr. Davidson, an Absentee, being the only persons, who ever Obtained Grants of Land there.

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Advantages
of removal of
wild cattle.

Land grants
at the
Cowpastures.

12. It having been reported to Me about Eighteen Months ago that very great Abuses and Frauds existed in the Commissariat Department at the Derwent in Van Diemen's Land, of which Mr. Deputy Assis't Commissary General Hogan had Charge, I deemed it advisable to remove him as soon as possible, and to send down an Officer, in whom I could place more Confidence to replace him. I accordingly Sent Mr. Acting Assis't Comm'y General William Broughton to the Derwent in the Month of August, 1816, to relieve Mr. Hogan, whom at the same time I ordered up to Head Quarters as soon as he had Closed and Settled All his Accounts, in order that his Conduct Might be Investigated by a General Court Martial* here.

Fraudulent
practices in
commissariat
at Hobart.

Relief of
Hogan by
Broughton.

Mr. Broughton was Strictly Enjoined by Me to rectify all Abuses and to introduce Such a System in the Department, as to preclude All further Delinquencies and partial Monopolies, which had prevailed at the Derwent to a great Degree. This raised a Host of Enemies against him, amongst those who had been particularly favored by Mr. Hogan. Mr. Broughton however, regardless of their Animosity, went on in the honest Discharge of his Duty, giving Universal Satisfaction to the great Body of the Settlers by his Upright and Impartial Conduct. At length Mr. Edward Lord, a Settler and Merchant at Hobart Town, who had in Mr. Hogan's time in a great Degree monopolized the Supply of the King's Store there with Grain and Animal Food, Exhibited Charges against Mr. Broughton for Trading and Malversation in his Office.

Instructions to
Broughton.

Charges
preferred
against
Broughton.

These Charges were by My Order Investigated on the Spot by a Military Court of Enquiry, and that Court having reported that there appeared to them Ground for a General Court Martial, I have ordered Mr. Broughton to Head Quarters to be tried by a General Court Martial. I have little or no doubt that the Result will be an Honorable Acquittal, the opinion of the Court of Enquiry appearing to Me to have been formed on false Grounds and

Investigation
of the charges.

1817.
12 Dec.

false Evidence, the Charges having Evidently been brought forward by Mr. Lord from Pique and Malice and not from any honorable Public Motive.

Relief of
Broughton
by Archer.

13. In Consequence of the Removal of Mr. Broughton from the Derwent, I have deemed it advisable to Order Mr. Acting Deputy Comm'y General Thomas Archer from Port Dalrymple to relieve Mr. Broughton at the former Station, having Reason to Entertain the highest Opinion of Mr. Archer's Honesty and Integrity. He has had the Charge and been at the Head of the Commissariat Department at Port Dalrymple for the last three Years, and during that time has proved himself worthy of My Confidence.

Appointment of
Dry to take
charge at Port
Dalrymple.

In Room of Mr. Archer, I have taken upon myself the Responsibility of Appointing *Mr. Richard Dry*, who has been for many Years Store Keeper at Port Dalrymple, to act as a Staff Commissariat Clerk, and to take the Charge of the Department there until the Pleasure of His Royal Highness the Prince Regent and the Lords Commissioners of His Majesty's Treasury shall be known. I trust Your Lordship will approve of the Appointment; and, if so, I have to Solicit that you will be pleased to recommend to the Lords of His Majesty's Treasury to approve of and Confirm it. Mr. Dry has been a very faithful Servant to the Crown for the last ten Years, during which period he has acted as Store Keeper at Port Dalrymple with great Credit to himself and Benefit to the Public Service. He is a good Accomptant, and in every respect perfectly well qualified for the Situation, I have thus Appointed him to fill.

Services of Dry.

Refusal of
Allan to
recommend
Dry for
confirmation.

Deputy Commissary General Allan has declined to recommend Mr. Dry to the Lords of the Treasury for Confirmation, on the *Ostensible Ground* of his being prohibited by his Instructions from Making any Such New Appointment in this Country; but the real Reason of his doing so is that he wished to send one of his own Sons to fill that Situation at Port Dalrymple, which in Justice to the Service I cannot Allow, as None of them are fit to discharge the Duties of so important a Situation.

Mr. Deputy Assist. Commissary General Hogan has lately been tried here by a General Court Martial,* the Result of which I have had the Honor to report to Your Lordship in a Separate Dispatch by this same Conveyance.

Refusal of
pensions for
Mountgarrett
and Luttrell.

14. I much regret to find that Your Lordship has declined to Sanction the Retirement of Surgeons Mountgarrett and Luttrell on Half pay or Pensions, as they are Certainly both very unfit for the Situations of Surgeons at the Derwent and Port Dalrymple respectively; but Altho' I am perfectly of this Opinion, Yet I shall not Venture to take so heavy a Responsibility on myself as to displace them without their having some Means of Support

* Note 149.

assigned to them; they are both Married Men with Families, and have been long in the Service, and Altho' not respectable Characters, I Conceive that some Provision should be Made for them in their declining Years. Mr. Mountgarrett was Obliged some time ago to Submit to the Amputation of One of his Arms, which renders him Altogether Incapable of performing any Surgical Operation of Importance. Mr. Luttrell is old and Infirm, and Not Infrequently disqualified for performing his Duties as Surgeon from Dissipation and Consequent Ill Health. Under these Circumstances, I cannot but adhere to the Opinion that Messrs. Mountgarrett and Luttrell should be removed as soon as possible from their respective Situations, and with this View I again take the Liberty to recommend them to Your Lordship's favorable and humane Consideration for Half Pay or Small Pensions, which Pensions, if Your Lordship should deem it Expedient, might be paid from the Colonial Funds without Including them in the Parliamentary Estimates. Doctors Bromley and Bowman, who lately arrived here as Surgeons Superintendants in Convict Ships, Declare they fully Expected to Succeed Messrs. Mountgarrett and Luttrell as Surgeons at Port Dalrymple and the Derwent, in Consequence of the Assurances they say they received at the Secretary of State's Office before they left England, and which Expectations I have not been enabled to realize, however much I have wished to benefit by their Professional Skill, and they are going Home much disappointed. But as Your Lordship left it entirely Optional with me to remove Messrs. Mountgarrett and Luttrell, I could not reconcile it to my own Sense of Justice to do so, unless some Provision should be made for them by Government.

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12 Dec.

Incapacity of
Mountgarrett
and Luttrell.

Proposal for
their removal.

Expectations by
Bowman and
Bromley of
colonial
appointments.

15. In Answer to Your Lordship's Query* respecting the supposed Over-payments made to *Senior Assist't Surgeon Mileham* and *Colonial Surgeon Luttrell*, it is only Necessary to remind Your Lordship that both those Officers are entitled by the Parliamentary Estimate to be paid at the rate of Ten Shillings per Diem in their present respective Situations. It has perhaps escaped Your Lordship's Observation that Mr. Luttrell was some time since appointed by me to act as *full Surgeon* at the Derwent, which Rank entitles him to Ten Shillings per day, having been for many Years Acting as an Assistant Surgeon here before he was removed to Van Diemen's Land.

Payments made
to Mileham
and Luttrell.

16. I have much pleasure in reporting to Your Lordship that, from the Arrival of Lieut. Governor Sorell in Van Diemen's Land, the Settlements there are rapidly improving. The Banditti of Bush Rangers, which for some Years past were Suffered to Infest those Settlements and Commit various Sanguinary Acts

Progress of
Tasmanian
settlements
under Sorell.

* Note 150.

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and ruinous Depredations on the Settlers, have been almost entirely extirpated through the Active and energetic Measures of Lieut. Governor Sorell, and those Settlements are now likely to become very valuable Acquisitions to the Mother Country as well as to this Colony.

Territorial seal.

17. By the Ship Almorah, I had the Honor of receiving the New Colonial Seal,* which is now in Use, and by this Conveyance I return the Old one in pursuance of Your Lordship's Commands.

Condition of
government
house.

18. It is Matter of Much Regret to Me that Your Lordship should have disapproved† of My purpose to build a New Government House and Offices for the accommodation of Myself and Successors. I must assure Your Lordship I should not have proposed it, but from the fullest Experience of the Necessity of it. The Front of the present Government House, which was built by Governor Phillip, is in such a decayed and ruinous State, Chiefly arising from the Circumstance of the White Ant having got into the Timbers, that it will Inevitably tumble down of itself in a very few Years; the two Public Rooms‡ for the Reception of Company are tolerably Good and Spacious, but there are only two Bed Rooms in the present Government House. The Kitchen places for Servants and Stables are in the Most Ruinous State; they have been repeatedly repaired and Shored up to prevent them falling down, but I apprehend from their present decayed State they Cannot possibly Stand three Years longer. In this inadequate ruinous State, both of the Dwelling House and Offices, I conceived it to be both fair and reasonable to Erect New Ones, as well with a View to my own personal Comfort and Accommodation, as to that of My Successors; and the More especially so as the Lieut. Governor and the other principal Civil and Military Officers of this Government had been previously provided with Comfortable and Suitable Quarters, before I ever proposed Erecting a Government House and Offices for Myself. It was my Intention to Build them on a Neat and Commodious Plan, suited to the Rank and Dignity of a Governor of this Country, but by no means on an expensive Scale; they were to be Erected entirely by the Government Artificers and Labourers, and to be Constructed of Materials, the produce of the Colony and at the Disposal of Government; with the Exception of the Glass and Iron-work, which of Course must have Come from England. It was not my Intention to have drawn on the Treasury for a Single farthing on Account of those Buildings, the entire Expencc of which was intended to be defrayed from the Colonial Funds, and which would have been very trifling, as almost the whole of the Materials would have been procured by the Govern't Labourers. This was my Reason for Not sending, for Your Lord-

Proposals for
the building of
new government
house.

* Note 97. † Note 151. ‡ Note 20.

ship's Approval, a Plan and Estimate of the Expence of Erecting a New Government House and Offices, which I have the more Sincerely to regret, as I might probably have thereby escaped the Observations and Censure Conveyed to Me on this Subject in Your Lordship's Dispatch of 30th January last.

1817.
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It happens, however, very fortunately that, in Consequence of the long Continued heavy Rains, which prevailed in the early part of the present Year and the Delay occasioned thereby in the Erection of the Military Barracks and other essentially Necessary Government Public Buildings, that I have been prevented Commencing on the proposed New Government House and Offices. This being the Case, I shall leave it to My Successors to arrange the Mode and Plan for Carrying the Measure into Effect, Contenting Myself in the Mean time with the inadequate Accommodation I now Occupy; Although I have no Hesitation in Assuring Your Lordship that no private Gentleman in this Colony is worse off for private Accommodation for himself and Family and Servants than the Governor of the Colony.

Causes
of delay in
commencement
of building.

19. I have much Pleasure in Now reporting to Your Lordship that the Military Barracks* for the Accommodation of 1,000 Men and Suitable proportion of Officers, Surrounded by a High Stone Wall and with every Suitable Accommodation Usually Allowed in large Barracks, are Completed with the Exception of One Field Officer's Quarter, which will be ready in the Course of a few Months. The Military Barracks here will then be perhaps the best and Most Compleat of any in His Majesty's Foreign Dominions.

Completion
of military
barracks.

A Light House being greatly wanted for the Use, Safety and Direction of Shipping, Trading to and from this Port, I have lately had a Very Elegant and Strong Stone Tower and Light House Erected at the South Head of Port Jackson, a Plan and Elevation of which I intend sending to Your Lordship by the present Conveyance. The Lantern however is Not quite finished, owing to the Want of the Plate Glass, which was ordered from England last Year; and Until it arrives No Light can be Shewn from the Tower. I have had a very handsome Dwelling House and Offices Erected at Parramatta for the principal Chaplain, and also at Sydney for the Senior Assistant Chaplain. Churches are also at this time Erecting, both at Windsor and Liverpool, Such Buildings being much wanted at those Stations. They are to be built by Contract, and the Expence defrayed from the Colonial Funds. A New female Orphan School House on a large elegant and Commodious Plan has lately been Erected and Completed at Parramatta under the Superintendance and Direction of the Revd. Mr. Marsden. This Building has been built by Contract also, and the Expence defrayed from the Colonial Funds. It will

Erection of
lighthouse at
Port Jackson.

Progress of
public works.

* Note 152.

1817.
12 Dec.

Progress of
public works.

be ready in about a Month hence for the Removal thither of the Female Orphans from Sydney, this place having been long and very justly Considered a very bad Situation for females in every respect. A New Hospital is Now Erecting at Parramatta by Government Artificers, the Old Hospital there being entirely decayed and Unfit to be Inhabited by the Sick. A New Barrack for the Troops being also Necessary at Parramatta, the Old One being almost in Ruins and Consequently very dangerous to be any longer Inhabited by the Soldiers, I purpose to have a New Barrack erected there as soon as the Hospital has been Completed. A New Barrack is Now Erecting at Windsor for the Detachment of Troops stationed there, and which is building by Government Artificers.

Erection
of barracks
for convicts.

A new very large Commodious Barrack* for the Accommodation of about 400 Convicts is Now Erecting at Sydney by Government Artificers, and I hope will be Completed in about Six Months hence, to be Enclosed by a High Stone Wall; this Building is Much required, and I trust will be productive of many Good Consequences, as to the personal Comfort and Improvement of the Morals of the Male Convicts in the immediate Service of Government at Sydney. I intend as soon as practicable to have similar Barracks for the Male Convicts built both at Parramatta and Windsor, and likewise a Factory and Barrack on a large Scale for the female Convicts in the immediate vicinity of Parramatta.

Proposed fort
at Bennelong
point.

I also intend Immediately to have a small Fort built on Ben-ne-long's Point, which forms the Eastern Entrance of Sydney Cove, for the purpose of preventing Ships or Boats or Vessels of any Denomination leaving the Cove without permission, as well as to prevent Boats and Vessels from being Cut out of the Cove at Night, Such Occurrences having heretofore frequently taken place. The Seven Guns, which were Sent out a few Years ago from England for a New Battery, will be placed in this New Fort, which will be built Entirely by Government Artificers and Labourers, and therefore at a very inconsiderable Expence. After the public Buildings, I have herein Enumerated, shall be completed, the only other public Buildings that will be required at Sydney are a Church and Court House, both which, as I stated in a former Dispatch, are essentially Necessary and ought as Soon as possible to be built. In about twelve Months hence, Most of the other Public Buildings, so immediately required, will be Completed, And with Your Lordship's Permission I should then propose Commencing the Erection of the two public Edifices in Question as by that time I think the Expence of them might be defrayed from the Colonial Funds.

Public buildings
required at
Sydney.

20. Herewith I do myself the Honor to transmit for Your Lordship's Notice and Information the following Returns, Reports and Accounts, Including the Annual Result of the General Muster of the Colony for the current Year, vizt:—

1817.
12 Dec.

Returns,
reports, and
accounts
transmitted.

1st. The Accounts Current of the Expences of the Colony from the 25th of December, 1816, to the 24th of October, 1817, Inclusive.

2d. Lists of Bills drawn by Deputy Comm'y General Allan on the Lords of the Treasury and Colonial Agent from do. to 24th Novr., 1817.

3d. Statement and Return of Provisions in His Majesty's Magazines at Sydney on 24th October, 1817.

4th. Reports of the Naval Officer of Arrival and Departure of Ships and Vessels, etc., etc., from 1st January to 30th October, 1817, Inclusive.

5th. The Accounts of the Colonial Police Fund from do. to do. Dates Inclusive.

6. Statement of the Result of Annual General Muster of the Colony including Van Diemen's Land for the Current Year.

7. Returns of Prisoners tried by the Criminal Court from the 1st of January, to the 31st October, 1817, Inclusive.

8th. Returns of Marriages, Births and Deaths in the Colony from the 1st of January to the 30th of September, 1817, Inclusive.

21st. This Dispatch will be delivered to Your Lordship by Captn. John Gill of the 46th Regt. now proceeding to England on Leave of absence, and whom I take the Liberty of Strongly recommending to Your Lordship's kind Protection, Patronage and Favour, He being a highly Meritorious and excellent Officer. Captn. Gill has Acted here as Chief Engineer for nearly Four Years, highly to my Satisfaction and greatly to the Advantage of the Public Service, Whence I feel Sincere Regret at being deprived of his Very Useful Services. As he is a Gentleman of Strict Honor and Veracity, and is well acquainted with the Affairs and Politics of this Colony, he will be Able to Afford Your Lordship Much Useful Information on these Important Points. I therefore take the Liberty of referring Your Lordship to Captain Gill on such Points touching the present State of the Colony, as you may wish to be Made Acquainted with.

Recommendation of
captain Gill.

I have, &c.,

L. MACQUARIE.

[Enclosures Nos. 1, 2, 3, 4, 5, 7, and 8.]

[Copies of these returns, reports and accounts will be found in volumes of the respective series to which they belong.]

1817.
12 Dec.
General return
of inhabitants.

[Enclosure No. 6.]

A GENERAL STATEMENT of the Inhabitants of New South Wales, as per General Muster taken by His Excellency Governor Macquarie and Deputy Commissary General Allan, commencing the 6th October, and finally closing the 25th November, 1817, inclusive, with an exact Account of the Population at Van Dieman's Land.

	Civil Department victualled.													Military Department victualled.																			
	Governor and Commander in Chief.	Lieutenant Governor.	Secretary to the Governor.	Judges.	Solicitors.	Provost Marshall.	Chaplains.	Principal Surgeons.	Assistant Do.	Surveyor General of Lands.	Deputy Surveyor Generals.	Naval Officer.	Clerks and Superintendants.	Woman at $\frac{3}{4}$.	Children at $\frac{3}{4}$.	Total of Civil Dept. victualled.	Lieutenant Colonel.	Majors.	Captains.	Lieutenants.	Ensigns.	Paymaster.	Adjutant.	Quarter Master.	Surgeon.	Assistant Surgeons.	Serjeants and Corporals.	Drummers and Fifers.	Privates.	Women at $\frac{3}{4}$.	Children at $\frac{3}{4}$.	Total of Military Department.	
At Sydney	1	..	1	2	2	1	1	1	1	1	1	23	19	27	82	1	2	6	9	10	1	1	1	1	2	38	10	2	43	528	111	110	821
" Parramatta	6	4	17	29	..	..	..	1	1	..	..	..	..	..	7	2	2	34	72	160		
" Windsor	1	4	8	16	..	..	..	..	1	..	..	..	..	..	4	..	..	12	42	73		
" Liverpool	18	8	9	43	
" Newcastle	2	2	4	8	..	..	..	..	..	..	..	..	..	..	..	..	51	..	..	55	
On Board the Colonial Vessels	
Van Dieman's Land	
{ Hobart Town
{ Port Dalrymple
Total	1	1	1	3	2	2	6	3	4	2	1	38	31	61	157	1	2	10	17	11	1	1	1	1	3	72	17	830	173	248	1358		

[Enclosure No. 6]—continued.

A GENERAL STATEMENT of the Inhabitants of New South Wales, as per General Muster taken by His Excellency Governor Macquarie and Deputy Commissary General Allan, &c.—continued.

	Commissariat Staff victualled.			Free Persons victualled.			Prisoners victualled.			Rations.					Persons not victualled.			Total No. of Souls in the Settlement.					
	Deputy Comm'y General.	Assistant Comm'y General.	Deputy Asst Comm'y General.	Men.	Women at $\frac{2}{3}$.	Children at $\frac{1}{2}$.	Men.	Women at $\frac{2}{3}$.	Children at $\frac{1}{2}$.	Total of Prisoners victualled.	At Full.	At Two-thirds.	At Half.	At One-third.	Total of Full Rations.	Total Number of Persons victualled.	Men.		Women.	Children.	Total of Persons not victualled.		
At Sydney	1	1	2	4	237	196	345	778	620	117	308	1045	1507	332	791	110	2111	2740	2139	1485	871	4495	7235
" Parramatta	1	1	2	4	82	45	34	211	408	185	117	710	554	234	252	72	860	1112	998	378	611	3012	3124
" Windsor	1	1	1	3	94	38	20	152	270	2	5	277	388	44	45	42	454	519	2103	850	785	3738	4257
" Liverpool	1	1	1	3	73	49	115	237	179	..	..	179	279	49	123	9	376	460	855	248	359	1462	1922
" Newcastle	1	1	1	3	20	..	..	20	394	46	..	451	476	48	15	..	515	539	8	2	4	14	553
On Board the Colonial Vessels	1	1	1	3	17	..	..	17	..	..	..	..	17	..	..	..	17	17	157	..	..	157	174
Van Diemen's Land	1	1	1	3	143	98	141	382	434	17	16	467	706	27	170	15	814	918	995	294	347	1636	2554
Port Dalrymple	1	1	1	3	24	37	91	152	78	15	8	101	192	52	49	..	276	293	131	59	77	267	560
Total	1	2	4	9	690	463	796	1949	2383	382	465	3230	4119	783	1445	248	5423	6598	7386	3311	3084	13781	20379

1817.
12 Dec.
General return of inhabitants.

1817.
12 Dec.
Return of
agriculture and
live stock.

[Enclosure No. 6]—*continued.*

A GENERAL STATEMENT of the Land in Cultivation, etc. The quantities of Stock, etc., as accounted for at the General Muster in New South Wales, taken by His Excellency Governor Macquarie and Deputy Commissary General Allan, commencing the 6th October and finally closing the 25th November, 1817, inclusive, with an exact Account of the same at Van Dieman's Land.

	Acres in										Horses.	Horned Cattle.	Sheep.	Hogs.	Bushels of		
	Wheat.	Maize.	Barley.	Oats.	Pease and Beans.	Potatoes.	Garden and Orchard.	Cleared Ground.	Total Held.	Maize.					Wheat.		
The Crown .....	..	..	..	..	..	..	..	..	..	..	149	2,797	1,150	..	..	..	..
At Sydney	725	819	29	16	15	67	205	8,329	72,649	864	8,916	6,611	2,085	598	109	..	..
„ Parranatta	1,856	4,433	85	6	41	81	249	9,240	78,542	665	9,138	31,791	2,968	412	235	..	..
„ Windsor	8,852	5,610	428½	91	22½	117	245	17,053	46,222	733	5,265	13,865	7,818	947	845	..	..
„ Liverpool.....	2,989	817	75	32	25	66	156	8,280	32,028	432	7,291	12,667	2,613	413	187	..	..
„ Newcastle	24	35	18½	3	..	4	8	92	92	8	230	600	130	35	70	..	..
„ (Hobart Town.....	2,774	..	141	..	101	202	..	3,218	3,218	170	8,791	78,101	1,552	..	..	..	..
Van Dieman's Land { Port Dalrymple... ..	1,242	..	79½	8½	..	22	..	1,352½	1,352½	51	2,325	26,135	646	..	..	..	..
Total.....	18,462	11,714	876½	156½	204½	559	173	47,564½	224,003½	3,072	44,753	170,920	17,832	2,405	1,506	..	..

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
13 Dec.

(Despatch marked "No. 41 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, N. S. Wales,

My Lord,

13th December, 1817.

1. In My General Dispatch of yesterday's date, I omitted to inform your Lordship that the Three Transports, Namely, the Matilda, Lloyds and Dick, which brought the 48th Regiment here, carried off all that part of the 46th Regiment which was Quartered at Sydney and its immediate Vicinity, there not being accommodation in those three Transports for more Officers, Men, Women and Children, than the Members of those Descriptions the 46th Regiment consisted of at Sydney and its Vicinity; so that independent of all other Considerations, the remaining Divisions of the 46th Regiment, stationed at the Subordinate Settlements, could not have been Embarked on the Three Transports adverted to, if even they had been at Head Quarters.

Embarkation of detachments of 46th regiment on transports Matilda, Lloyds and Dick.

2. But the very small force of the 48th Regiment being at the present time totally inadequate to the Military Duties of the Territory, I deemed it indispensably necessary to retain the Divisions of the 46th Regiment, stationed at the Subordinate Settlements, until such time as the 48th Regiment should be sufficiently reinforced to relieve the Detachments stationed on Van Diemen's Land and at Newcastle, the Number of Troops now at those Places amounting to about 260 Men, which are as few as ever ought to be at those Settlements.

Reasons for detention of detachments of 46th regiment.

3. I hope to be able to relieve the 46th Detachments at the Subordinate Settlements in the Course of Six Months hence; as by that time, I have reason to believe the 48th Regt. will be sufficiently reinforced by Detachments from Home to admit of my doing so, without too much lessening the Numbers required for the Duties at Head Quarters.

4. The Departure of the 46th Regiment from hence for India was considerably delayed beyond what was necessary, by Colonel Molle's demanding a General Court Martial on Principal Surgeon Wentworth, and the consequent assembling of the Court. Colonel Molle, however with the 1st Division, sailed in the Matilda on the 24th of September, and the last Division of the Regiment sailed in the Dick on the 5th of October for Madras.

Delay in departure of 46th regiment.

I have, &c.,

L. MACQUARIE.

1817.
13 Dec.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 42 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 19th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

13th December, 1817.

With Reference to My Dispatch No. 28 of the present Year, a Duplicate of which accompanies this, I have now the Honor to transmit herewith for Your Lordship's More full and perfect Information on the Subject of Mr. Oxley's late Tour of Discovery.

1st.* Mr. Oxley's Journal of the Expedition† in two Books or Volumes;

2nd. A Chart of the Tour Comprized in three Sheets of large Paper;

3d. An Enumeration of such remarkable Plants as were discovered in the Interior of Australia‡ during the Expedition; and

4th. A Table Containing the Range of the Thermometer in the Interior from the 9th of April to the 30th of August, 1817.

It would not be doing Mr. Oxley that Justice I feel owing to him, were I merely to transmit Your Lordship the foregoing Documents, which he has placed in My Hands, without Conveying at the same time to Your Lordship My own Opinion of the Service performed and the Mode of its Execution.

When it is Considered how Many and Various the Obstructions and Difficulties, which presented themselves to the Execution of the Duty Confided to Mr. Oxley, whether originating in the Nature of the Country itself over which he traversed, or arising from accidental Circumstances during his Progress, I cannot withhold from him the Praise justly due to the Zealous, Indefatigable and Intelligent Exertions, by which he was finally enabled to Close so arduous a Tour without the Loss of any One of his Party or even any Material Accident Occurring to him or them. It is unnecessary for Me to dwell on each particular Privation and Difficulty with which Mr. Oxley had incessantly to Contend, as all those will present themselves in their due Order in the Journal now transmitted. I trust this Journal will also impress Your Lordship, as it has done Me, with much Satisfaction in Contemplating the Talent and Ability for Such an Undertaking, which Mr. Oxley has displayed in it, due Consideration being had to the Circumstances in which it was Composed.

These Exertions will I have no doubt Meet Your Lordship's Commendation, and I beg leave to add that I Conceive Mr. Oxley is very Justly Entitled to a liberal pecuniary Acknowledgment

* Note 154. † Note 85. ‡ Note 84.

Reports
relating to the
expedition of
John Oxley.

Commendation
of the services of
John Oxley.

for the Services he has thus rendered his Country; with this Feeling, I take the Liberty to propose to Your Lordship to Authorize Me to present him with £200 from the Colonial Funds, or Such other Sum as Your Lordship may deem more adequate to his Meritorious Services. In the same Light, I beg also to Call to Your Lordship's liberal Consideration the Industrious, Indefatigable Exertions of Mr. Evans, the Deputy Surveyor in Van Diemen's Land, who accompanied Mr. Oxley, Next in Rank and Authority to himself. Mr. Evans's Exertions appear in Mr. Oxley's Journal to be very liberally appreciated, and when his Meritorious Conduct on this Occasion is Combined with the Consideration of his former Exertions in first penetrating into the Country to the Westward of the great Range of the Blue Mountains, which had, previous to his successful Attempt, been deemed Altogether Impracticable, I hope Your Lordship will Consider him well entitled to a Compliment equal at least to one Half of that Your Lordship may be pleased to assign to Mr. Oxley.

1817.
13 Dec.

Proposed
monetary grant
to Oxley,

and to
G. W. Evans.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(A private despatch per ship Harriet.)

Government House, Sydney, N. S. Wales,

My Lord,

13th Decr., 1817.

As it is probable my stay in this Country will now be very short, I embrace the present opportunity of respectfully submitting to your Lordship that, from the inadequateness of my Salary as Governor for the support of my Rank and the necessary Expences of my Establishment and Table in the present greatly increased State of the Population and Society of this Colony, I have not been able to save any part of either my Civil or Military Income; And although, in consideration of my long and faithful Services, I may reasonably expect that they will be so far favorably considered by His Majesty's Ministers on my return to England, as to induce them to extend the same indulgence to me, in a proportionate degree, as has been done to all my Predecessors, by granting me a Pension as a reward for my Services, Yet, I cannot expect that such Pension should be extended to my Family after my Death.

Macquarie's
expectation
of a pension.

With a view therefore of enabling Me to make a suitable Provision for my Wife and Child (having a Son born to me in this Colony) after my Death, I take the liberty of now Soliciting that your Lordship will have the goodness to move His Royal

Application for
a land grant.

1817.
13 Dec.

Application for
a land grant.

Selection of
Toongabbe
farm.

Highness The Prince Regent to be graciously pleased to favor me with a *Grant of about Fifteen Thousand Acres of Land* in some eligible part of the Colony. In part of this Quantity of Land, I respectfully beg leave to solicit that the unappropriated Government Farm of Toongabbee may be granted to me. It is now, and has been for some years past, lying waste and unoccupied; the fertility and the Strength of the Soil having been entirely exhausted, when cultivated several years since on account of the Crown.

I wish to have it on account of the beauty of the Situation and contiguity to the seat of Government, it being only 17 miles west of Sydney.

I do myself the honor of transmitting herewith, for your Lordship's notice and information, a Plan of the Toongabbee Farm, together with a Description thereof, to enable your Lordship to give orders to have a Grant of it made out at the proper Office at Home, in the event of His Royal Highness The Prince Regent being graciously pleased to accede to my present request.

I beg to add that I have no wish to receive either Government Men on the Store, nor any Cattle from the Government Herds, along with the Lands now Solicited.

I have, &c.,
L. MACQUARIE.

[Enclosure No. 1.]

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

[Enclosure No. 2.]

DESCRIPTION OF THE TOONGABBE FARM.*

MAJOR-GENERAL LACHLAN MACQUARIE, Governor of New South Wales, a Grant of *Two Thousand four Hundred Acres* of Land in the District of Toongabbee.

Bounded on the North Side, by the Farms of Pye, Rogers, Bess, Chestland, Pye, Martin, Mosely and Joyce; On the West Side, by the Toongabbee Creek, the Farms of Hume, Baker, and Grimes's Hartwell Farm, and thence by Wentworth's Land to Constitution Bridge; on the South Side, by the small Creek leading from that Bridge and the Toongabbee Creek to the Parramatta River; On the East Side, by the Parramatta River and the Turnpike road leading from Parramatta to Windsor: to be known by the name of "Dunvieramille."

JAMES MEEHAN, Depy. Surv'r-Gen'l.
Sydney, N. S. Wales, 1st Decr., 1817.

* Note 155.

Surveyor's
description of
Toongabbe
farm.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Neptune; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1818.)

1817.
15 Dec.

Sir, Downing Street, 15th Decr., 1817.

I am directed by Lord Bathurst to transmit to you here-
with the Assignment of One Hundred and Seventy Male Con-
victs, Shipped on board the Neptune for the Settlement of New
South Wales.

Assignment of
convicts per
ship Neptune.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 43 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

My Lord, Government House, Sydney, 15th December, 1817.

The late Circuitous Tour thro' the Interior has in its
Botanical Department been productive of an Accession of up-
wards of Five Hundred Plants totally different from those hither-
to Collected or known in this Country. One Hundred and Fifty
of them were found bearing Seed, which Circumstance now En-
ables me to transmit Your Lordship some of the Seeds of Each of
them. I also Send Your Lordship Dried Specimens of all the
Plants, amounting to upwards of 500. Four of these Specimens
were Considered so rich and beautiful by the persons, who Col-
lected them, that I have on their Suggestion been Induced to get
Drawings made of them by the Masterly Hand of Mr. Lewin,
the Gentleman whom Your Lordship mentioned in a late Dis-
patch as a person who might be Useful in the Voyage of Dis-
covery under Lieut. King.

Botanical
results of
Oxley's
expedition.

These Drawings being taken whilst the Plants retained some
Share of their Natural Beauty, and immediately under the Eye
and Direction of the Botanists who collected them, their Colours
and Peculiarities have been well preserved, and will Convey a
much more perfect Idea of the Plants themselves than Could be
possibly Obtained from the bare Inspection of the dried Speci-
mens, especially after so long a voyage as that they are about to
Undergo; these Drawings* I do myself the Honor to transmit to
Your Lordship, as likewise One of a Native Chief at Bathurst,
whom having Myself seen on My Visit to the Western Country
I can vouch for its being an excellent Likeness.

Drawings by
Lewin
transmitted.

The Tourists having also Met with a New Description of
Doves and Cockatoos† nearly at the Termination of the River
Lachlan, as beautiful in Appearance as rare, I do myself the
Honor to send Your Lordship a Drawing of them also.

Discovery of
new species
of birds.

* Note 156. † Note 157.

1817.
15 Dec.

Refusal of
Lewin to
accompany
expedition of
P. P. King.

Mr. Lewin, to whose Pencil I am Indebted on this Occasion, has begged Leave to decline the Duty Your Lordship had proposed to Honor him with in the Voyage of Discovery with Mr. King, He having a family at Sydney which he Could not provide Sufficiently for during his Absence, his and their principal Support arising from his Employment as an Artist,* in which Capacity, Especially as it applied to the Description of Animals and Vegetables, he is here Considered to possess most uncommon Merit.

Proposed
employment of
Lewin by
government.

Whilst on the Subject, if Your Lordship should be disposed to Consider as favorably of Mr. Lewin's Talents in the Line of an Artist, as I have long been, I would beg leave to Suggest that possibly those Talents might be most Usefully employed here in the Service of Government Exclusively.

Drawing of
aboriginal
grave.

A Drawing of a Mound,† being the Burial Place of a Native Chief, taken on the Spot by Mr. Evans, also accompanies this, which with the others will I trust reach Your Lordship in Safety, being Entrusted to the Personal Care of Captain Gill.

Seeds for
Austria and
France.

The Box containing the Seeds has one Packet in it Made up for the Emperor of Austria in Conformity with the Instructions‡ received from Your Lordship; and also for *Monsieur Goüm*, Superintendent of the King's Garden at Paris, which is particularly addressed to the Care of Sir Joseph Banks.

Mineralogical
results.

In the Department of Mineralogy, little of Importance was effected during Mr. Oxley's Tour. Specimens of the few Minerals and Fossils, which seem worthy of any Attention, are now made up for Your Lordship, Altho' even they will, I fear, be held in little Estimation. A Specimen of *Lime Stone* of excellent Quality, found on the Bank of "the *Macquarie River*" is Included.

Employment
of Lewin.

Until I shall hear from Your Lordship, I shall Continue to employ Mr. Lewin, as occasion may Offer, in making Drawings of Such rare Productions as the New Accessions in the Western Country may afford, which I hope will be agreeable to Your Lordship's Wishes.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

LIST OF SEEDS.

The Right Honorable Earl Bathurst.	
Of the Class Diandria	Of The Class Pentandria
Jassminum Occidentales.	Twenty Papers.
" The Class Triandria	" The Class Octandria
Six Papers.	Four Papers.
" The Class Tetrandria	" The Class Decandria
Six Papers.	Six Papers.

Return of seeds
transmitted.

* Note 158.

† Note 156.

‡ Note 159.

LIST OF SEEDS—*continued.*

Of The Class Icosandria	Of The Class Syngenesia
Five Papers.	Thirty one Papers.
„ The Class Didynania	„ The Class Monœcia
Ten Papers.	Twelve Papers.
„ The Class Diadelphion	„ The Class Ditecia
Eight Papers.	Two Papers.
„ The Class Polydalphia	„ The Class Polygamia
Two Papers.	Twelve Papers.

1817.
15 Dec.Return of seeds
transmitted.

Twelve papers of Seed from Otaheite.

There is also packed in the Case thirteen Amarylis Bulbs, and twelve Bulbs of the Paneraticum Macquaria,

And nineteen papers of Seed, 3 of which I was unable to ascertain the Genus.

Compared. Correct with the Original.

J. T. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 44 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord,

15th December, 1817.

Mr. Oxley, under whose Direction the late Tour thro' the Interior was Effected, having Solicited me for Permission to Publish his Journal* of the Expedition, I have seen no Reason to withhold from him that Permission, provided Your Lordship should first be put in Possession of the original, and that no Objection should arise with Your Lordship on the Propriety of it.

Request of
John Oxley for
permission to
publish his
journal.

Mr. Oxley, with a view to rendering his Publication more Interesting by giving it the Embellishments arising from the Subjects I have forwarded to Your Lordship by this Opportunity from the Pencils of Mr. Lewin and Mr. Evans, has now further Solicited that I would Intercede with Your Lordship to grant Permission to his Publisher, Mr. Murray of Albemarle Street, to have Access to those Drawings in order to the making Copper-Plate Engravings from them.

I do myself the Honor to transmit Your Lordship a Copy of Mr. Oxley's Letter on this Subject, and to request Your Lordship to be pleased to grant his Publisher such Indulgence in regard to those Drawings as the Case may seem to Your Lordship to Merit.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir,

Sydney, 15th Decr., 1817.

Your Excellency having been pleased to permit me to publish the Journal of the late Expedition into the Interior, I

* Note 160.

1817.
15 Dec.

Request of
John Oxley for
permission to
publish his
journal.

respectfully beg leave to request, that you will have the Goodness to intercede with Earl Bathurst to grant permission to Mr. John Murray, Bookseller, Albermarle Street, London, The Publisher, to have access to the Drawings of Birds, Plants, and Native's Tomb, transmitted by Your Excellency to His Lordship for the purpose of having the same engraved for the Work.

I have, &c.,

J. OXLEY, Surveyor-General.

True Copy:—J. T. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(A private despatch per ship Harriet.)

Government House, Sydney, N. S. Wales,

My dear Sir,

15th Decr., 1817.

I now do myself the honor to acknowledge the receipt of your very kind obliging Letter of date 16th April last, which only came to hand on the 30th of September, since which time no opportunity has occurred of answering it till now. Before I proceed to do so, I request, Sir, you will accept my most sincere and grateful thanks for the friendly interest you take in my welfare, and in rescuing my Public Character from obloquy and the malicious attempts made to injure it in the Public Opinion by an unprincipled low Cabal, formed here some time since, headed by and under the auspices of Mr. Justice Bent, Mr. Solicitor Moore, and the Revd. Benjamin Vale, who obtained by the basest and most wicked Means a number of unprincipled Persons of the very worst and lowest characters in the Colony to affix their Names to a libellous Petition to the House of Commons, which was sent Home in Charge of the Revd. Mr. Vale in June, 1816, and of which I sent Home a Copy* to Lord Bathurst, making such Comments thereon, as I Considered to be necessary to Clear my Character from the foul aspersions it contained. The whole of the grievances, complained of in that Petition, being either utterly false, or such as were well known to exist by His Majesty's Ministers and over which I had no controul, I did not consider it necessary to enter, in my Letter to Earl Bathurst, into any detailed explanation of the Charges made against me in the Petition in question, fully expecting that I should be favored with an Official Copy of it and of the Names of the several Persons, who had Subscribed it, as soon as it should be presented to Lord Bathurst, or laid before the House of Commons, so as to enable me to prosecute here the Libellers of my Character and Fame, and thereby Clear both from the foul aspersions thrown on them therein. But as I am excluded from this advantage, I shall as briefly as I can in compliance with

Representations
made in petition
to House of
Commons.

* Note 161.

your kind desire animadvert on those parts of the Petition, which more immediately require explanation *as affecting me Personally*.

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15 Dec.

I know of no Inquest, in which any Member of my Family has ever been in any way concerned, excepting in that unfortunate occurrence, which took place in George Street in the Town of Sydney on the 6th of Octr., 1814, on the occasion of Mrs. Macquarie taking an Airing in the forenoon of that Day, in her Curricie driven at the time by our Coachman, Joseph Big; the circumstances of which are as follow:—The Curricie was going at a moderate rate. The Servant, who followed it, happened to be riding a young Horse. A number of Children were at Play on one side of the Street. They were perfectly free from all apparent danger, And the Coachman, considering himself past them, turned his Head to the Right to call to the Groom behind to take away a Wood Cart, which was standing in the Street in such a Manner before the Curricie, as to obstruct its passing, the Carter having deserted his Horses, and was at the time in the House of the Man, whose unfortunate Child fell a victim to the accident, which he in a manner occasioned. Mrs. Macquarie, feeling some uneasiness at the idea of the young horse being required to pass the Curricie and come in Contact with the Cart, looked back to see how he passed, when one of the Children, named *Charles Thomas*, having (as was reported by an Eye witness of the accident) blinded himself by throwing Sand over his Head (a common amusement of the Children here), left his Companions and ran under the Near Side Horse. Mrs. Macquarie's attention was now excited by observing the Horse endeavouring to avoid something, which was under him, and exclaimed, "There is a Boy under the Horse!" The Coachman said, "It is impossible!" At that instant, the Near Wheel passed over the poor Boy's Body. Mrs. Macquarie instantly leaped out of the Curricie, raised the Child from the Ground, and carried him in her own Arms immediately Home to his Mother's House. She sent for Doctor Redfern to come to the Child's assistance, as quick as possible. On coming, he attempted to bleed it, but he soon saw that all hope of preserving the Boy's life was over. The Doctor then advised Mrs. Macquarie to return Home, which she did in a state of anxiety and distraction of mind not to be described. In about half an Hour afterwards, Doctor Redfern called at the Government House to inform us that the Boy was Dead.

Accidental
killing of child
by Macquarie's
curricie.

I immediately sent to the Coroner, and directed him to hold an Inquest, and never saw him until he brought me the Result of it, namely "Accidental Death."

Neither on this nor on any other occasion, have I ever known, who the Persons summoned to attend Inquests are, until I see

1817.
15 Dec.

their Names in the Reports of the Coroner. I never have had, nor do I understand how any Man in my Situation could have, any influence or intercourse whatever with the Persons Composing Juries of Inquests, and still less to influence their Decisions.

Particulars
relating to
the accident.

Mrs. Macquarie considers that the poor unfortunate Child, herein alluded to, certainly ran inadvertently under the Horse himself, as she, as well as the Coachman, but the instant before saw all the Children perfectly free of the Curricule, and her and his attention were directed to the Rear of the Carriage at the moment he got under the Horse, which prevented them from seeing him run into that perilous situation. My Coachman is a remarkable good Driver, And whatever could be done to avoid such an accident, I am Confident he did do. He has now served me for Ten years, and was Coachman for several Years in London to Mr. Rolleston of the Foreign Office. I have never known him to shew any disposition to Cruelty to his Fellow Creatures. On this unfortunate occasion, he said "*He would rather have broken his own Neck than have been the Cause of the Death of the poor Boy,*" Although it was an accident, he could neither foresee nor prevent, and I really believe he said exactly what he felt. The Parents of this unfortunate Child acted from the first moment to the present time with every possible degree of Reason and propriety. They have been very far from insinuating the inhuman Suggestions, which have been the occasion of my troubling you at such length on this subject. I take the liberty of transmitting herewith for your further information an attested Copy of the Coroner's Inquest held on the Boy, Charles Thomas.

Punishments for
trespass on the
government
domain at
Sydney.

In regard to the Punishments* inflicted on Persons Trespassing in the Government Domain at Sydney, I have to inform you that the Grounds so denominated have been enclosed with a Stone Wall at a considerable expence to the Crown, it being my wish to bring them into a state of improvement by Planting, and otherwise ornamenting them; and with the view of securing these improvements from being injured or destroyed, Public Government Orders had been at various times issued forbidding Trespasses on the Government Domain, and Hand Bills were even Stuck up on different Parts of the Wall, which enclosed it, to that effect, in order that no Person might be able to plead ignorance of the prohibition in question, the Government Orders alluded to holding out a threat that any Person, detected in breaking down or Scaling the Wall or Trespassing in the Domain, would be severely Punished. Notwithstanding this Prohibition, the Wall had been repeatedly broken down or Scaled by idle and vicious Persons passing into the Domain, although a Road had

* Note 162.

been constructed within the Wall entirely surrounding the Grounds for the recreation and Amusement of the Public, with free access thereto by two separate Gateways. But these regular Public Entrances did not suit the Persons going thither for vicious and disorderly purposes, namely secreting stolen Goods, which have been found there frequently, and for which many parts of it are well Calculated, being wild, rocky Shrubbery, which had remained undisturbed by the Hand of Civilized Man. This Shrubbery was also much frequented by lewd, disorderly Men and Women for most indecent improper purposes. I had long wished to put a stop to these disgraceful Meetings and indecent assignations, as well as to save the Shrubbery and young Plantations of Forest Trees, which had been planted in the Grounds. I caused accordingly several Persons at various times to be apprehended and carried before the Superintendant of Police for breaking down the Wall and committing Trespasses in the Domain; but as they were always dismissed with only a slight reprimand from the Police Magistrate, they continued their former Practices. And it was only after the Wall had been repeatedly broken down and much injury done to the Shrubbery and young Planting, that I resolved on Punishing for example sake a few, who might be Caught in the very act, by ordering myself a slight summary Punishment. I accordingly ordered two of the Town Constables to watch the Wall inside of the Domain, and they soon apprehended three Men, named John Hersall, Daniel Reid and William Blake, after they had broken into the Domain over the Wall. They were immediately carried to Jail, and, as soon as I had satisfied myself from the report of the Constables of their having been actually Caught in the act of breaking into the Government Domain in open defiance of repeated Government Orders, I directed them to be Punished *in a summary Manner* by receiving Twenty five Lashes each with the view of deterring others from similar practices. These Men were *free* when they were thus Punished; two of them had been Convicts, and the third had come out free; but all three were depraved low vicious Characters, and Consequently proper objects to be made examples of. They were only confined for one Night in the Gaol and then discharged. I considered I was fully warranted in my Magisterial Capacity in ordering this slight summary Punishment to be inflicted for a breach of the Government Orders and Regulations and Trespass on the Government enclosed Grounds. It certainly had the desired effect, and put a complete stop to those Trespasses and breaking down the Government Wall, as well as to the gross indecencies herein alluded to.

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15 Dec.

Punishments for
trespass on the
government
domain at
Sydney.

1817.
15 Dec.

Punishments
inflicted by
personal orders
of Macquarie.

Persons, extremely tenacious of the administration of the British Laws (which certainly cannot be held in too great veneration), may Cavil at my Acting as a Magistrate in a Case, in which I may be represented as Personally interested; but this I do not by any means consider a fair objection to my exercising my Magisterial Authority in the present Case. The Grounds in question are the property of the Crown, and I have no private interest in them whatever. I therefore acted in this instance, as in all others in which I can possibly have any concern in this Territory, as the Agent of the Crown and the Guardian of its Property, as well as the Corrector of Public abuses and Nuisances. The Depositions of the two Constables, who apprehended the three Men that were Punished by my own direct authority, I have now in my Possession, but do not think it necessary to trouble you with them.

Repudiation of
accusations
made.

In respect to all the other Grievances, stated in the Petition sent Home by a low Rabble from this Country to the House of Commons, I am unable to furnish you with any other explanation than to assure you that, *in as far as these Complaints and accusations* relate to me Personally*, they are utterly false and unfounded, namely, Selling of Pardons, Prohibiting Banns of Marriage, Pulling down Houses, Seizing upon Lands, influencing Courts of Justice, etc. etc. etc. This Catalogue of Crimes forms such a Compound of villainy and falsehood that I deem them totally unworthy of regard or notice, and Consequently Consign them to the Contempt they merit.

Proposed
inquiry into
administration.

I shall therefore only add that it would afford me very great pleasure to have every part of my conduct, during my administration of the affairs of this Colony, strictly investigated, the result of which I feel perfectly assured would prove highly honorable and creditable to both my Public and Private Character.

Trusting you will kindly excuse the length of this address,

I have, &c.,

L. MACQUARIE.

P.S.—I did myself the pleasure of replying to your Private Letter, dated the 14th of February of this year by Lieut. King by way of India on 24th Sept. last, and have to assure you that every possible facility has been afforded by me to this Officer in fitting him out on his destined Voyage, On which I hope he will proceed in 7 or 8 days more at farthest.

Equipment of
expedition of
P. P. King.

I have lately been honored with your Private Letter of 22d April last by W. F. Weston, Free Settler, to whom I shall be happy to pay every attention in my power on account of your recommendation of him.

Arrival of
W. F. Weston.

Sydney, 15 Decr., 1817.

L.M.

[Enclosure.]

1817.
15 Dec.Inquest on
the body of
Charles Thomas.

INQUEST ON THE BODY OF CHARLES THOMAS, AN INFANT.

Verdict "Accidental Death."

CUMBERLAND { AN Inquisition, taken at Sydney, New South Wales
TO WIT. { in the County of Cumberland Aforesaid, the 6th day
of October, in the fifty fourth Year of the Reign of
George the third Before me, John William Lewin (Gent.), Coroner
of our Lord the King for the County aforesaid, upon the View of
the Body of Charles Thomas, Infant, then and there lying dead,
upon the Oaths of the twelve good and Lawful Men of Sydney afore-
said in the said County, in the Margin named,* Who, being Sworn
and Charged to Enquire on the part of our Lord the King When,
Where, how, and after What Manner, the said Charles Thomas
Came to his Death, Do say upon their Oath that the Child Charles
Thomas's Death was occasioned by its Accidentally running under
the Carriage in endeavouring to get out of the Way, Unperceived
by the Driver.

W. BENNETT, Foreman.	JOSEPH HUNT.	L. BUTLER.
HENRY LANE.	WILLM. DEAN.	WM. BEARD.
JOSEPH INCH.	WILLM. MCGINNIS.	I. KNIGHT.
CHARLES DOWDLE.	GEO. WOODFOOD.	CHRISTOPHER LANDER.

J. W. LEWIN, Coroner.

MARY BROWN Sworn. Saith that about half past twelve o'Clock
at Noon this day the 6th Inst. that the deceased Child was at play
in the Road with One of her Children, and a Carriage was Coming
along, and the Coachman, Joseph Biggs, Called out to the Children
to get out of the Way; at the Same time pulled his Horses up, and,
supposing the Children were Clear, drove on again; but that the
deceased Child in Some Way Seemed to Stagger, and the Carriage
Wheel went over him; that She picked the Child up; it was bruised
on the Head, which this Deponent Attributes to its Fall on the
Gravel. Being asked whether this Deponent believed, After the
Coachman had pulled up his Horses and Drove on again, that he
saw the Danger the Child was in, Answers, "I do not suppose he
did."

MARY BROWN, her mark x.

J. W. LEWIN, Coroner.

ROSE MOORE Sworn. Saith that about Noon this day She was in
George Street passing along, and heard a Carriage Coming, and
heard some person Call out to some Children, that was in the Road,
to get out of the Way; the Coachman immediately pulled up his
Horses, and the deceased Child, in the Stead of Running the right
way, run immediately under the Wheel, which went over him on his
driving on again. Being asked if She thought the Coachman knew
the Child's Danger, says, "No She is Certain he did not, as it was
on the opposite Side which the Coachman Sat, so that he Could not
See it."

ROSE GREEN, her mark x.

J. W. LEWIN, Coroner.

THOMAS SIMMS Sworn. Saith that about twelve o'Clock at Noon
this day, as he was standing at his own Gate in George Street, he
saw a Carriage Coming down the Street on a Moderate Trot; he

* Mr. Wm. Bennett, Foreman; Mr. Henry Lane; Mr. Joseph Inch; Mr. Charles Dowdle; Mr. Joseph Hunt; Mr. William Deane; Mr. Willm. McGinnis; Mr. George Woodfood; Mr. Laurence Butler; Mr. Willm. Beard; Mr. Isaac Knight; Mr. Chris'r Lander.

1817.
15 Dec.

Inquest on
the body of
Charles Thomas.

saw two Government Waggons in the Road unloading; he saw a parcel of Children at play; the Coachman Seemed to pull up his Horses, and that the deceased Child was the Lowermost of the Whole, and was endeavouring to Cross the Street; he did not see the Child fall, nor Can say Whether it was knocked down by the Carriage Wheel or not. Nor did hear how. Until it was picked up. Deponent, being asked how far he was from the Carriage at the time. Saith about Seventy or Eighty Yards. THOMAS SIMS.

J. W. LEWIN, Coroner.

JOSEPH BIGGS Coachman Sworn, Saith that about half after Twelve O'Clock at Noon this day he was passing down George Street with his Carriage, and saw a Number of Children at play in the Road at the left of the Carriage, and that he bore away about two and half Yards from the Children, pulling up his Horses at the Same time; Supposed he was Clear of them, as he observed them to be behind his Horses, as far as he Could See from his Situation, and that he heard no more Until he heard his Mistress say there was a Child under the Wheel; he Immediately pulled up the Horses to a full Stop. JOSEPH BIGG.

J. W. LEWIN, Coroner.

JOHN WILLIAM LEWIN, Coroner of our Lord the King for the County of Cumberland in the Territory of New South Wales, maketh Oath and Saith that he has carefully compared and examined with the original return of the Inquisition, taken by him on the 6th Octr. in the 54th year of the Reign of George the Third, the within purporting to be a Copy thereof, And that the same is a true and correct Copy thereof in every respect. JN. WM. LEWIN, Coroner.

Sworn before me this 15th day of December, 1817, as also to a Duplicate hereof.

JNO. WYLDE, Judge-Adv., N.S.W.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Lady Castlereagh; acknowledged by Governor Macquarie to Earl Bathurst, 16th May, 1818.)

16 Dec.

Assignment
of convicts
per ship Lady
Castlereagh.

Sir, Downing Street, 16th Decemr., 1817.

I am directed by Lord Bathurst to transmit to you here-with the Assignment of Three Hundred Male Convicts, shipped on board the Lady Castlereagh for the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 45 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 24th August, 1818.)

Government House, Sydney, New South Wales,

My Lord, 16th December, 1817.

A Requisition from the Principal Surgeon on this Establishment for various Medicines and Necessaries for the Use of

these Settlements, &c., &c., &c., which should More properly have been Included in my General Dispatch No. 40 by this opportunity, not having been sent in time for that purpose, I am now Obligated to trouble Your Lordship with the present Letter on the Subject, accompanied with a Copy of Mr. Principal Surgeon Wentworth's Letter and the Demand made by him, and I have to Solicit Your Lordship to give early Orders for its Completion.

1817.
16 Dec.
Requisition for
medical drugs.

I avail myself of this Occasion to report to your Lordship that for the last two Years this Government has received none of the former Usual Supplies of Slops for the Use of the Convicts, which Circumstance has been productive, not only of great additional Expence to this Government, but also of very great Inconvenience, it being almost impossible to procure at any Expence Several of the Articles Constituting Slops.

Clothing for
convicts
required.

I also beg to Notice that I have Experienced much Inconvenience in Consequence of regular Supplies of Stationary, well and Appropriately Selected, not being sent out hither. The great Variety of papers, which I have to transmit to Your Lordship's Office on so many Occasions, independent of all other Sources of Expenditure, will I trust induce Your Lordship to Order a large Supply to be sent out in future, Suitable to the Various Purposes required in My Office and that of My Secretary. The very indifferent paper, on which I have been Obligated to address Your Lordship, and which is the best I could Obtain from Mr. Depy. Commissary General Allan, leads me to request that Your Lordship will Order Supplies of these requisite Articles to be sent direct, either to my own Address, or that of the Secretary of My Government.

Want of
supplies of
stationery.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

PRINCIPAL SURGEON WENTWORTH TO GOVERNOR MACQUARIE.

Sir,

Sydney, 13th December, 1817.

I have the honor to enclose Your Excellency herewith a list of Medicines and Necessaries wanted for the use of His Majesty's Settlements in New South Wales, which I respectfully request Your Excellency will be pleased to transmit to His Majesty's Secretary of State for the Colonies by the earliest Opportunity.

Requisition for
hospital
supplies.

I have, &c.,

D. WENTWORTH, P'l Surgeon.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 2.]

[A copy of the requisition is not available.]

1817.
17 Dec.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 102, per ship Isabella; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir, Downing Street, 17th Decemr., 1817.

Permission for
return of
J. Cahill to
Ireland.

His Excellency The Lord Lieutenant of Ireland having expressed a wish to Lord Sidmouth that a Man, named John Cahill, who was transported to New South Wales on board the Guildford Convict Ship, should be permitted to return from thence, His Lordship has requested that the Prisoner in question should be allowed to return to Ireland by the first Opportunity. I have therefore to desire that You will take the necessary Steps for complying with the desire of Lord Sidmouth in favor of John Cahill.

I have, &c.,

BATHURST.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(A private despatch per ship Harriet.)

Government House, Sydney, N. S. Wales,

18 Dec.

My dear Sir,

18th Decr., 1817.

Testimony
in favour of
captain Gill.

This Letter will be delivered to you by Captain John Gill of the 46th Regt., who is the Bearer of my Dispatches per Ship Harriet, and whom I take the liberty of introducing to your acquaintance and strongly recommending to your kind notice and attention.

Captain Gill is an Officer of great Merit and a Gentleman of high Principles of honor, strict integrity, and unquestionable veracity. He has long been in my entire Confidence from a Conviction of his unblemished worth and good qualities. He is well able to give you every useful and important information respecting this Colony from a residence of nearly four years in it, and his intimate knowledge of the characters and principles of those Persons in the upper Circles of the Society here. I therefore beg leave to refer you entirely, for every description of information, to Captain Gill, which you may wish to be put in possession of in respect to the present state of the colony.

As I am so soon to return to England, it would afford me sincere pleasure to execute any Commissions for you here, that you may be pleased to favor me with, in regard to any of the rare Productions of this Country whether Animals, Birds, Seeds, Plants, &c., &c., which I should feel much gratification in carrying Home to you myself.

I remain with sincere esteem and regard, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

1817.
20 Dec.

(Despatch marked "No. 46 of 1817," per ship Harriet; acknowledged by Earl Bathurst, 12th April, 1819.)

Government House, Sydney, New South Wales,

My Lord, 20th December, 1817.

After having Closed All My Dispatches by this Opportunity for Your Lordship, and immediately on the Eve of the Ship's Departure, My Secretary received from Mr. Judge Advocate Wylde a Note, a Copy of which accompanies this, and with it the Depositions on which the three Soldiers had been Embarked as Prisoners on the Ship Harriet for Trial in England on Charges of Wilful Murder. Until these were sent to Me in this Manner, I had every Reason to suppose that they were Included in the Very large Package I had received some days Ago from the Judge Advocate. I shall now Entrust this Letter, with the Documents accompanying it, to the particular Charge of Captain Gill, in order to his transmitting it by Post to Your Lordship in the Event of the Ship putting into Portsmouth or any other Port distant from London.

Depositions relating to charge of murder against three soldiers.

By this Opportunity, Cornelius Crawley, One of the persons whose Depositions are herewith, and who had been in like Manner Neglected to be Embarked in the first Instance with the other Witnesses, is now Sent on board the Harriet for a Passage, and will be under the Direction of Captain Gill in the same Manner as the others Mentioned in My Instructions of the 18th Instant, a Copy* of which I have directed that Gentleman to forward to Your Lordship.

Embarkation of Crawley as a witness.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

[A copy of the letter from judge-advocate Wylde to secretary Campbell is not available.]

[Enclosure No. 2.]

[1] THE DEPOSITION OF WILLIAM NELSON.

NEW SOUTH WALES TO WIT. { BEFORE me D'Arcy Wentworth, Esquire, a Magistrate, &c., &c., Principal Superintendent of Police.

Depositions re proceedings on ship Chapman.

WILLIAM NELSON of the Ship Chapman, Duly sworn, Deposeth— There was an Alarm given on board the Ship that the Convicts were rising on the Night of the 17th of April. The people upon Deck said that the Prisoners were forcing open the Fore Scuttle. The Soldiers Fired. I do not know by what orders. Captain Drake was walking upon the larboard side the Quarter Deck. He called out, avast Firing; the Soldiers still continued to Fire, notwithstanding all he could do to prevent it; the following Day in consequence of information given by Collins, Lt. Bustead of the 69th Regiment, who

* Note 164.

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Depositions *re*
proceedings on
ship Chapman.

commanded the Soldiers on board, insisted that Captain Drake should put me in Irons; I was put in Handcuffs accordingly. I was put first upon the Poop; then I was confined below under the half Deck. I was then put in the Jolly Boat, on the Larboard Side the Ship; Crawley and Lucy were also put there, and Jackson, a Prisoner; on the night of the 23rd or 24th of April, there was a second Alarm given that the Prisoners were rising; the Firing commenced again by the Soldiers without orders. I heard no orders given; if Captain Drake had given orders to Fire, I must have heard him. He did all he could to prevent it. On the Night of the 24th of May, Jordan, a Soldier of the 46th Regiment, who was on the Poop, called out to us in the Boat to keep down our Heads, or he would Fire on us; immediately after which, he Fired and wounded me in the Leg. Clements, another Soldier also on the Poop, fired next, and I believe his Shot Struck Jackson; Hogan, another Soldier, fired from the Poop. I do not know who was wounded by him, But I think it was Crawley. Hooper, another Soldier, fired into the Boat, and I Believe he wounded Lucy; there were eleven Shots fired in all. Almost immediately after this, Hogan came to the Boat Side with a Pistol he had borrowed from the Sergeant. He asked "who is the Damned Rascal, that has told Lies of me." Jackson said it was Lucy, on which Hogan Snapped his Pistol at Lucy's Head several times before it went off; at length he discharged its contents into Lucy's Head, and blew his brains out. Captain Drake called out "what firing is that again"; we, in the Boat said, "Lucy is killed"; soon after, Mr. Baxter and Henry Jennings came and threw Lucy's Body overboard. It was in a Dreadful State, and would have been a Shocking Spectacle in the Day Light. If it had remained in the Boat until Morning, the weather was so hot, it would have putrified.

The Mark of

X

WILLIAM NELSON.

Sworn before me this 1st Day of October, 1817:—

D. WENTWORTH, J.P.

[2] THE DEPOSITION OF HENRY JENNINGS.

NEW SOUTH WALES TO WIT. { BEFORE me D'Arcy Wentworth, Esquire, one of His Majesty's Justices of the Peace for this Territory.

HENRY JENNINGS, Seaman of the Ship Chapman, duly Sworn deposeseth, on the Night of the 17th of April last, I was steering the Ship at the Wheel; the Commander Captain Drake was walking on the larboard side of the Quarter Deck. An alarm was given that the Prisoners were assembled under the Fore Scuttle, and the Soldiers, who were stationed upon the Fore Castle, Fired on the Prisoners. I am quite certain that they had no orders to Fire from Captain Drake, because, If he had given any such, I must have heard him. I frequently heard him call out, avast firing, and he used every exertion to prevent the firing on the Night of the 23d or 24th of April; a second Alarm was given that the Convicts had reached the Deck; some firing again took place, I do not know by whose orders. Crawley, one of the Ship's Company, was on Deck; on the 12th April, I heard him tell the Captain's Brother (Mr. Drake) that he had seen one of the Prisoners go down the Chain Cable Scuttle. Mr. Drake asked him, why did he not stop him; he

said he had no Arms; he could have armed himself had he chosen, for he was on Deck before I was, and I was armed, and there were Arms for him had he chosen to take them. On the Night of the 24th of May, I was on the quarter Deck when I heard a Musket discharged from the poop. Instantly all hands were in Alarm. Captain Drake, who was in Bed, came running on the Deck in his Shirt, and called out "What is the Matter," "Avast firing"; some persons answer'd, "it is the prisoners in the Boat who are rising"; at this time, the following persons were confined in Irons in the Boat, Viz. Crawley, Nelson, Lucy, and Jackson, a prisoner; several shots were fired from the poop; before the Captain could stop them a man named John Hogan, a Soldier of the 46th Regiment, borrowed a Pistol from the Serjeant of that Regiment, and went to the Larboard side of the Cuddy where the Boat with the Prisoners was suspended; he spoke to Lucy; he fired the Pistol at Lucy and shot him thro' the Head. It was immediately asked "What firing is that again." Hogan did not answer, but went to the Starboard Side of the Ship and began talking to the Sentry. I heard him tell the Sentry, "*I have done Lucy's Job*"; the Sentry said, "I would have done the same, had I been in your place." I said to Hogan "What did you shoot him with, the Musquet or the Pistol." He made answer, "the Pistol." I asked him "where did you get it." He said "it was one I borrowed from the Serjeant." Mr. Baxter and myself threw him overboard. He was such a Shocking Spectacle and the weather was so hot (as we were not far from the Line), that if he had remained 'till Morning in the Boat, he would have been offensive.

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20 Dec.

Depositions re
proceedings on
ship Chapman.

HENRY JENNINGS.

Sworn before me this First Day of October, 1817:—

D. WENTWORTH, J.P.

[3] THE DEPOSITION OF CORNELIUS CRAWLEY.

NEW SOUTH WALES TO WIT. { BEFORE Me D'Arcy Wentworth, Esq.,
a Magistrate, Principal Superintendent of Police, &c., &c.

CORNELIUS CRAWLEY being duly Sworn, deposeseth, I am a Seaman of the Chapman; a short time before the first Firing took place, in consequence of information which was given against me, I was confined a Prisoner in Irons on the Poop. Next Day I was taken below, and a short time afterwards I was placed in the Jolly Boat on the Larboard Side of the Ship; on the Night of the 24th of May, I was confined in the Jolly Boat, together with Nelson and Lucy (Sailors) and Jackson, a Prisoner. We were fired upon by the Soldiers on the poop; we were all four wounded; Hogan came to the Boat side, and said "Who was the Rascal that told Lies of me." Jackson said, "it was Lucy." Hogan put a Pistol he held in his Hand to Lucy's Head and blew his brains out. The Pistol recoiled from his Hand and fell overboard. Mr. Baxter and Henry Jennings came soon after and threw Lucy's Body overboard; it was a dreadful Spectacle; the next Morning Jackson was taken out of the Jolly Boat, and removed to the Launch where he died of the wounds he had received as aforesaid.

The Mark of

X

CORNELIUS CRAWLEY.

Sworn before me this First Day of October, 1817:—

D. WENTWORTH, J.P.

1817.
20 Dec.

Depositions *re*
proceedings on
ship Chapman.

[4] THE DEPOSITION OF WILLIAM JONES.

NEW SOUTH WALES TO WIT. { BEFORE me D'Arcy Wentworth, one of
His Majesty's Justices of the Peace
for this Territory. &c., &c.

WILLIAM JONES, Apprentice on board the Ship Chapman, duly Sworn, Deposeth, When the Alarm was first given that the convicts were going to rise upon the Ship, the Soldiers fired upon them. I am certain Captain Drake did not order them to fire for, If he had, I must have heard him. He did everything in his power to prevent the continuance of the Firing; he called out several times "avast firing"; the same circumstances occurred on the occasion of the second Firing, and Captain Drake did everything in his power to prevent and stop the same; on the Night, when Lucy was killed. I was walking the Quarter Deck, I saw Jordan fire into the Jolly Boat, where Lucy, Nelson, Crawley and Jackson were confined; the Captain, who was in Bed when this occurred, Ran out upon Deck in his Shirt, and did all he could to stop the Firing; I saw Hogan, with a Pistol in his Hand, go to the side of the Jolly Boat; he said something, and then fired the Pistol at Lucy's Head and blew his brains out. Hogan then walked away and mixed amongst the other Soldiers. The weather was very hot, and the smell of Lucy's Dead body "*was quite poisonous*" so that it was obliged to be Thrown overboard.

The Mark of

X

WILLIAM JONES.

Sworn before me this 1st Day of October, 1817:—

D. WENTWORTH, J.P.

[5] THE DEPOSITION OF ALEXANDER JOHNSON.

NEW SOUTH WALES TO WIT. { BEFORE me D'Arcy Wentworth, Es-
quire, one of His Majesty's Justices
of the Peace for this Territory, &c.

ALEXANDER JOHNSON, Seaman of the Ship Chapman, duly sworn Deposeth, On the Night of the 24th May, Lucy, Nelson, Crawley (Seamen) and Jackson, a Prisoner, were confined in the Jolly Boat on the Larboard Side the Ship's Quarter; the Soldiers on the Poop Fired. The Men in the Jolly Boat called out they were wounded. Soon after this, I saw Hogan, a Soldier of the 46th Regt., pass me with a Pistol in his Hand. He went to the Jolly Boat's side. "Which is Lucy," he said; some conversation passed amongst them; he fired at Lucy's Head and blew his brains out; the weather was Hot, and the body was thrown overboard as I supposed to prevent putrefaction.

The Mark of

X

ALEXANDER JOHNSON.

Sworn before me this 1st Day of October, 1817:—

D. WENTWORTH, J.P.

[6] THE DEPOSITION OF JOHN VAN DANT.

JOHN VAN DANT, a Seaman of the Ship Chapman, duly sworn Deposeth, on the Night of the 24th May, I saw Hogan talking to the People who were confined in Irons in the Jolly Boat. I was within a yard and a half of him. He fired a Pistol into the Jolly Boat.

It rebounded from his Hand and struck my Cap; soon after I found Lucy was killed. I have no doubt Hogan killed him, when he discharged the Pistol as aforesaid.

The Mark of

X

JOHN VAN DANT.

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Depositions re
proceedings on
ship Chapman.

Sworn before me this 1st October, 1817:—

D. WENTWORTH, J.P.

[7] THE DEPOSITION OF GEORGE SPEED.

GEORGE SPEED, Seaman of the Ship Chapman, duly Sworn Deposeth, Soon after the Firing took place by the Soldiers on the Convicts, I was walking the Deck in company with some of My Shipmates, when Jordan, a Soldier of the 46th Regiment (one of the Guard on board the Ship), told us, he was the Man who shot Kelly. He said he shot him from the fore Part of the Barricade on the Larboard side.

GEORGE SPEED.

Sworn before me same Day:—

D. WENTWORTH, J.P.

[8] THE DEPOSITION OF JOHN WAYMOUTH.

JOHN WAYMOUTH, Seaman of the Ship Chapman, duly sworn Deposeth, I was walking the Deck with my Shipmates, when I heard Jordan say, that he was the Man who shot Kelly.

The Mark of

X

JOHN WAYMOUTH.

Sworn before me same Day:—

D. WENTWORTH, J.P.

[9] THE DEPOSITION OF ALEXANDER JOHNSON.

ALEXANDER JOHNSON, again Examined, saith, I saw Jordan (on the occasion of the second Firing), a Soldier of the 46th Regiment, fire upon the men who were in Irons on the poop. The Shot Struck Kelly and killed him dead.

The Mark of

X

ALEXANDER JOHNSON.

Sworn before me the same Day:—

D. WENTWORTH, J.P.

John Van Dant confirms the Death of Kelly as aforesaid in consequence of Jordan firing at him.

[10] THE DEPOSITION OF MICHAEL ARNOLD.

NEW SOUTH WALES TO WIT. { BEFORE me D'Arcy Wentworth, Esquire, one of His Majesty's Justices of the Peace for this Territory, &c., &c.

MICHAEL ARNOLD, Seaman of the Ship Chapman, being duly sworn. Deposeth, On the 17th of March, St. Patrick's Day, I was standing on the Fore Hatchway on the Starboard side; I heard Crawley, a Seaman of the Ship Chapman, talking to a man of the name of Morrison, a Prisoner; I listen'd to their Conversation; I heard Crawley say to Morrison "Damn the B——rs, we will have them all overboard." Nelson, also a Seaman of the said Ship, was standing with a Pump in his Hand, he said "you Rascal what do you mean by that," upon which Crawley was silent; on the 12th April, when

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Depositions re
proceedings on
ship Chapman.

the first Alarm was given of the Convicts rising, I ran to the Capstan where the Cutlasses were, and Armed myself. I saw Crawley by the Chain Cable Scuttle unarmed. I asked him what he was doing there; he said he saw Two Men go down the Scuttle. I asked why he did not stop them, he said he was unarmed; he could have armed himself, had he chosen as well as myself and the rest of the Ship's Company. In consequence of this, I was advised by Johnson, another of the Seamen, to report the same to the Captain. I did so, and Crawley was made a Prisoner; as this circumstance, added to Collins' information, made the Ship's Company believe that Crawley was in the Conspiracy with the Prisoners; on the 14th April, I heard Donahoo, a Prisoner, say to other Prisoners in the Prison Room, "I will fight till I die"; on the 17th of April, I heard it called out in the Ship that the Prisoners were rising. I was in the utmost apprehension for my Life. I stood still, and I heard a Rush amongst the Prisoners towards the after part of the Ship which made her shake. I ran aft immediately. The firing commenced almost immediately both fore and aft. If the Captain had given any orders to fire, I am quite certain I must have heard him. I am therefore positive he gave no orders to fire. I heard one of the Guard say, "my ammunition is all out." I heard a reply from the Prison Room, "Now is the time; their ammunition is all out, we will shew them no quarters." I heard the Captain call out as loud as he could "For God's sake, Men, cease firing," but his orders were not obeyed for they still persisted in firing; after some time and considerable exertion on part of the Captain, the firing was stop'd. I heard Hooper, a Soldier of the 46th Regiment, one of the Guard call out "Damn my Eyes, as they will not allow us to fire, let us lay down our Arms and let them take the Ship"; on the 21st May, Cox, a Soldier, told me that Crawley had determined to take the Lives of myself, Johnson, Bagley and some of the Soldiers. I saw every exertion made to prevent the firing, and its continuance, by Captain Drake, Mr. Drake, the Captain's Brother, and Mr. Milbanke, the Chief Officer. I never heard it reported that Mr. Baxter had killed Kelly.

MICHAEL ARNOLD.

Sworn before me this 3rd October, 1817:—

D. WENTWORTH, J.P.

[11] THE DEPOSITION OF THOMAS WELLS.

THOMAS WELLS, Cook on board the Ship Chapman, being duly sworn, Deposeth, on the 17th of April, I was standing on the Fore Scuttle, when the alarm was given that the Prisoners were rising. I felt the fore Scuttle lifted up under my feet. I went immediately over to the larboard side of the Fore Castle and asked who was Sentry. Clements, a Soldier of the 46th Regt., replied he was. At this moment I heard the Prisoners rush Aft; the Guard and the Ship's Company came all upon Deck; the firing immediately took place. Captain Drake gave no orders to fire, for if he had I must have heard him; on the Contrary he called out as loud as he could, "For God's sake cease firing, I order you to cease firing." I drew a Cutlass and I saw Murray, one of the Ship's Company Shot by the Soldiers; I directly ran down and beg'd the Serjeant to interfere, for the Soldiers were Shooting our own people; he Said, he would not. His wife said "My Husband's the Man to pay them Home"; finding I could not prevail upon the Serjeant to interfere, I went

upon Deck. All the Ship's Company, as well as myself, were suspicious of Crawley, as we consider'd him to be in the Conspiracy with the Prisoners. I have often seen him in a very suspicious situation relative to the Prisoners. I am positive the Captain did all in his power on every occasion to prevent the unfortunate events which took place.

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Depositions re
proceedings on
ship Chapman.

The Mark of

X

THOMAS WELLS.

Sworn before me this 3rd Day of October :—

D. WENTWORTH, J.P.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per ship Harriet.)

Government House, Sydney, N. S. Wales,

My dear Sir,

21st Decr., 1817, Sunday Evng.

21 Dec.

The Ship Harriet (which conveys Home my Public Dispatches) not having sailed this day, as was intended, gives me an opportunity of informing you that His Majesty's Cutter Mermaid, commanded by Lieutenant P. P. King of the Royal Navy, sailed from hence early this morning on her destined Voyage of Discovery, and for the purpose of Surveying the Western Coast of *Australia*, intending to proceed along the said Coast to the Northward and Eastward, as far as the North West Monsoon can carry him, and then return to Port Jackson by the Western Coast on the Setting in of the South East Monsoon. The Mermaid Cutter has been fitted out here in the Completest Manner possible. She is almost a new Vessel, well found in Stores of every description, Provisioned and Watered for Eight Months, and is very well Manned in respect to Officers and Crew for the Service she is intended for. Lieut. King expects to be absent from Port Jackson between Eight and Nine Months, and I trust in that time will be able to make very important additions to the Geographical knowledge already acquired of the Coasts of the Continent of *Australia*,* which I hope will be the Name given to this Country in future, instead of the very erroneous and misapplied name, hitherto given it, of "New Holland," which properly speaking only applies to a part of this immense Continent. Mr. Cunningham, the King's Botanist lately sent out to this Country, has proceeded in the *Mermaid* with Lieut. King. Mr. Lewin, the Painter of Natural History, declined going on this Expedition on account of his having a Family to provide for.

Departure of
P. P. King
on exploring
voyage.

Equipment of
expedition.

Advocacy for
use of word
Australia.

Sailing of A.
Cunningham in
cutter Mermaid.

I have, &c.,

L. MACQUARIE.

P.S.—The Friendship, Female Convict Ship, which I understand sailed from England in June last, has not yet arrived here. Sydney, 21 Decr., '17.

Non-arrival
of ship
Friendship.

L.M.

* Note 84.

1817.
22 Dec.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship *Tottenham*; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 22d Decr., 1817.

Recommendation of J. Norton and family as settlers.

I am directed by Earl Bathurst to acquaint you that his Lordship has granted permission to Mr. J. Norton to proceed with his Family,* as Settlers, to New South Wales, and I have to desire that they may receive Grants of Land proportioned in extent to the means, which they may possess of bringing it into cultivation, with the encouragement usually given to Settlers of their class.

I have, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship *Tottenham*; acknowledged by Governor Macquarie, 24th March, 1819.)

31 Dec.

Sir, Downing Street, 31st Decr., 1817.

Assignment of convicts per ship *Tottenham*.

I am directed by Lord Bathurst to transmit to you here-with the Assignment of Two Hundred Male Convicts, shipped on board the *Tottenham* for the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[*A copy of the assignment of convicts is not available.*]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship *Tottenham*; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

1818.
1 Jan.

Sir, Downing Street, 1st Jany., 1818.

Permission for Fullon and Reddington to proceed to colony.

I am directed by Lord Bathurst to acquaint you that he has granted permission to Mr. William Fullon and Mr. Michael Reddington to proceed to New South Wales for the purpose of disposing of the property of the late John Reddington, and I have to desire that they may receive from you such countenance and protection as they may appear to merit.

I have, &c.,

HENRY GOULBURN.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.
(A private despatch per ship *Larkins*.)

Government House, Sydney, N. S. Wales,

3 Jan.

My dear Sir, 3d Jany., 1818.

Arrival and departure of ship *Larkins*.

The Ship *Larkins*, which arrived here about Six weeks ago with Male Convicts from England, and which sails to-morrow for Bengal, gives me an opportunity of writing a few lines to

* Lieut. Norton, R.N., Mr. N. Norton, and three daughters.

you, and enclosing you a Duplicate of my last Private Letter per Ship Harriet, which sailed from hence *direct* for England on the 22d Ultimo, and Conveyed my Public Dispatches for Earl Bathurst and yourself in charge of Captain John Gill of the 46th Regiment.

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3 Jan.

It was my intention to have availed Myself of the opportunity by the Larkins of transmitting Home by her the Duplicates of my last Dispatches; but, being so voluminous, the time, which has elapsed between the sailing of the Harriet and the departure of the Larkins, has not been sufficient to prepare and complete them for Transmission by the latter Ship. They must therefore remain to be sent by the next good opportunity.

Duplicates of
despatches.

No occurrence worthy of notice has taken place here since the date of my last Dispatches Pr. Ship Harriet. We have had no arrivals since from England, and the Friendship Convict Ship has not yet made her appearance.

The Mermaid Cutter, Commanded by Lieutenant King, which had sailed (as mentioned in the accompanying Letter) on Sunday, the 21st of December, had been forced back into Port again on the Evening of that same day, but sailed finally on her Voyage on the following Morning the 22d of last Month.

Departure of
cutter Mermaid
on exploring
voyage.

I have, &c.,

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 1 of 1818," per schooner *Jeune Ferdinand*.)

Government House, Sydney, New South Wales,

My Lord,

3d March, 1818.

3 March.

Since the Date of my General Dispatch, the 12th December last (No. 40 of 1817), forwarded with others on the 22nd of that month by the Ship Harriet, I have been Honored with Your Lordship's several Letters, Dates as per margin,* by the two Convict Transports, *Ocean* and *Friendship*, and by the private Merchant Ship, *David Shaw*, which latter arrived on the 9th Ult.; and I shall pay all due and respectful Attention to them.

Despatches
acknowledged.

By the Friendship Mr. Cordeaux and Mr. Walker, Deputy Assistant Commissaries General arrived, to Join the Commissariat Department, and by the David Shaw, Messrs. Thos. Scott, Robert Roberts, and Charles Foster, Free Settlers, Came as Passengers.

Passengers
per ships
Friendship and
David Shaw.

The Transport *Ocean* arrived on the 10th of January, Commanded by Mr. Samuel Remington with 180 Male Convicts from England, under the Care of Mr. George Fairfowl as Surgeon Superintendent, All in Good Health, and highly Satisfied

Arrival of
ship *Ocean*.

* 23d, 25 and 26 May, 24 and 25 June, and 14, 15 and 21 Augt., 1817.

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3 March.

with that Gentleman's Care and Attention during the passage. Captn. Remington's Conduct appears also to have been perfectly Correct.

Arrival of ship
Friendship.

The Transport Friendship, Commanded by Mr. Andw. Armet, also from England, with 97 Females under the Care and Superintendence of Mr. Surgeon P. Cosgreave, arrived on the 15th January, After a tedious Passage which produced Scurvy and Very Considerable Debility and Sickness among the Convicts and Crew.

Prostitution of
female convicts
on ship
Friendship.

On the Arrival of the Friendship, I received a Letter from Surgeon Cosgreave, a Copy of Which Your Lordship will receive herewith; from Whence it Appears that a Very Indecent and licentious Intercourse took place between the Ship's Officers and Crew (with the Exception only of Captn. Armet and Surgeon Cosgreave) and the Women Convicts; Whereby much Contention arose between the Captain and Surgeon on one Hand, and the Officers and Crew on the Other. From every Information I have been enabled to Collect, as Well as from the foregoing Letter, both the Captain and Surgeon did every thing according to the best of their Judgment to repress and prevent the highly reprehensible Conduct Alluded to, but with little other Effect than to produce a Constant Jarring between themselves and the persons Who had formed these improper Connections. Mutual Charges and Repriminations having been made to Me, I Caused the Whole to be Investigated before a Bench of Magistrates, and now do Myself the Honor to transmit Your Lordship a Copy of the Depositions taken, and of the Report made to me thereon by the Magistrates.

System of
transportation
of female
convicts.

I am here Mortified to be Obligated to Observe that, according to the Existing Regulations for the Transportation of Females to this Country, these unfortunate Creatures (several of Whom are Young and when Embarked it is to be hoped Not altogether abandoned) are but too frequently Exposed to such Scenes of Debauchery during the Passage, as to leave but little Hope of their being Speedily reclaimed after their arrival here.

If Some System Could be adopted to guard against and prevent the Shameful Prostitution of these unfortunate Creatures, Who Cannot be Considered during Such a Voyage as *Free Agents*, it is but Charitable and reasonable to hope that, After their Arrival, frequent Reforms Would take place. At present, the Instances of Amendment are much less frequent among the Women than the Men Convicts, and I Cannot but Attribute this Melancholy Fact to the glaring and gross Practices to Which they are Exposed, I have much Reason to Apprehend, on the Passage hither as is Exemplified by the Depositions respecting the Friendship.

Your Lordship will perhaps Conceive from the foregoing Observation that I have been aware of these Abuses having frequently existed heretofore, and of Course that I should have reported them before the present time. In Explanation, I have only to Observe that the present is the first Occasion Where the Facts have been brought to Public View at all; Whilst there is Reason to Apprehend that on Similar Occasions the Officers Were as generally Guilty as the Crews, and that a good Understanding was thereby preserved between all Parties, and of Course no Complaints Were Made.

Indeed the Reports, generally Made to Me on the Musters of Female Convicts on Arrival here, have been favorable, and on this particular Subject No Complaints, until the present, have been preferred. It is true I have incidentally learned that Such Mal-Practices did Exist among the Men and Women in Some of the Female Transports, but I have not felt Myself Warranted in Making any direct Report of such Circumstances, until the present time, as No Complaints Were Made to Me thereon.

Your Lordship's benevolent Feelings Will probably suggest the best Measures to be pursued hereafter on this Subject, and, as far as lies within My power, I shall be Most Anxious and happy to give them the desired Effect in Order to save these poor unprotected Creatures from being involved in a Profligacy during the passage, Which perhaps the Natural Inclinations of many of them Might be Averse to, but which, I have no doubt, when once forced Upon them, Will tend Strongly to render them Abandoned during their future Lives.

I have the Honor to Inform Your Lordship that Lieutenant King, R.N., sailed in the Mermaid on the 22d of December last, in pursuance of the Voyage of Discovery round the Coasts of this Country; and it is my Intention early in the next Month to dispatch Mr. Oxley, the Surveyor General, accompanied by Mr. Evans, his Deputy, With a Suitable Party, on a further Tour into the Western Country, for the purpose of tracing "the Macquarie River" to its Embouchure, Which it is Supposed will be found on the North East Coast of Australia.

In order to render this Expedition as effectual as possible, it will be furnished with Six Months Provisions and a proportionably large Supply of All Necessaries for such an Undertaking.

The present Harvest, both here and in Van Diemen's Land, I am happy to Inform Your Lordship, is Very Abundant, and the Inhabitants perfectly peaceable and progressively Improving in Industry and Consequent Prosperity.

This Dispatch, together with the Duplicates of All those forwarded to Your Lordship by the direct Opportunity of the Ship

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Reports
relating to the
transport of
female convicts.

Departure of
Lieutenant King.

Proposed
exploration of
the Macquarie
river.

General
condition
of the colony.

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3 March.
Transmission
of despatch
and duplicates.

Harriet in December last, I have Entrusted to the Care of Mr. Fairfowl, late Surgeon Superintendent of the Ocean, Convict Transport, Who proceeds from hence for the Mauritius, and will sail tomorrow with a View of returning by the Earliest Opportunity from thence to England.

Commendation
of surgeon
Fairfowl.

Having found Surgeon Fairfowl at once an Intelligent and kind humane Man, I have been induced to Commit these Dispatches to his Care, and I beg Leave to recommend him to Your Lordship's Most favorable Consideration, and to Solicit that he may be permitted to return again to this Country, in Case he Wishes to do so.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

SURGEON COSGREAVE TO GOVERNOR MACQUARIE.

Convict Transport, Friendship, Port Jackson,

Sir,

14th January, 1818.

Arrival of ship
Friendship.

I beg leave to report the arrival of this Ship, with Female Convicts and passengers for the Colony, after a tedious passage from Deptford of nearly Seven Months, and enclose a list of the Deaths and Births.

Health of
convicts during
voyage.

The State of Health during the Voyage has been such as might be expected from the appearance of Typhus Fever, shortly after Embarkation, Subsequently Dysentery, and at present Sea Scurvy to a serious Degree; the latter disease has been in a great Measure aggravated by a privation of Vegetable food, save a few days at St. Helena, where the Master of the Ship was under the Necessity of putting in in consequence of the Insubordinate State of his Crew.

By my Instructions, I am apprized of an Enquiry into the State of Prostitution in which the Female Convicts might have lived with the Officers and Seamen whilst on Board, and the measures taken by the Master and myself to prevent the Same.

Report on the
prostitution
of the female
convicts.

It is with regret I have to Communicate to your Excellency the total failure of my Orders in this matter, and that Prostitution and its Consequence has been Carried on to a most Shameful extent.

In making my Report of the probable Cause of such disgraceful transactions, it is with pain I feel obliged to attribute it to individuals, by Stating that the Officers of the Ship are the Persons who both showed the Example, and encouraged a Continuance of it!

Shortly after Joining the Ship, I rec'd my Instructions, which I instantly Communicated to the Chief Mate, a Gentleman belonging to the Royal Navy, lately Married, and from whom I had every reason to expect a Cordial Co-operation in the discharge

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prostitution
of the female
convicts.

of my Duty; the rest of the Officers are Young Men Strongly recommended to the Master; the Passengers are Mr. Giles, belonging to a religious Society and his family, and two Gentlemen of the Commissariat Staff; with such Company, I entertained every hope of Complying with my orders, at least to succeed so far as to preserve the bounds of decency.

My first Care was directed to an arrangement for the Comfort of the unfortunate Convicts, and I accordingly issued rules and regulations for their Government; I allowed indiscriminately the free use of the Quarter Deck and advised them to Conduct themselves in an orderly and decent manner, as it was probable that the Character, they might acquire whilst on Board, would tend in a manner to alleviate or augment their Sufferings at New South Wales.

After our arrival at Portsmouth, a Convict was found in the Hammock of one of the Men, for which I Kept her on the after Part of the quarter Deck as a mark of disgrace, and applied to the Navy Board for advice how I should act with the Sailor, when they ordered him to be discharged; this Circumstance afforded me an Opportunity of Convincing every person on board that I was determined (if possible) to obey my orders; I accordingly made known to them, and read both my Instructions and the Board's Letter.

The Master of the Ship also apprized his Crew of the Consequence that was likely to result from their meddling with the Convicts, being Considered as the Cargo, and called to their recollection the articles which they Signed "to obey all lawful commands or forfeit their Wages." Shortly after, we proceeded on our Voyage and continued without any particular Occurrence 'till the 29th of July last, when a Spirit of great insubordination and Mutiny seemed to Exist, originating from the restraint of Prostitution; by this outrage I lost all Controul over the Convicts in a moral point of View, and I found it useless to Contend in a matter where all the Officers and Crew were implicated. I was therefore under the Necessity of relinquishing the Punishment by Marks of Disgrace on such Occasions.

The Women Constantly lived in the Men's births, and the officers took off the Hatches at Night to let up others for themselves and for Such as wanted them; the Men even claimed as a right the effects of their respective deceased prostitutes, 'till at length they became Callous to all Shame; threats were held in Contempt and remonstrances treated with levity; at this Period my Situation can be better conceived than described; but when it is considered the wretched profligates I had to deal with, astonishment (at every act of theirs) will cease. They no longer

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Report on the
prostitution
of the female
convicts.

looked upon me in any other light, than destined to watch them in their Infamy, and to cheat them of the allowances of Government; they became regardless of personal Cleanliness, and even left the calls of Nature in the Prison, under the foolish impression that it was annoying me, because I Superintended the Cleaning of it.

In this state I continued until our arrival at St. Helena, where I expected some Example would be made of Such as were the cause of our Confusion. I therefore represented it to the Admiral, who was pleased to Say that he would send two Post Captains to enquire into the bad Conduct of the Crew.

On this Subject, I beg leave to refer your Excellency to the report of the Master of the Ship; at the same time I take the liberty to Maintain that from whatever Circumstance, that transpired at this Investigation, the Effrontery of the aggressors was Considerably increased, and every act of profligacy appeared to have received the Sanction of Law, Ocular demonstration being Considered indispensibly necessary for Conviction; and even then it was held that there was no power Vested in the Authority of New South Wales to Punish the Offenders.

Under Such Circumstances I trust Your Excellency will make the necessary allowance for my inability in Complying with the intentions of the Right Honorable the Secretary of State in preventing Prostitution.

I have, &c.,

PETER COSGREAVE, Surgeon and Superintendent.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 2.]

DEPOSITIONS RESPECTING THE SHIP FRIENDSHIP.

Depositions *re*
prostitution of
female convicts
and issue of
rations on ship
Friendship.

THE Bench then proceeded to the Investigation of certain Charges, exhibited in consequence of the Report made by Captain Arnett and Surgeon Cosgreave to His Excellency the Governor.

ANDREW ARMETT, Commander of the Ship Friendship, duly Sworn, Deposeth; In Consequence of the Orders I received from His Majesty's Government, I gave Instructions to my Officers and Crew to have no intercourse whatever with the Convicts on Board the Ship: on the 29th July, it was reported to me that a female Convict was in the Galley of the Ship. I confined her accordingly. I afterwards received information that all the Officers and Ship's Company had also intercourse with the Women, and I have reason to believe the Information was true. I admonished the Officers and cautioned them as to such proceedings; but they denied them; some time afterwards at Night I saw the second Mate, Mr. Spencely, talking to a Woman in the after Hatch; about the 16th of November, I found a Woman sitting by the side of Mr. Hill, the 4th Mate; I found also that three more Women were hid in the Officers' Birth. I had them apprehended and Confined for Disobedience of my orders. I had also repeated information that the same System was still continued, and I believe the Officer of the Watch was the Person, who occasionally removed the Hatchway Grating, which secured the Women's

Apartment, by which means the intercourse was still continued. I was advised to keep the Key thereof, which had been previously kept by Mr. Hicks, my Chief Officer. In consequence of these reports, I reported the same to His Excellency the Governor at Deptford; Mr. Hicks was accustomed to Muster the Women and lock them down, but I discontinued this Practice in the Downs, because I did not consider they could then escape. I begged the Officers not to adopt the System of Prostitution in my sight. I said "do not let me see it, it is directly contrary to my orders." I never saw anything indecent myself, but my Orders as to the intercourse with the Women were I believe Violated by every Man in the Ship. I never saw Mr. Hicks or Mr. Spencely in the Galley with the Women. Mr. and Mrs. Giles had an apartment opposite Mr. Hicks' Cabin, as also had Mr. Walker; there was an investigation of illedged irregularities, which had been committed in the Ship, at St. Helena before two Captains in the Navy; but the result of that Investigation was not made known to me; none of the Convicts but the Woman, who had Charge of Mr. Cooper's family, the Hospital Nurse and another Woman once on a late occasion had access to the Cabin. It was about 5 o'Clock in the afternoon that I saw the Woman before mentioned in Mr. Hill's Birth; the communication with the Births of the Junior Officers is different to that leading to Mr. Hicks, and if there was any Prostitution it was done in the most private and Secret way possible as I never saw any thing of it myself.

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—
Depositions re
prostitution of
female convicts
and issue of
rations on ship
Friendship.

A. ARMETT.

Sworn before us, same Day,—

D'ARCY WENTWORTH, J.P.
S. LORD, J.P.
R. BROOKS, J.P.

PETER COSGREAVE, Esquire, Surgeon in His Majesty's Navy and Superintendant Surgeon of the Ship Friendship, duly Sworn, Depo-
seth; I have generally understood that the System of Prostitution was universal in the Ship, and I have reason to believe it to be true. I first heard of it at Portsmouth, when I wrote to the Navy Board. The Letter now produced is the Answer I received. I then found it necessary to Issue orders for the prevention of the Crime, and I also read my orders from the Navy Board and the Letter before produced; about the Month of July, a female Convict, named Williams, was brought to me, having been found in the Galley. I confined her accordingly. I never saw any improper act between the Women and the Men. I used my utmost exertion, both by my own example and by my remonstrances, but in Vain; and I have seen the Hatches unlocked, which had been reported to have been locked; several Women were found in the Junior Officers' Births, and had been punished accordingly by keeping them on the Quarter Deck, until the Officers promised that they would not repeat the offence. I have received every assistance from Captain Armett, who has exerted himself by every means in his power to repress this System, both by his example and otherwise, but without effect; the Access to the Junior Officers' Birth is different to that leading to Mr. Hicks. George Brown had a severe attack of a Pulmonary affection, which was materially aggravated by his continued intercourse with a female named Sarah Randall.

Sworn before me same Day,—

P. COSGREAVE.
D. WENTWORTH, J.P.
S. LORD, J.P.
R. BROOKS, J.P.

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ANN BARFOOT, duly Sworn, Deposeth; I came over in the Ship Friendship. I have heard Dr. Cosgreave give orders more than once that the Men should not have intercourse with the Women. I saw Mr. Hicks four times himself open the Hatches and let Women up. I have not seen any other Officer of the Ship do so; a general intercourse took place between the Men and the Women on the passage; between eleven and one in the Night, Mr. Hicks removed the Hatches; there were Lights in the Women's Apartment, and Mr. Hicks came there to put the Lights out. I have seen Mr. Hicks let the Women down in the Morning, who had been let up the Night preceeding. Mr. Hicks had this communication before and since we were at St. Helena.

ANN BARFOOT.

Sworn before us same Day,—

D. WENTWORTH, J.P.

S. LORD, J.P.

R. BROOKS, J.P.

JOHN PATERSON, a Seaman of the Ship Friendship, duly Sworn, Deposeth; I have heard Dr. Cosgreave twice give orders that no intercourse should exist between the Men and Women. I know that those Orders were Violated because, as I saw the Officers all take Women, I also took One myself. I have seen Mr. Hill, the 4th Officer, take the Hatches off; Mr. Hicks was on deck at the time; the greatest part of the Officers and Men had Women. The Captain and the Doctor had not either of them Women; the Women were let up and down in the Course of the Night, and as far as I know totally without the knowledge or concurrence of the Captain or the Doctor; there was nothing whatever took place in the Ship which could Violate Decency.

J. PATERSON.

Sworn before us same Day,—

D. WENTWORTH, J.P.

S. LORD, J.P.

R. BROOKS, J.P.

Bench adjourned until Saturday next.

The Court re-Assembled this day Saturday the 31st day of January.

JOHN WATSON, re-Examined on Oath, saith, I issued the Provision on board the Friendship from the 27th July, 1817, to her arrival in this Port. I did so by a regular Victualling Scheme given to me by Mr. Hicks, the Chief Officer. I served out the Rations accurately, as far as they would allow; the only exceptions were as related to George Brown, whose Beef and Pork was ordered to be stopt on the 18th December; Mr. Culverwell's entire Provisions were also stopt on the 27th September, including Bread, Pease, Meat, in short every individual Article; No reason was given for it; I did so by Mr. Hicks' Order; they were withheld until the 8th October; on the 22 November, they were again stopt, and the issue of them again renewed on the 26th January, 1818, by Mr. Hicks' orders, who said he was ordered to do so by Captain Arnett. James Kaveragh's Provisions were also stopt on the 20th September, and never after renewed, as he was taken on board a Man of War at St. Helena on the 19th or 20th of October; there were no other Provisions stopt during the whole voyage; the Grog was stopt on the 9th September, the Crew refusing to drink three Water Grog; they have since received none excepting on Saturday Nights. I have frequently heard the Crew complain of not having sufficient food, in consequence of which Captain Armet ordered me to issue

12 pounds of Beef extra per week to each Mess of five Persons; the Crew afterwards complained of not having sufficient Bread; they were then allowed nine Pounds of Bread Extra to each Mess of five Persons, in the room of the same quantity of Flour, which was stopt, the Flour being all expended on the 3rd October. These alterations gave no satisfaction; the people still complained of want of Grog, as they could not have had sufficient time to have eaten their Dinners, If they had been compelled to drink their Grog in the fore Cabin, where I was ordered to mix it for them. I had the Issuing of the Provisions also to the Prisoners; the issue of the Lean Beef commenced on the 6th Septemb., and continued up to our arrival here. The Provisions, issued to the Prisoners and free Passengers, were of a better sort than those issued to the Ship's Crew, that which was issued to the Prisoners etc. being Government Property.

J. WATSON.

Sworn before us this 31st day of January, 1818,—

D. WENTWORTH, J.P.

S. LORD, J.P.

R. BROOKS, J.P.

1818.
3 March.

Depositions re
prostitution of
female convicts
and issue of
rations on ship
Friendship.

WILLIAM HICKS, Chief Officer of the Ship Friendship, duly Sworn. Deposeth; I received orders from Captain Armett to stop the Issue of Provisions to George Brown and Robert Culverwell, as also to James Caveragh, at the Periods stated in the preceding Deposition. Culverwell's provisions was stopt for refusing to work before the Mast; they were stopt immediately on his being turned before the Mast. I have reason to believe that he had been guilty of some improper conduct, for which he was turned before the Mast; he was charged by Captain Armett with embezzlement; the Charge was not Investigated, nor did I ever myself know him to be guilty of it; the second time his Provisions were stopt was in consequence of some Altercation he had had with Captain Armett. Brown's Provisions were stopt by order of Captain Armett, who told me to stop that Damned Rascal's provisions; Brown was on Deck at the time picking Oakum; he never refused to do work to me; he did his Duty as a Seaman as long as he was able. Caveragh's provisions were stopt for refusing to Work. I have known several complaints amongst the Ship's Company as to the quality of the Beef; it being very old Beef, it Shrank very much on being boiled; when the Complaints were made, I took the Beef to Captn. Armett; the first Complaint was not rectified, but the Second was by each receiving half a piece Extra; they seemed perfectly satisfied; when the Mistake, which had occurred in the Issue of Provisions to the Free Passengers, was discovered, Captain Armett said it should be referred to the Commissariat here; to the best of my Knowledge the provisions in other respects were regularly served.

W. HICKS.

Sworn before us same Day,—

D. WENTWORTH, J.P.

S. LORD, J.P.

R. BROOKS, J.P.

Mr. HICKS, being re-examined, states, I have always seen Charles Kearns Capable of doing his Duty except on two occasions, when he was intoxicated. I know nothing of his having Embezzled any part of the Ship's Stores, but I have known him to be careless in keeping his accounts regularly.

W. HICKS.

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Depositions *re*
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Friendship.

JAMES DRAKE, a Seaman of the Friendship, being duly Sworn, Deposeth, we regularly received our Provisions in the Mess, to which I belonged; as far as I know, there was always sufficient for me, but the rest of the Ship's Company complained that they had not enough. I have seen the Women frequently Eat with the Men in their Births between Decks at the Men's Dinner Time. Women have eaten in the Mess, to which I belonged; the Women used to bring their own Provisions with them; they have frequently Eaten the provisions belonging to the Sailors. I never signed any Paper to the Governor or gave my consent to my Knowledge; If I did, It was unknown to me.

J. DRAKE.

Sworn before us same Day,—

D. WENTWORTH, J.P.

S. LORD, J.P.

R. BROOKS, J.P.

The Bench resumed its Sittings on the 2nd Day of February.

THOMAS WALKER, Esqre., Deputy Assistant Commissary General, duly Sworn, Deposeth; I knew that an intercourse took place between the Men and Women on Board the Ship Friendship by having seen the Women between Decks; But I have no doubt that every exertion was made by the Captain and the Surgeon to prevent the same. I believe Mr. Hicks, the Chief Officer, to be a perfect Gentleman, and he has done his duty on the passage, as far as I can judge, with the utmost zeal and assiduity; lights having been frequently seen in the Women's apartment at unseasonable hours, Mr. Hicks went down, as was his Duty and as he was ordered, to extinguish the same. It is very probable that on such occasions the Women may have passed out of their apartment to other parts of the Ship. I have heard Captain Armett at his Table say that, If the Men and Women got together, he could not help it; he had given his positive orders to prevent it, and he could do no more; he could not be awake at all times; there is a way into the Prison thro' the Hospital, but I would not myself have gone thro' that way, as fevers had prevailed in the Hospital.

THOS. WALKER.

Sworn before us this 2nd Day of February, 1818,—

D. WENTWORTH, J.P.

S. LORD, J.P.

R. BROOKS, J.P.

WILLIAM CORDEAUX, Esquire, Deputy Assistant Commissary General, being duly Sworn, saith; the Women were not generally mustered down at Night at any time after my Embarkation, until our arrival at St. Helena; the Captain said he did not care about the thing (meaning Prostitution), unless it was done under his own Eye; the Captain and the Surgeon were most anxious to prevent it; some of the Women were punished for having been found between Decks with the Sailors; until the Women were regularly Mustered down, after we left St. Helena, not more than two thirds of them were passed down into their apartment. I have frequently myself at a late hour seen Candles burning in the Women's Apartment, on which occasions I have understood Mr. Hicks went down to Extinguish them. On those occasions, the Women might have probably gone on Deck. As far as I knew or could Judge, Mr. Hicks always Conducted himself with the utmost propriety, as an Officer and a Gentleman; there was no public Violation of decency and decorum in the Ship. Captain Armett did not conduct himself

towards Mr. Hicks in a becoming manner in his general deportment to him as the Chief Officer of his Ship and as a Gentleman at Table.

1818.
3 March.

W. CORDEAUX.

Sworn before us, this 2d day of February, 1818,—

D. WENTWORTH, J.P. R. BROOKS, J.P.

S. LORD, J.P.

True Copies:—D. WENTWORTH, J.P. True Copy:—L.M.

[Enclosure No. 3.]

REPORT BY THE BENCH OF MAGISTRATES.

To his Excellency Lachlan Macquarie, Esquire, &c., &c.

May it Please your Excellency,

We the undersigned, Composing the Bench of Magistrates assembled by Order of your Excellency for the purpose of investigating certain charges exhibited against Mr. Andrew Armet, Commander of the Ship Friendship, and Peter Cosgreave, Esquire, Surgeon Superintendent of the said Ship, do beg leave, in Obedience to your Excellency's Commands, To have the honor to transmit to your Excellency the following Report of Our Proceedings.

Report of
magistrates *re*
issue of rations
and prostitution
of convicts on
ship Friendship.

The Depositions taken in this Case having been duly Considered, we are of Opinion that the Circumstances, on which the Charges Exhibited by the Seamen of the Ship Friendship against their Commander are founded, having Occurred on the High Seas, are not within the Limits of our Jurisdiction.

It further appears that the Rations, allowed by His Majesty's Government to the Free Passengers being considerably less than those allowed to the Convicts, were barely Sufficient for their Support, and a very small portion thereof, having been by Mistake with-held for a Short time, that Mistake has been since rectified by the repayment of the Same.

It has been most fully proved to us that a Criminal Intercourse existed, from the Very Commencement of Voyage to its close, between Some of the Officers, the Ship's Company in general and the Female Convicts, In defiance of the Orders of His Majesty's Government strictly prohibiting the Same, which were repeatedly publicly read, and of every exertion of Captain Armet and Surgeon Superintendent Cosgreave to prevent its existence and Continuance, who appear during the whole of the Voyage to have acted with all possible attention to the orders of His Majesty's Government in every particular.

We have the honor to transmit herewith the Depositions taken in this Case for your Excellency's farther Information.

D. WENTWORTH, J.P. RICHD. BROOKS, J.P.

S. LORD, J.P.

Court Room, Sydney, 26th February, 1818.

True Copy:—J. T. CAMPBELL, Secy.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch marked "Private," per ship Isabella; acknowledged by Governor Macquarie, 31st March, 1819.)

My Dear Sir, Downing Street, 4th March, 1818.

Mr. Symonds, at whose recommendation Mr. Youl was originally appointed to a Clerical Situation in New South Wales, has from time to time forwarded to Lord Bathurst the letters which he has received from that Gentleman, and his Lordship has not failed to be struck with the clear accounts which he has given of the Colony as far as regards the state of the public Morals; He has latterly expressed a wish to succeed Mr. Knopwood at the Derwent, and, as Lord Bathurst is impressed with a favorable Opinion of him and is convinced from his correspondence that he fully enters into and appreciates your views in the Colony, he has directed me to recommend his wish to your Notice, and to express to you the Pleasure which his Lordship will derive, if, on a vacancy occurring at the Derwent, you shall find yourself at liberty to place Mr. Youl at that Station.

I have, &c.,

HENRY GOULBURN.

[A despatch from England, dated 7th March, 1818, was acknowledged by Governor Macquarie on 24th March, 1819. A copy of it is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Isabella; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 24th March, 1818.

The House of Commons having voted the Sum of £12,605 0s. 0d. to defray the Expences of the Civil Establishment of New South Wales, I transmit to you herewith a Copy of the Estimate upon which the grant is founded.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[The estimate for 1818 is exactly similar to that for 1817 (the allowance to Mr. Arndell being entered as £50), with the exception of the two following items, Viz:—

Allowance to Govr. Bligh £200, omitted.

Allowance on account of Fees for Receipt and Audit £340 vice £350.]

1818.
4 March.

Reports of
Rev. J. Youl.

Youl to succeed
as chaplain at
Hobart.

24 March.

Parliamentary
vote for civil
establishment.

Civil estimates
for the year
1818.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Isabella; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

1818.
2 April.

Sir, Downing Street, 2nd April, 1818.

I am directed by Lord Bathurst to transmit to you here-
with the Assignment of Two Hundred and Thirty Male Con-
victs, shipped on board the Isabella for the Colony of New South
Wales.

Assignment of
convicts per
ship Isabella.

I have, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment of convicts is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Glory; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 7th May, 1818.

7 May.

I am directed by Lord Bathurst to acquaint you that he
has given permission to the Bearer William Leviston, late Ser-
jeant in the 100th Regt. of Foot, to return with his Wife and
Two Children as Free Settlers to the Colony of New South
Wales.

Permission for
Leviston and
family to
return to the
colony.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch marked No. 1, per ship Glory; acknowledged by Governor Macquarie, 1st March, 1819.)

Sir, Downing Street, 12th May, 1818.

12 May.

I have had the Honor of receiving your dispatch No. 14*
relative to the Conduct of Mr. Moore, one of the Solicitors of
the Colony, in affixing to a Petition, some time since presented
to the House of Commons, the Signatures of several Persons
without their Knowledge or Authority.

Despatch
acknowledged.

I should only have had to state my Concurrence in the opinion,
which you express of such unworthy Conduct in any Man, and
especially in one holding an Official Situation in the Colony, had
it not been for the Information conveyed in the Letters of Mr.
Law and Mr. Terry, enclosed in your Dispatch, which, while they
afford the strongest Proof of Mr. Moore's misconduct, develop a
proceeding on your part which calls equally for my most serious
animadversion.

Opinion re
conduct of
W. H. Moore.

Censure of
Macquarie's
procedure.

It appears that you have had no hesitation in considering the
Signature of a Petition to The House of Commons as an act of
Sedition and as deserving such Punishment as it was in your
power to apply; and that you have, in two Cases, stated, made it

* Note 165.

1818.
12 May.
—
Censure of
Macquarie's
procedure.

the ground for withholding Indulgencies to Individuals, which it was previously your Intention to bestow. It is my duty to apprise you that in thus attempting to interfere with the right, which all His Majesty's Subjects possess of addressing their petitions upon every subject to The House of Commons, by making the exercise of that right prejudicial to Their Interests, you have been guilty of a most serious Offence.

In signifying to you therefore His Royal Highness The Prince Regent's Entire Disapprobation of your Conduct in having so acted with respect to some of the petitioners, to whom your Dispatch refers, I have only to caution you most strongly against any proceeding in future, which can have a tendency to check the Right of Petitioning either House of Parliament, as such Conduct on your part cannot fail to call forth from His Royal Highness the strongest Marks of Displeasure.

I have, &c.,

BATHURST.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 2 of 1818," per ship David Shaw.)

Government House, Sydney, N. S. Wales,

14th May, 1818.

My Lord,

1. The Character of Acting Assistant Commissary General William Broughton having been wantonly and most unjustly aspersed, Some time since, by Mr. Edward Lord a Merchant and Settler at the Derwent in Van Diemen's Land, I deem it an act of Justice to that Officer to put Your Lordship in possession of the following Statement of facts, with a view of removing from Your Lordship's Mind any and every unfavorable impression, that may have been made thereon, to the prejudice of Mr. Broughton in consequence of the Zealous and insidious endeavours used by Mr. Edward Lord to Calumniate his Character.

2. The disgraceful and Corrupt Practices, carried on by Deputy Assistant Commissary General Hogan at the Derwent, whilst at the Head of the Commissariat Department at that Station, and the profuse and most extravagant Expences incurred by him on the Public Account, countenanced and connived at by Colonel Davey, the then Lieutenant Governor of Van Diemen's Land, induced me in August, 1816, to order Acting Assistant Commissary General Broughton to proceed immediately to the Derwent for the purpose of superseding Deputy Assistant Com'y General Hogan and taking charge of the Commissariat Department at that Station with strict Orders and the most positive Instructions to reform all Existing abuses in the Department, Mr. Broughton being at that time the only Officer belonging to the Commissariat Staff in this Colony, in whom I could safely repose

14 May.
Testimony
in favour of
W. Broughton.

Appointment of
Broughton to
supersede
Hogan.

any trust and confidence on so important an Occasion, as he had during his long Course of Service, under my own immediate Observation, given repeated Proofs of his honesty, strict honor, and Integrity.

1818.
14 May.

3. Immediately on the Arrival of Mr. Broughton at the Derwent and the removal of Mr. Hogan from office, he commenced rectifying the great Abuses and Frauds, that had so long been practised in the Commissariat Department at that Station, by reducing the Public Expenditure in every way he could devise, and by establishing a fair, regular and impartial System of receiving necessary Supplies of Wheat And Animal Food into His Majesty's Stores from the Settlers indiscriminately, in proportion to the Grain and Cattle they raised or reared respectively without favor or Affection, the General Practice, hitherto observed at that Station, being to give a preference to a few large Stock-holders and Traders for Supplying the King's Stores with Grain and Animal Food to the entire exclusion of the poorer Class of Settlers, and thus establishing a complete Monopoly of the Stores in a few rich and favored Individuals.

Reforms in
commissariat
introduced by
Broughton at
Hobart.

4. This being the unjust and illiberal System practised at the Derwent on Mr. Broughton's arrival there, he found it necessary to adopt immediately a more just and equal one; and on his doing so, all those, who had formerly monopolized the Stores, became his decided and avowed Enemies, at the head of whom was Mr. Edward Lord, who soon afterwards exhibited very serious Charges against Mr. Broughton, a Copy of which I have herewith the honor to transmit to Your Lordship.

Opposition to
Broughton's
reforms.

Charges
preferred
against
Broughton.

On these Charges being transmitted to me, although I Considered them both Malicious and Groundless, I ordered a Court of Enquiry of the few Military Officers, then stationed at Hobart Town, to be assembled there to investigate them, and to report to me their Opinion, whether there appeared to them sufficient Grounds for bringing those Charges before a General Court Martial, and the result was that the Court of Inquiry were of Opinion that there were Grounds for having those Charges investigated by a General Court Martial.

Investigation
of charges.

On reading the Proceedings of the Court of Inquiry, I could not perceive that they were warranted, from the Evidence adduced, to pass any such Opinion, and Mr. Wylde, the Judge Advocate of the Territory, entirely concurred with me in this Opinion. I could not therefore help suspecting that the Members, who were all the most intimate Friends of Mr. Lord, were greatly influenced in their decision by their partiality for that Gentleman, and by his very plausible and insinuating manners; but as Mr. Broughton himself very strongly urged and solicited that a

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14 May.

Witnesses
to attend court
martial on
Broughton.

General Court Martial should be assembled to investigate the Charges exhibited against him by Mr. Lord, in order to afford him a fair and impartial Trial to rebutt them, I yielded to his request, and sent Subpoenas to Mr. Lord as Prosecutor and to all the necessary Witnesses residing at the Derwent to repair forthwith to Sydney, where alone a General Court Martial could possibly be assembled, and for this purpose I had Mr. Broughton removed and replaced by Acting Depy. Assistant Commissary General Archer.

Refusal of
Lord and
witnesses
to attend.

• 5. Although the Subpoenas were sent by the Judge Advocate of the Territory and regularly served upon Mr. Lord and the other necessary Evidences at the Derwent, he and most of the others positively refused to come to Sydney to give Evidence at the proposed Court Martial; and as I found, on consulting the Judge Advocate, that the Attendance of Mr. Lord and the other Evidences could not legally be enforced, I was under the necessity of abandoning my intention of ordering a General Court Martial to be assembled for the Trial of Mr. Broughton, much to his own disappointment and regret, as he felt justly confident of being able to establish satisfactorily his own Innocence and the Malice of his Prosecutor.

Opinion of
judge-advocate
Wylde.

6. Under these Circumstances, there only remained for me to refer the peculiar Case of Mr. Broughton to the consideration of the Judge Advocate of the Territory, and to be generally guided by his Opinion as to the line of Conduct I should now adopt in respect to Mr. Broughton. I accordingly called for and received Mr. Judge Advocate Wylde's written Opinion on Mr. Broughton's Case, a Copy of which I now do myself the honor to transmit to your Lordship herewith, as also a Copy of the Government and General Order Issued a few Days afterwards, under the firm Conviction that the Charges exhibited by Mr. Edward Lord against Mr. Broughton were frivolous, vexatious, and groundless. In addition to those Documents, I do myself the honor to transmit herewith, for Your Lordship's further Notice and information, Copy of a Letter addressed to me by Acting Assistant Commissary General Broughton containing, what I verily believe to be, a true candid and impartial Narrative of the several Events relating to and Circumstances connected with the Charges exhibited against him by Mr. Edward Lord; than whom, there cannot be found a more vindictive and implacable Character nor a more malicious one.

Statement by
Broughton.

Character of
E. Lord.

7. As my Conduct throughout this business has been solely dictated by Principles of strict Justice to relieve a much injured man and a most valuable Public Officer from unmerited Obloquy, I indulge a hope it will be honored with Your Lordship's entire

approbation. I can with perfect safety assure Your Lordship that no Officer has ever served with more Zeal, honor and integrity under this Government than Mr. Broughton, nor has rendered more useful and essential Services to the Crown than he has done. I therefore consider him as a most honest, upright man, as well as a most excellent and valuable Officer; with this impression on my Mind, it would afford me most Sincere pleasure and Satisfaction to see him placed at the Head of the Commissariat Department of this Territory, as I feel firmly persuaded that he would soon give His Majesty's Government at Home satisfactory Proofs of his Competency for executing the various Duties of such an important Office, and be able from his honest Zeal and Fidelity to reduce very considerably the Public Expenditure, which I am sorry to say appears to me to be only a secondary object with the Officer at present at the Head of the Department.

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Character of
W. Broughton.

Proposal
to appoint
Broughton
to control of
commissariat.

Mr. Broughton on the contrary has ever been most anxious to make every possible reduction in the Public Expenditure, of which he lately gave an unequivocal Proof at the Derwent, where, by his Prudent and Economical System, he saved Government several Thousand Pounds for the short Time he was at the Head of the Department at that Settlement.

Economies
effected by
Broughton.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

THE following Charges were preferred by Edward Lord, Esqre., against Acting Assistant Commissary General William Broughton.

Charges
preferred
by E. Lord
against
W. Broughton.

VIZ. 1st. For un-Officerlike Conduct in trading expressly contrary to the Orders of the Sovereign and a Breach of the Articles of War.

2nd. For un-officerlike Conduct in retailing Wines from His Majesty's Magazine.

3rd. For buying a Pipe of his own Wine in the Name of another Person for the use of the General Hospital, without publishing tenders.

4th. For Malversation in Office, and permitting it in the Store-Keeper.

True Copy:—L. MACQUARIE.

[Enclosure No. 2.]

JUDGE-ADVOCATE WYLDE TO GOVERNOR MACQUARIE.

Sir, Judge-Advocate's Office, 24th March, 1818.

In pursuance of your Excellency's Directions, having taken into Consideration the Merits of the Proceedings as reported by

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Judge-
advocate's
opinion on
charges
preferred
against
Broughton.

the Court of Inquiry on Certain Charges preferred by Mr. Edward Lord against Mr. Broughton, the Acting Assistant Com'y General in Van Diemen's Land, I beg leave to suggest that there does not appear to me any such Proof of any one of the Charges as to criminate that Officer in his official Character or to render him undeserving of that Confidence in the Service he seems for so long a period to be considered worthy of. The Charge of Malversation in Office I must confess appears to me altogether disproved, as to any Ground of Criminal Accusation, in every Specific Item; and with respect to the third Charge, as whatever in fact took place did so with the perfect Concurrence and approbation of the local Representative Authority of the Government, it would seem wholly unnecessary to refer to the Subject matter in respect at least of any Criminal Charge to be preferred by the Government, founded on that transaction, which however in truth seems also to have been productive, after all, of no Injury whatever to the Public Service and Interest.

The first and second Charges are founded, upon the Evidence, in matter of too insignificant tenor and Circumstance, as explained by Mr. Broughton, to render it necessary in my Judgment to claim any ulterior Consideration.

I consider it however incumbent upon me to observe the very irregular and improper mode of Interrogation, which was so generally allowed on the occasion; as the very form of the Queries used put the fact to be deposed to in direct leading terms to the Examinant, and thus tends unduly to warp the Answers to the immediate purpose of the Question.

As the Court Martial in Contemplation will not, upon the Considerations suggested by Your Excellency, take place, you may perhaps think fit to transmit the Proceedings Home, but at all events will not, I should presume and hope, deem it unfit in the mean time to take advantage of those Services Mr. Broughton seems so well qualified to render the Department, of which it seems acknowledged he has so long proved himself an useful and faithful officer.

I have, &c.,

JNO. WYLDE, Judge-Adve., N.S.W.

True Copy:—L. MACQUARIE.

[Enclosure No. 3.]

GOVERNMENT AND GENERAL ORDERS.

Head Quarters, Sydney, Saturday, 28th March, 1818.

CERTAIN Objections having been some time since urged by Mr. Edward Lord, a Merchant at Hobart Town in Van Dieman's Land, against the manner in which the Commissariat Department at that Settlement was conducted, and he having preferred Charges against Acting Assistant Comm'y General Broughton,

General orders
consequent on
charges
preferred
by E. Lord
against
W. Broughton.

the Officer at the Head of the Department there, His Excellency deemed it equally due to the Public Service and the Character of the Officer accused to cause an Investigation by a Court of Inquiry to take place at Hobart Town, and having afterwards, as well from the Circumstances which arose out of that Court's Inquiry as at the pressing instance of Mr. Broughton himself, signified and directed that the Parties should respectively have the opportunity afforded them of appealing to a General Court Martial, which His Excellency was about to convene for that purpose, He has lately received a Communication from the Lieutenant Governor of Van Diemen's Land, signifying that the Party, who had originally preferred the Charges, and several of the Witnesses, had expressed a reluctance to proceed to Head Quarters to substantiate the alledged Charges before a General Court Martial, whereby the Object, both as it regarded the Public Service and the Private Character of the Officer accused, is frustrated, this being the only Situation, according to the present Distribution of the Military Force, where a General Court Martial could be possibly assembled in this Territory.

His Excellency feeling that under such Circumstances it would be doing Injustice to the Character of an Officer, whose long meritorious, and faithful Services in this Territory for the last 30 Years give the fullest assurance of those Charges, now forborne to be acted upon, having been at least frivolous and springing from feelings of a private and personal Nature, Orders and directs that Acting Assistant Commissary General Broughton do hold himself in readiness to resume the Duties of his official Rank, in such Situation as his superior officer in the Commissariat Department, at Head Quarters, shall assign him.

And His Excellency cannot forbear the Expression of his entire Satisfaction with the Honorable Conduct of Mr. Broughton in the Arduous Execution of his Duty in the several Situations, in which he has been placed at different times during His Excellency's Administration of this Government, and more especially for his faithful, zealous, and impartial discharge of the important Duties, recently entrusted to him at the Settlement of the Derwent in Van Diemen's Land, in rectifying and reforming the various Abuses which had been practised for some Years past in the Commissariat Department at that Station, and in so greatly improving the same, for which The Governor begs Acting Assistant Commissary General Broughton to accept his best thanks.

LACHLAN MACQUARIE.

By Command of His Excellency The Governor and Commander of the Forces. H. C. ANTILL, Major of Brigade.

True Copy:—L. MACQUARIE.

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14 May.

General orders
consequent on
charges
preferred
by E. Lord
against
W. Broughton.

1818.
14 May.

[Enclosure No. 4.]

ACTING ASSISTANT COMMISSARY-GENERAL BROUGHTON TO GOVERNOR
MACQUARIE.

Sir, Sydney, New South Wales, 1st April, 1818.

I had the honor of receiving a Copy of Your Excellency's Government and General Orders of date 28th March, relative to certain charges exhibited against me by Mr. Edward Lord, a Merchant residing at Hobart Town.

Although I feel great satisfaction at the Sentiments you have expressed of my Public Conduct, as I do also from the opinion entertained by the Honorable Judge Advocate, expressed in his Letter of the 24th of the same month, a Copy of which Your Excellency was pleased to furnish me with, I have notwithstanding judged it expedient and proper to enter into a detail of the principal circumstances, which led to those charges, and most respectfully solicit that Your Excellency will be pleased to forward the same to His Majesty's Ministers, with a view to do away with any unfavorable impressions which may have resulted therefrom. I have been induced to have recourse to this mode of justification, in consequence of my adversary having deprived me of the means of establishing my innocence by withdrawing himself altogether, and which has rendered nugatory the measure Your Excellency adopted to afford me Justice by a General Court Martial, which you had ordered.

It is unnecessary to remind Your Excellency that it was in consequence of the repeated Complaints of the very irregular and highly discreditable manner in which the Duties of the Commissariat were conducted at Hobart Town, that you were induced to select me as an Officer fully competent to reform the same, and for which I was sent to that Station.

The arduous and very painful duty I had to perform, that of doing away with abuses, which had long existed, and in which individual interest was as strongly connected, brought upon me many enemies the chief of whom was Mr. Lord.

My long residence in the Colony has given me a competent knowledge of its interest, and, as far as it has been connected with the Duties of my Office, I have made it my study, in doing which I have sacrificed my Private feelings to the Public good.

The grossly partial manner, in which Grain and Meat had been received into the Stores, was the Subject of great dissatisfaction and loudly complained of on my arrival. This, with the absorbing views of a few avaricious individuals, was the principal cause of the distress of the industrious class of Settlers, and tended greatly to retard the prosperity of the Settlement. I could not view these circumstances with indifference; the reforming of

Reasons
for making
statement *re*
Lord's charges.

Appointment
of Broughton
at Hobart.

Opposition
created to
reforms.

System of
receiving grain
and meat into
public stores
at Hobart.

which was the chief object, which occupied my attention, by adopting a fair and impartial System in receiving Grain and Meat into the Public Stores, it being the only Market the Settler had for his produce. The Carrying of this measure into effect, with the opposition I gave to my adversary's schemes, gave rise to the charges he preferred against me, and shortly after I found in him a most implacable enemy.

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14 May.

Lord's reasons for making charges.

About ten days prior to his preferring the charges, he made a proposition to Lieutenant Governor Davy, in which he tendered the loan of Three Thousand Pounds for the purpose (as he expressed) of relieving the distressed state of the Police Fund; but under the special Provision, that he was to be allowed the exclusive privilege of supplying the Stores with Grain and Meat, until that amount was raised, although at this time Mr. Lord was indebted to the Fund Seven Hundred and Sixty Eight Pounds for Duties due on Spirits. Lieutenant Governor Davy sent for, and consulted with me on the subject, when I represented the great injury the Settlers would sustain, if this measure were carried into execution. My representation had the desired effect, the scheme was abandoned, and in ten days after written Charges were preferred against me by Mr. Lord.

Attempt of Lord to obtain a monopoly of public supply of grain and meat.

Charges made by Lord.

The charges preferred against me were for being concerned in Trade and Malversation in Office. I shall, as briefly as the circumstances will admit, state the grounds on which those charges were founded.

In building the House I now occupy, I was under the necessity of furnishing my Workmen with Clothing. In making purchases, I was at times under the necessity of purchasing more than I required, and I was also obliged to buy Articles I did not want for the purpose of procuring such as were essential for my Works. It was the remnants of these articles, which I took with me to Van Diemen's Land, and of which Mr. Lord so loudly complains. It must however appear astonishing to every unprejudiced person when it is understood that Mr. Lord offered his Services in disposing of the Articles for me. If he considered there was any thing Criminal in the business he surely had little regard for his Character when he offered to participate therein, and afterwards turned Public accuser. For prudential reasons I declined accepting the proffered service, signifying at the same time my desire of disposing of them at once for the purpose of making a remittance to Mrs. Broughton. To obviate any difficulty on the score of remittance, Mr. Lord, with the appearance of generosity, tendered me the loan of Three Hundred Pounds, which I was to repay at my convenience. I declined the offer having understood from himself that his Debts exceeded Fifty Thousand Pounds, Stg.

Disposal of surplus goods by Broughton.

1818.
14 May.

Lodging of
Broughton at
Lord's house.

I lodged at Mr. Lord's House about fourteen days at his pressing invitation, and no person could express a more friendly regard for another. During this short period, our conversation frequently turned upon points connected with my Public Duty; but his arguments were so at Variance with my principles, and the rule I had laid down for my conduct, that I began to suspect the professions he had made me were not the genuine effusions of friendship, and determined on quitting my quarters. On informing him of my resolutions he appeared somewhat surprised, keeping up the appearance of a sincere friendship and offering me a Room in his House with a Seat at his Table free of expense, while I might remain at Hobart town. I declined the acceptance of this Offer also, and soon discovered the dawning of that rancour, which he afterwards carried to the utmost height.

Particulars *re*
sale of wine by
Broughton.

Much has been said of my having sold a Pipe of Wine of my own to Government in the name of another person. The Pipe of Wine so spoken of was purchased by me at Sydney expressly for Lieutenant Governor Davey. But when the vessel arrived, on board of which it was, he for some pecuniary reasons declined taking it. Soon after I received an order from him to purchase a quantity of Wine for the use of the Hospital, when I tendered the Pipe at the same price precisely that he was to have paid for it, and received his order for the purchase. The fairness of the charge is attested by the Judge Advocate and one of the principal Merchants. There was nothing fraudulent or collusive in the transaction, and the only reason I had for employing an Agent in the business was "that I could not appear in the character of buyer and seller at the same time." How widely different the following transaction will appear.

Liquidation of
loan made by
Lord.

Prior to my arrival at Hobart town, an Officer in high Public trust borrowed from Mr. Lord Four Hundred Pounds, for which the Store keeper, who had charge of receiving Grain, engaged to deliver into the Public Stores Eight Hundred Bushels of Wheat to liquidate the same. Vouchers for which were already made out, and signed or upon the point of being so; but an occurrence took place, which so alarmed the Store keeper that he stepped forward and confessed he had not delivered a single grain of Wheat into the Stores on account of Mr. Lord. This fraud would have been carried into effect, but for a discovery I made before I took charge; and although I do not mean to attach any dishonesty in this transaction to Mr. Lord, being persuaded the Store keeper misled him, Yet surely it was a duty incumbent in him to have ascertained whether or not the Wheat had been delivered, before he allowed his name to be made use of.

Mr. Lord has dwelt much on the circumstance of my having disposed of small quantities of Wine to individuals. When I

bought my Wines, I had not the remotest idea of disposing of them in this way. On embarking for the Derwent, I laid in a Pipe of Madeira and a Chest of Port Wine with Thirty five Gallons of Hollands, intending to Mess with the Officers of the 46th Regt. on Detachment at that Station; but on my Arrival I found them Messing separately. I was under the necessity of lodging and boarding with a private family. I had no occasion for my Wines and Spirits. I could not afford to give them away, and of course disposed of them to the best advantage.

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Disposal of
wines and
spirits by
Broughton.

He has stated in one of the Charges that, after Your Excellency had reduced the price of Meat to Six pence per pound, I paid two persons at the rate of seven pence. I admit that such an occurrence did take place, but it was under such circumstances that I felt myself bound in honor and strict justice to do. Both of these persons had sent in Tenders to supply the Stores, which were accepted, and their Meat ought to have been received long before the reduction took place; but, at the period of my Publishing general Notice of the acceptance of Tenders for Meat and the time it would be received, I had by accident mislaid theirs. It was in consequence of this, I pledged myself to receive their Meat at seven pence per pound. I derived no advantage whatever from the transaction, consequently the charge of Malversation is unfounded.

Purchase
of meat for
public stores.

In a Letter of complaint, which accompanied the Charges, He states that prior to my arrival at Hobart Town I got possession of a quantity of Cattle at Port Dalrymple. But although Mr. Lord was particularly acquainted with their number, as also the manner I became possessed of them, he very artfully suppresses the main points with a view of misleading the judgement and to impress upon the mind that I was making a trade of the business. The quantity of Cattle, he alludes to, were Six Bullocks I received from Mr. Archer, in lieu of the like Number of Cows he had from Government at Head quarters for the payment of which I was his Bondsman. These Six Bullocks were driven across the Country with Mr. Lord's consent along with a Herd of his own, and which he afterwards pressed me to exchange for as much Mutton as they might be adjudged to weigh. The Mutton I received and delivered it into the Stores in the same manner as any other Stock holder would have done.

Cattle acquired
by Broughton
at Hobart.

Having stated to Your Excellency the particular circumstances, which led to the charges which Mr. Lord preferred against me, with every possible degree of candour, as also Mr. Lord's conduct towards me without the most trivial aggravation, and which I should have proved in Evidence had a Court Martial taken place, I now respectfully hope it will appear to His Majesty's Ministers,

1818.
14 May.

Services of
W. Broughton.

as it has done to Your Excellency, that I am a much injured and persecuted Man, and do away with any unfavorable impressions those Charges may have produced.

I have, Your Excellency, been nearly Thirty Years in the Commissariat of this Colony, have filled from the lowest to the highest Stations in it, and never before had a Charge preferred against me of a Public nature; in support of which I could produce the testimonials of highly respectable officers under whose command I have been.

The very flattering and honorable Testimony, Your Excellency has borne to my Public Character in Your Government and General Orders, is peculiarly gratifying to my feelings, and I shall hope, and the more so because that hope is founded on conscientious innocence, that my character will be rescued from the infamy endeavoured to be cast upon it by my cruel and Malicious adversary.

I have, &c.,

W. BROUGHTON, Ag. A. C.-Gen'l.

I do hereby certify the foregoing Statement to be fairly and truly Narrated.

L. MACQUARIE.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship *Glory*; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

15 May.

Assignment
of convicts *per*
ship *Glory*.

Sir, Downing Street, 15th May, 1818.

I am directed by Lord Bathurst to enclose you herewith the Assignment of One Hundred and Seventy Convicts, shipped on board the *Glory* for the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[*A copy of the assignment of convicts is not available.*]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 3 for 1818," per ship *David Shaw*.)

Government House, Sydney, New South Wales,

My Lord,

15th May, 1818.

I have the honor to communicate to Your Lordship that, with a view at once to the lightening the burthen of this Colony on the Mother Country, and to the restraining the present immoderate Consumption of Spirituous Liquors, I have by Proclamation increased the Duty on Spirits from 7s. to 10s. pr. Gallon, and also established a new Duty of 6d. per lb. on Tobacco to be imported into this Colony, from and after the 1st day of April last.

Increase of duty
on spirits.

Duty on
tobacco.

In regard to the expediency of laying an additional Duty of 3s. per Gallon on Spirits, I beg to remark that a Considerable Revenue will be Obtained, and in the event of the establishment of Distilleries in this Country, which is an Object of the greatest consideration with Our farmers and earnestly looked for at Your Lordship's hands, it will enable this Government to render it a protecting Measure to the Colonial Distillery, which in its infancy will unquestionably require to be exempted from some portion of the Duty laid on the imported Spirits from Bengal, Rio de Janeiro and other foreign Ports, whilst at the same time the Revenue will be kept up to what it has been heretofore.

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15 May.

Expediency of
increased duty
on spirits.

The very trifling duty of Sixpence per lb. on Tobacco, with which I have commenced the taxing of that foreign Luxury, is by no Means equal to what it would very well bear; but as a first Duty, I have thought it most advisable to make it so small as not to produce any Sensible effect on the Minds of the Consumers. At no very distant day, it may be encreased to a level with the Duty in England itself; and the Revenue, thence resulting, will form a very Considerable addition to Our internal Resources. Another object from this Duty will be also promoted for the Benefit of the Colony, which is that it will probably Stimulate Our Own people to Cultivate the Tobacco Plant, which at present grows here most luxuriantly and only requires the hand of care and attention to render it fully equal to our internal Consumption at least.

The duty on
tobacco.

Cultivation of
tobacco plant.

There are some other articles of frequent and large import into this Colony, which would bear, without being Oppressive to the Consumers, a Duty that would also encrease Our Resources in a very great degree, and Consequently go in Aid of the necessary expences of the Government, And to the relief of the Weighty drafts made at present on the Mother Country.

Proposed
impositions of
import duties.

The articles, to which I now more particularly allude, are Tea, Sugar and Rice, tho' generally All the Articles of Manufacture or Produce, Imported from foreign Countries for Consumption here, would also bear a proportionable encreased rate of Duty. In the Instance of the Articles enumerated, I would propose that Duties (in addition to the present trifling ad valorem of 5 per Cent. on original Cost) should be laid according to the following Rates, Vizt.

- On Green Tea, 5 pence per lb.
- On Black Tea, 3 pence per lb.
- Sugar, 2s. 4d. per Cwt.
- Do., Candy, 3s. 4d. Do. Do.
- Rice, per bag of 150 lbs. 1s. 9d.

Proposed scale
of duties.

These Duties I now beg leave to propose for your Lordship's Consideration.

1818.
15 May.
Legal opinion
on validity of
duties imposed
in the colony.

But, whilst on the Subject of laying and levying Duties in this Colony, I have to Observe that a Serious and Weighty difficulty has been Stated by our present Judge of the Supreme Court in regard to the legality thereof, which, until Obviated by some Measure from home, will necessarily tend to render the raising a Revenue in this Country by the present Mode at once precarious and dangerous; a Letter from Mr. Justice Field addressed to me on this Subject, being in my mind very full and Clear, Altho' I cannot altogether accede to the expediency or even propriety of our Law Courts acting thereon at this time, I do myself the honor to transmit Your Lordship a Copy of it, and request that the Measure May Obtain at an early day that degree of Consideration which its importance seems to demand.

I have, &c.,

L. MACQUARIE.

[Enclosure.]

MR. JUSTICE FIELD TO GOVERNOR MACQUARIE.

Sir,

Sydney, 23rd Feby., 1818.

Your Excellency having commanded Mr. Wylde to institute several Suits in the Court, in which I have the honor to preside, the defences to which will probably involve the legality of the imposition of duties in this Colony without an Act of Parliament, I have taken that question into my Most serious consideration; and as I cannot cherish the least doubt that we must (and as I understand that we soon shall) have an Act of Parliament for the purpose of legalizing those duties, which Your Excellency has thought it expedient to impose, May I be forgiven, if an anxiety to prevent the public discussion of a question, in which I might perhaps be forced to give an Official Opinion against the present legality of such duties, induces me to request Your Excellency to instruct the Solicitor for the Crown to forbear to proceed in the suits in question for the present.

I have privately communicated to Mr. Wylde this my Opinion, founded as it is upon one of the first principles of the British Constitution, which declares that "no subject of England can be constrained to pay any aids or taxes, but such as are imposed by his own consent, or that of his representatives in parliament,"* And also upon a recognition of this principle by the legal advisers of the Crown in the year 1772, when the Attorney and Solicitor General, Sir Philip Yorke (afterwards Lord Chancellor Hardwicke) and Sir Clement Wearge gave it as their Opinion that no tax could be imposed upon the Colonies but by their several legislative assemblies, or (if they had none) by an Act of Parliament; and Your Excellency will recollect that the great contest

* Blackstone's Com., vol. I, p. 140.

of the Americans (during the War) was that the Colonies could be taxed only by their legislative assemblies, and that all the Crown then contended for and enforced was that the British *legislature* (not the King alone) could also tax them. But here it is the King *alone* (through the Medium of Your Excellency) that imposes duties, which by the British Constitution and law cannot be. The Opinion of the above great law advisers of the Crown was adopted and acted upon by no less a Chief Justice than the Earl of Mansfield in 1774,* and has been since incorporated into the text of a Work of no lighter authority than Dr. Adam Smith's *Wealth of Nations*, to the 446th page of 2nd Volume of which I take the liberty of referring Your Excellency.

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—
Legal opinion
on validity of
duties imposed
in the colony.

I am informed that the payment of these duties has never yet been attempted to be legally enforced in the Colony, and that Your Excellency is so satisfied that there ought to be an Act of Parliament for them that you have hitherto only reported defaulters home; and not felt yourself justified in arresting their flight from the Colony. I have not the least doubt that the only reason, why Your Excellency has not yet been Armed with such an Act of Parliament, is that His Majesty's Government are not Sufficiently aware of the great amount of the duties or of the rising importance of the Colony.

I think it right to add that my Opinion goes only to the Case of King's duties or taxes, to the imposition of which only it is held that the people, either in parliament or legislative assembly, must assent. As for *port* duties or Market or turnpike tolls, the King *alone* can impose them in consideration of His making the port, Market or road, and therefore Your Excellency, as His Majesty's Representative, has equal Authority with Him in those Cases. And indeed the power of appointing Markets and ports is expressly given in Your Excellency's Commission, which that of *imposing* duties is not, only the power of "*disposing* of such public Monies as shall be raised," it does not say how; and therefore it must be presumed the Commission Meant by *lawful* Authority, which the Authority of the King *alone* is *not*, for duties and taxes, other than port Market or turnpike tolls.

I hope I have been fortunate enough to convey to Your Excellency the respect and loyalty from which this Communication emanates, And that you will be pleased to approve of the Course I have taken in the very difficult and responsible Situation, in which the want of a proper Act of Parliament has placed me.

I have, &c.,

BARRON FIELD.

True Copy:—J. T. CAMPBELL, Secy.

* Cowper's Reports, vol. I, p. 204.

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15 May.

GOVERNOR MACQUARIE TO EARL BATHURST.
(Despatch marked "No. 4 of 1818," per ship David Shaw; acknowledged by Earl Bathurst, — December, 1818.)

Government House, Sydney, New South Wales,

My Lord,

15th May, 1818.

Application of
Rev. S. Marsden
for leave of
absence.

I do myself the Honor to report to your Lordship that Mr. Marsden, the Senior Chaplain on this Establishment, lately Applied to Me for Permission to proceed to England by the present Opportunity of the Ship David Shaw; and I have Considered it my Duty to refuse that Permission on the Grounds of the present Very Inadequate State of the Church Establishment owing to Accidental and Other Causes.

Reasons for
refusing
application.

I have taken Considerable Pains to Convince Mr. Marsden that the Refusal of My Sanction, under the Existing Circumstances of the Weak State of our Church Establishment, Arose out of my Feeling of the Strong and imperious Necessity for him, not only as the Senior Chaplain, but also in the possession of good Health, to remain in the performance of his Clerical Duties, Until I should have at least this present Opportunity of Again representing to Your Lordship the great Inconvenience and Injury, Sustained by our widely Extended and greatly Increased Population from the Want of Some additional Steady respectable Chaplains to Instruct them in their religious Duties; and I had hoped that by Making this Explanation, I should have Obtained his Acquiescence in the Reasonableness of my Refusal.

But altho' Mr. Marsden has repeatedly Visited his Native Country, since his first Arrival here, and only returned from a long Absence from this Country, Since My own Arrival in it, Yet has he Continued with a pertinacious Urgency to repeat his Request to Obtain Leave, pressing Arguments in favor of his Wish, which are in My Opinion the Strongest which Could be produced Against it, and I have even pointed out to him that the Reasons assigned by him are Sufficient, and much More than Sufficient, to determine Me not to grant his Request *at this time*.

I do myself the Honor to transmit, for Your Lordship's fuller Information on this Subject, a Copy of the Correspondence between Mr. Marsden and Myself on this Occasion.

Alleged motives
for Marsden's
request.

The Frequent and long persevered in Efforts of Mr. Marsden to Embarras my Government and to Impede My Measures in every Way, Which an Under-Hand, disingenuous, Caballing Disposition Could devise, fully Convince Me that his Object, in Wishing to go to England at this time, is very different from what he has avowed in his Letters, and that under the Seemly Garb of Sanctity and Zeal for Religion, his real Motives and Designs are to Co-operate in A System of Malicious Attack on the Measures, or More properly on the Misrepresented Measures

of My Government, devised and planned by Himself and Mr. Jeffrey Bent, Whose Character and Designs are Not Yet Sufficiently before Your Lordship, altho' I have been Obliged to Communicate My Mind freely to Your Lordship respecting him on former Occasions. That Such is the purport of Mr. Marsden I am Well Assured, and on this Score also I have had the less Inclination to Accede to a Wish, which even on its Avowed Grounds was improper and Unreasonable.

The Addition of Six Chaplains to our present Church Establishment, as Mentioned in Mr. Marsden's first Letter herewith, I am fully of Opinion would be highly Serviceable in promoting the Interests of Religion and the Welfare of the Colony; and I therefore Most respectfully Solicit your Lordship to Accede to this present Application for that Number of Clergymen. I have also to request that an equal Number of Well Qualified respectable men be sent hither as Public School Masters, begging Leave at the same time to Suggest the Propriety of all persons, sent hither for the purpose of disseminating the Principles of Education, being of the Established Church, Untainted with Methodism or Other Sectarian Opinions.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

REVEREND SAMUEL MARSDEN TO GOVERNOR MACQUARIE.

Sir, Parramatta, 17th April, 1818.

I have for a long time past had a strong desire to return to England for a short Period, and, as the David Shaw is about to proceed direct to Europe, I have to request that Your Excellency would allow Me Fifteen Months Absence from the Colony to enable Me to avail Myself of so favorable an Opportunity as the present. Many important Considerations, both of a public and private Nature, Urge Me to solicit this Indulgence from Your Excellency. Your Excellency is aware how destitute Many of these Settlements are of Religious and Moral Instruction, and also how very distant the Prospect is of any Clergymen coming out to administer to the Edification of the Inhabitants.

At Port Dalrymple there has been no Clergyman stationed there, since the Settlement was established more than thirteen Years ago.

At the Derwent, the Revd. Mr. Knopwood, from Age and Infirmity, is unable to perform the Duties of his Sacred Office. At the Settlement of Newcastle, there is no Clergyman, tho' there are about Seven hundred Souls; and the greatest part of these Men and Women are of the Most abandoned Character and sunk into habitual Idleness, Ignorance, and Vice. The Revd. Mr. Cowper is not equal to the discharge of the Numerous Duties

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15 May.

Alleged motives for Marsden's request.

Proposed increased staff of clergy.

Necessity for schoolmasters.

Application from Rev. S. Marsden for leave of absence.

Deficiency in staff of clergy.

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15 May.

Inability
of clergy to
perform duties.

of his Office from his very Infirm State of Health and the great Population of Sydney, amounting to about Five thousand Souls; The Visiting the Sick, and the Surplice Duties, independent of having to preach three times a Week, are quite sufficient for One Clergyman, provided his Health was good. The Revd. Mr. Cartwright is also often Unwell, and, if he was not, he could not perform the Necessary Clerical Duties at Windsor, and in the other Districts upon the Banks of the Hawkesbury. There are also several other Districts of great extent where the Inhabitants have little or no religious Instruction; nor is it possible for the present Small Number of Clergymen to relieve their Wants in this Respect. The Free Inhabitants in these Districts, who have Families, seriously feel the want of Instruction for themselves and Children; and, if they cannot get that Instruction from the Regular Clergy of the Establishment, they will seek it out of the Established Church, and these Settlements will at no distant period be filled with Dissenters of all Denominations. I know some have already stated their Wants, and applied to their Friends in England for Teachers, who no doubt will see the Importance of Attending to their Applications.

Former
applications for
appointment of
additional
clergy.

During the Administration of this Government under the late Governor King, I was the only Clergyman in these Settlements for about Seven Years. At that time, both Myself and the Governor made repeated Applications for some Clergymen to be sent out, but none were then found willing to come to this Colony. For the last few Years, I have applied for Chaplains, and Your Excellency has done the same, but without Success. From what took place formerly, And since Your Excellency has had the Supreme Command, I think it may fairly be inferred that little hope remains of any Clergymen Coming to these Settlements, unless there is some Person in England upon the Spot, who will take a lively Interest in promoting this important Subject, and by looking out for Proper Persons for these Situations. Sober and Serious Clergymen, before they can be induced to take such a Step as to leave their Native Country and Friends, will make many Inquiries, and must have some Person upon whose Information they can depend to satisfy their Inquiries, before they will venture upon so serious an Undertaking.

Former attempt
to secure clergy.

During the Administration of Governor King, in consequence of no Clergymen coming out, he gave Me leave to Return to England for some Assistant Chaplains. On my Arrival, I made a personal Application to His Majesty's Ministers for the Number then wanted, which was immediately granted, and I was directed to look out for Proper Persons for the Situations; I used My utmost Exertions, but could not get all that were Wanted. The

Very Name of the place was offensive to Many, and others were deterred by the Distance; I fear the same Causes still produce the same Effects, and that, if any were even inclined to come, the Return of the Revd. Mr. Vale would operate powerfully against such an Inclination.

1818.
15 May.

Adverse
influence of
Rev. B. Vale.

I have no doubt but I should obtain some Clerical Assistance, could I once reach England, and lay the great Want of Clergymen before His Grace the Archbishop of Canterbury. The Population is rapidly increasing both in these Settlements and in those on the Southern Island, not only from the Natural Increase of the Children, but from the large Annual Importation of Prisoners and Free People from England and Ireland; so that the Necessity for more Clergymen becomes more urgent every Day.

Prospects of
personal
application.

My Colleagues, being impressed with Similar Feeling to My Own in this Respect, are anxious that I should proceed to Europe by the present Opportunity, should Your Excellency Condescend to Grant the Leave I crave, and have offered to do my Duty in My Absence as far as Circumstances will admit. From the above Statement, Your Excellency will readily admit, I am sure, that these Settlements are in the Utmost want of Six Clergymen at least, One at Hobart Town, One at Port Dalrymple, One at Newcastle, One at Sydney, One at the Banks of the Hawkesbury, and One in the District of Airds, and those Bounding on the upper Banks of the Nepean.

Support of
Marsden's
request by
colonial clergy.

Number of
clergy required.

I beg further to state to Your Excellency that, in Addition to the great Want of Clergymen, Men of good Moral Character and some Education are required for Schoolmasters in the Different Districts, as such Characters are not to be Met with in the Colony. It must be admitted that it is a Consideration of the utmost importance that Men of Sound Principles be appointed to Superintend the Instruction of Youth in these Settlements, and more especially when it is considered from what Degenerate Parents the Children in general Spring.

Necessity for
appointment of
schoolmasters.

I beg further to Mention that My private Affairs require My presence in England for a short time. I have been more than twenty five Years upon this Service, and only Visited My Native Country once, and that about Nine Years ago; since that time some of My Nearest Relations are dead, and those who Survive ardently wish My Return. I trust the above public and private Considerations will Appear to Your Excellency sufficiently strong to justify in Your Excellency's Opinion My present Application, and to induce Your Excellency to comply with My request.

Private reasons
for Marsden's
application.

I have, &c.,

SAMUEL MARSDEN.

1818.
15 May.

[Enclosure No. 2.]

GOVERNOR MACQUARIE TO REVEREND SAMUEL MARSDEN.

Government House, Sydney, 20th April, 1818,

Sir,

Monday Evening.

I have to acknowledge the receipt of your letter of the 17th Inst., soliciting, for reasons therein Assigned, permission to proceed to England in the Ship David Shaw, now about to return thither.

It is with satisfaction I discover by Your Letter that, at least on the two great and important Considerations of religious Instruction and Moral Education, your sentiments coincide with my own, those particular Objects having been at all times Uppermost to My View in my general Arrangements for the Spiritual Welfare and Moral respectability of this remote Settlement.

But Notwithstanding that perhaps *all* has not yet been effected, which could be wished, still when Compared with the Situation you represent the Colony to have been in at the time of your return to England under leave from the late Governor King, it must be admitted that much has been done both in the advancement of Religious Instruction and in the Establishment of Schools.

At the time you refer to, it appears there was but One Clergyman in the whole Territory; Now there are no less than Six, three of whom I have Assigned to the more populous Districts, which were previously destitute of All religious instruction, except such as was occasionally derived from Itinerant and Sectarian Preachers, whose exertions, however meritorious in them, promise little benefit to the Community.

Indeed I am of Opinion with Yourself that, by Instructions so Conveyed, "these Settlements will at no distant period be filled with Dissenters of all Denominations," a consequence much to be deprecated.

With reference to our School Establishments, Altho' they are neither so extensive, nor in all other respects so perfect as could be wished, yet they are also much increased in Number and improved in the Description of their Teachers; and I have much pleasure in being enabled to observe that, in addition to the several public Endowments for disseminating the first principles of Common Education in the Towns of Sydney, Parramatta, Windsor, Liverpool, and Newcastle, in this part of the Territory, and at Hobart Town and Port Dalrymple in Van Diemen's Land, there are several inferior School Establishments at Richmond, Castlereagh, Pitt Town, Wilberforce, &ca., &ca., &ca., where the

Acknowledg-
ment of
Marsden's
application.

Improvement in
religious and
educational
affairs.

Schools
established in
N.S.W. and
Tasmania.

rudiments of Education are given in a tolerably fair and extensive degree. It must be also within your knowledge that for the higher Attainment of Learning We possess Various Classical Schools at Sydney, Castlereagh, &c., independent of the Native Institution for the benefit of the Aborigines, which, I am happy to inform you, is making yet a sure progress towards the Civilizing a Number of the present rising Generation. Notwithstanding, however, this increase in the Number and respectability of Our Schools, they are still inadequate to the great Work of rendering Education co-extensive with the Population, in that Measure and degree that I am anxious to render it.

Thus far, I have confined my Observations to the two leading Objects avowed by you as the principal of the "*Many important Considerations of a public Nature,*" independent of private ones, which urge you to solicit permission to return to England. I have now to observe that, on a dispassionate review of your avowed Motives and Objects, I cannot but differ widely from You in regard to the means by which you purpose to effect the desired Objects, namely, by your own return to England.

In the first place, after having Correctly stated the inadequacy of the present Church Establishment, and strengthened that position by observing on the Ill state of health of three of the present Chaplains, Namely, Mr. Cowper at Sydney, Mr. Cartwright at Windsor, and Mr. Knopwood at Hobart Town, You solicit leave to withdraw yourself also from the Efficient Ministry, whereby the evil, Complained of, must be increased; and at such a time and under such Circumstances, I cannot but consider it an imperious Duty, and One paramount to all others, that You, the Principal Chaplain in the possession of good health, should remain firmly at your post. In order to make this still more obvious, allow me to figure to you the Situation of this Country as to religious Instruction, were the Reverend Gentlemen, whose Ill health makes their Lives so precarious, rendered either by Death or otherwise totally unfit to execute the Duties of their respective Stations, and that such Event should take place at a time when you were absent, then would the Settlements, which you justly Observe require *Six Additional Chaplains*, be reduced to depend on the personal Exertions of Two only. And thus a Duty, which you consider requires the Superintendence of Twelve Clergymen, be left to that of Two, and that for a long indefinite period.

The Argument therefore, urged in favor of your going home, is in My Opinion the Very strongest that could possibly exist against it, and I am convinced that on reflection you will see it in the same point of View, Altho' it seems to have escaped your

1818.
15 May.

Schools
established in
N.S.W. and
Tasmania.

Differences
of opinion.

Necessity for
Rev. S.
Marsden's
presence in
the colony.

1818.
15 May.

Consideration at the Moment of Making your Application; and that under such Circumstances, you would be as reluctant to urge further a Solicitation for a Leave of Absence, as in My General Superintendence of the Spiritual and temporal Welfare of the Colony, I should be to accede to it.

Criticism of
private reasons
advanced by
Marsden.

Living in the Midst of Domestic happiness and Surrounded by a Numerous family looking to you for protection and good Example, I cannot but Consider that your first private Views and regards should be all so directed to their happiness that the anxieties, you would feel during Your Absence from the Most dear ties of Wife and Children, would much more than Counterbalance the satisfaction you might derive from any tributes you might be disposed to pay to the Memories of Your Deceased Relatives; and on that score also, I confess that I feel satisfied you will, on mature reflection, Abandon the request, which I am obliged on public grounds not to accede to in the present incompetent State of Our Clerical Establishment.

Application to
be made for
additional
clergy and
schoolmasters.

I shall avail Myself of the Opportunity of the Ship David Shaw to repeat My former Application to His Majesty's Principal Secretary of State for the Colonies to Select and send out some respectable Clergymen and School Masters by an early Opportunity, and shall urge the necessity for it by all the Arguments in My power. I shall at the same time transmit His Lordship a Copy of Your Letter on this Occasion; And I cannot entertain for an instant any apprehension that the false and insidious reports, which you may apprehend will be Circulated in England by the Revd. Mr. Vale in regard to this Country, will operate so powerfully to its prejudice in opposition to fair and Candid representation, as to prevent respectable Clergymen and School Masters from embracing those Situations in New South Wales, when offered by His Majesty's Principal Secretary of State for the Colonies.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 3.]

REVEREND SAMUEL MARSDEN TO GOVERNOR MACQUARIE.

Sir,

Parramatta, 22nd April, 1818.

Marsden's
regret at
Macquarie's
refusal of leave.

I had the honor to receive Your Excellency's letter in answer to My Application for Leave of Absence for fifteen Months, and feel much regret that Your Excellency should decline at present to grant my Request; I humbly conceive I have, from my long Services of upwards of Twenty five Years, some just Claim to this Indulgence, independent of the urgent necessity there is in My Opinion for my return, as stated in My former Letter to Your Excellency.

In India, the Clergy of the Establishment are allowed to return, if they wish to do so, after a Certain Term of Years upon half Pay, or upon whole, according to the Length of Service; and, in other Parts of the British Empire, similar Indulgences are allowed to the Clergy. Even Missionaries, belonging to the Establishments on Foreign Stations, are permitted to return to their Native Country after Ten Years Service with a Pension of One hundred Pounds per Annum, as Your Excellency knows from the Official Communication of His Royal Highness the Prince Regent. Your Excellency must allow that it would be extremely hard if the Clergy of *these Settlements* were denied the common Privileges of all other Clergy in the Public Service.

1818.
15 May.

Practice adopted for leave of absence to clergy on foreign stations.

I shall think myself unfairly treated if, after suffering All the Privations and Inconveniences of this Colony from its Infancy, if I am constrained to remain in it till some of my Colleagues depart and others are unfit for Service; so as to leave the Burden of these Settlements upon Me, with their increasing Population, at a time when I am so far advanced in life.

Alleged unfair treatment.

The Revd. Mr. Cartwright has informed Me that it is his present Intention to send Mrs. Cartwright to England in the David Shaw. Such Circumstances may happen, as may render it absolutely necessary for Mr. Cartwright to follow her. In that Case, I should have less opportunity than I have at present to Visit England; as Mr. Cartwright has kindly offered to do part of my Duty in My Absence, and the Revd. Mr. Youl the other Part during his Residence in the Colony, I trust Your Excellency will take my long Services, together with the Circumstances I have stated in my former Letter and now state in this, into favorable Consideration and will still be induced to grant the Indulgence I am so anxious to obtain.

Arrangements for fulfilment of Marsden's duties.

I have, &c.,

SAMUEL MARSDEN.

[Enclosure No. 4.]

GOVERNOR MACQUARIE TO REVEREND SAMUEL MARSDEN.

THE Governor, in acknowledging the receipt of Mr. Marsden's letter of Yesterday's Date, sincerely regrets that he should so strongly urge his unreasonable and ill-timed request for leave of Absence to return to England at the present moment and under present Circumstances, when his Clerical Services are so indispensably necessary in the Colony.

Refusal of Marsden's second application.

The Governor is therefore again under the painful necessity of declining to accede to Mr. Marsden's request for Leave of Absence.

Government House, Sydney, 23rd April, 1818.

1818.
15 May.

[Enclosure No. 5.]

REVEREND SAMUEL MARSDEN TO GOVERNOR MACQUARIE.

Sir,

Parramatta, 27th April, 1818.

Disappointment
at refusal of
application.

I have to acknowledge the Receipt of Your Excellency's Letter under date of the 23rd Instant, and feel much disappointed that the Reasons, stated in My former Communications, should not have had sufficient Weight to remove Your Excellency's Objections to My Leave of Absence. Your Excellency may be assured that I would not sacrifice the Happiness, I should enjoy in the Peaceful Society of my Family, expose Myself to the Dangers of the Sea in a Voyage round the World and at my Own expense, at a time when I am advanced in Years, and subject Myself to all the Inconveniences of being on board a Ship for so long a time, unless I was fully convinced that my reasons were amply sufficient and more than sufficient to Warrant Me in taking such a Step, under all the important Considerations, I have stated and which I have long and Maturely Weighed. I feel it an imperious Duty to return to Europe by the present opportunity if possible, and rather than be detained in the Colony under present Prospects, I wish to retire altogether from the Public Service and return Home to resign my Commission to that Authority from whence I received it, tho' I am aware that this would be as great a Sacrifice as I could make in my Situation; yet I deem my Salary of little moment, when taken into Estimate with the Objects in View. My Request for Leave of Absence appears to Me so very just and reasonable that I can only express my Regret that Your Excellency does not accord in the same Sentiment.

Proposal for
resignation.

I can with the fullest Confidence throw Myself upon the Justice and Clemency of the British Government in the present Case, in the Service of which I have spent the Essence of my Life during a period of more than Twenty five Years and in a Society the most abandoned, Vicious and Wicked in the known World, and often under Circumstances of the most distressing and trying Nature, particularly in the Infancy of the Colony.

Anticipated
approval of
authorities in
England.

Should I not be able hereafter to justify My Return to His Grace the Archbishop of Canterbury and to His Majesty's Principal Secretary of State for the Colonies, I must in that Case suffer any Censure or other Punishment my Superiors may deem my Conduct to have merited; whatever their Judgments may be, I shall enjoy the Consolation in My Own breast of having acted according to the dictates of my Own Conscience, and under the fullest Conviction that My Return would tend much more to promote the good of His Majesty's Service and the Temporal and Eternal Interests of the Inhabitants of these Parts of His

Majesty's Dominions, than any loss the Colony would sustain during My Absence. After what I have now stated, I trust Your Excellency will not think me unnecessarily troublesome in once More soliciting Your Excellency to allow Me to quit the Colony under any Circumstances, either in the Public Service or out of the Service, as I am fully resolved to make any Sacrifices however great in Order that I may return to England by the present favorable Opportunity.

I have, &c.,

SAMUEL MARSDEN.

1818.
15 May.

Repetition of
application for
leave of absence.

[Enclosure No. 6.]

SECRETARY CAMPBELL TO REVEREND SAMUEL MARSDEN.

Rev'd. Sir, Secretary's Office, Sydney, 29th April, 1818.

I have it in Command to acknowledge receipt of your letter of the 27th Inst. to His Excellency the Governor and to Convey His reply thereon.

When His Excellency considers on the Mature Attention He had given to your first Application for Leave to Return to England by the Ship David Shaw, and the Pains He had taken to convince you of the very great inconvenience, which would necessarily result in regard to the performance of the Clerical Duties, were you to return at such a time as the present, He fully expected that the reasons, He had then assigned at very considerable length, would have convinced you of the imperious Necessity for Your remaining at your Post, and have induced you to have made a prompt Communication to Him in full acquiescence with His Excellency's reasoning and determination on that Subject.

Disappointment
at Marsden's
repeated
request.

His Excellency now feels much distressed at your Urging a third time a Measure, so fraught with injury to His Majesty's Service, and is Compelled again to repeat in the Most decided Manner his refusal to your returning at this time to Europe on the Grounds of Public Expediency, as stated in Your first and present Letter; and still less can He accede to Your Solicitation, when He finds that Your Motives for wishing to go home, as appears from your Second Letter, are rather of a Private and Personal Nature.

Refusal of
application.

If You should be determined to Solicit Leave to resign Your Situation of Chaplain (which His Excellency hopes on a further Consideration you will not do), He will transmit it with His first Dispatches to His Majesty's Principal Secretary of State for the Colonies, or should you prefer Soliciting a Leave of Absence from the same quarter, He will forward it in like Manner.

Marsden's
applications to
be transmitted
to England.

His Excellency has only further to remark that it does not rest with Him to accept your tender of Resignation, and

1818.
15 May.

Consequently, until it shall be accepted by Government at Home, He will expect your Continuance in the Discharge of the Sacred and important Duties entrusted to you by that Government.

I have, &c.,

J. T. CAMPBELL, Secy.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 5 of 1818," per ship David Shaw; acknowledged by Earl Bathurst, 14th April, 1819.)

Government House, Sydney, N. S. Wales,

My Lord,

15th May, 1818.

Memorial of
D. Wentworth.

1. Herewith I do myself the honor to transmit, for your Lordship's most favorable consideration, a Memorial addressed to your Lordship by D'Arcy Wentworth, Esqre., Principal Surgeon on the Medical Establishment and Superintendent of Police in this Colony, together with Copy of his Letter to my Address on the Subject of his Memorial.

Testimony
in favour of
Wentworth.

2. I should be doing violence to my own feelings, as well as great injustice to the merits and claims of Mr. Wentworth, if I did not embrace the present opportunity of bearing testimony to the indefatigable zeal, vigilance, activity, honor and integrity, uniformly manifested by him in the due execution and faithful discharge of his various important Public Duties during the period of my administration of the Government of this Colony, now upwards of eight years.

3. I have ever found Mr. Wentworth honest, honorable, just and humane in the execution of his various functions, and at all times ready and willing to promote the public Service by every means in his power. He has been extremely active, zealous and useful in his Magisterial Capacity, devoting almost the whole of his time to the Police Department, which is a most arduous and troublesome duty; but which has been very ably conducted under his Superintendence.

The Duties of Treasurer of the Colonial Police Fund are attended with much trouble and responsibility, and have been gratuitously executed by Mr. Wentworth for the last Eight years without any advantage or emolument; and I have no hesitation in saying that he has been very inadequately remunerated for his arduous duties as Superintendent of Police.

Recommendation of
Wentworth for
a pension.

4. Under all these circumstances, I take the liberty of most respectfully recommending Mr. Wentworth to Your Lordship's favorable Protection, and earnestly solicit that your Lordship will be kindly pleased to give the most favorable and indulgent consideration to his claims by bestowing on him an annual pension commensurate with his Rank and long and faithful Services.

5. In Succession to Mr. Wentworth, as Principal Surgeon in the Medical Establishment of this Territory, I beg most respectfully to recommend Mr. Assistant Surgeon William Redfern to be appointed *Principal Surgeon*, as in every respect perfectly competent and well qualified for executing the Duties of that important Office, being a man of very eminent talents, an excellent Scholar, and possessing universal knowledge.

1818.
15 May.

Proposed appointment of Redfern as principal surgeon.

Mr. Redfern is at present only Second Assistant on the Medical Establishment, Mr. James Mileham being the First and Senior Assistant. But this Gentleman, tho' a very worthy good man, is very defective in medical knowledge; he is old and very much affected in his eye-sight, which render him incompetent for the active and important Duties of Principal Surgeon. These are my sole motives for passing over Mr. Mileham and recommending Mr. Redfern, the next Officer in Succession to him, and these reasons I trust will have their due weight with your Lordship.

Reasons for superseding Mileham.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

PRINCIPAL SURGEON WENTWORTH TO GOVERNOR MACQUARIE.

Sir, Head Quarters, Sydney, 5th May, 1818.

I beg leave to submit to Your Excellency a Memorial to the Earl Bathurst, His Majesty's Principal Secretary of State for the Colonies, on which I earnestly request Your Excellency will do me the honor to bestow your kind consideration.

Memorial of D. Wentworth.

Your Excellency will on perusal become acquainted with the Motives, which have induced me to transmit this Memorial; my advanced period of life, my daily increasing Infirmities, and the General very precarious State of my Health were of themselves sufficient motives for the anxiety I feel to retire from Public Life; and I hope that I may fairly State that the devotion, with which I have for twenty eight years past applied myself to the performance of whatever duties were confided to me, give me some claim to expect that my Memorial will receive a favorable reception from His Majesty's Government.

Reasons for retiring.

From your Excellency, I have received too many Proofs of Friendship not to be well convinced that I shall again on this last, but most important occasion, experience another mark of Your Excellency's kindness. The zeal, with which I have devoted myself on all occasions to Your Excellency's Service, Since the Colony has enjoyed the advantage of Your Excellency's Government, will I hope weigh with sufficient influence in your Excellency's Mind to obtain for my Memorial that favorable recommendation, which alone I am satisfied will be sufficient to ensure

Request for Macquarie's support.

1818.
15 May.

its success. I can only say that whatever measure, your Excellency may please to adopt, will be received by me with those feelings of gratitude, which the Protection and favor, Your Excellency has uniformly bestowed upon me, cannot fail to have inspired me with.

I beg leave to have the honor to Subscribe myself with great respect,

Sir, &c.,

D. WENTWORTH, P'l Surgeon.

True Copy:—L. MACQUARIE.

[Enclosure No. 2.]

[*A copy of the memorial will be found in the commentary.**]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 6 of 1818," per ship David Shaw; acknowledged by under secretary Goulburn, 9th April, 1819.)

Government House, Sydney, New South Wales,

16 May.

My Lord,

16th May, 1818.

Lighthouse
erected at
Port Jackson.

The Tower and Light House, the erection of which, as being in progress on the South Head at the Entrance of Port Jackson, I have already announced to your Lordship, being now completed with the Exception of the Lantern, which is now preparing and will be finally in readiness in less than four Months from this date, I have in anticipation of that Event caused its Bearings, Elevation, etc., etc., to be made in the most accurate way by Mr. Oxley, who is at once our Naval and Land Surveyor, in order to its Publication for the Information of all Ships and Vessels resorting in future to this Harbour; And, as the Arrivals from Great Britain are in every point of View the most Important, the Commanders of Ships from thence should of course have the earliest Information on a point meant to contribute in so important a degree to their Safety, and pointing to their destined Anchorage in Sydney Cove.

Description of
lighthouse for
publication.

With this consideration of the Importance of Macquarie Tower and Light House, I now do myself the Honor to transmit your Lordship a correct copy of Mr. Oxley's Description of it and of the letter, with which he accompanied that Description to me under date the 29th Ult.; as the Publicity both of the one and the other may Inspire Confidence, and give Security to Shipping on our coast, I request your Lordship to be pleased to Cause them to be published in the London Gazette.

I have, &c.,

L. MACQUARIE.

* Note 166.

[Enclosure No. 1.]

1818.
16 May.

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir, Sydney, 29th April, 1818.

In Obedience to your Excellency's Commands to ascertain the Position of Macquarie Tower and Light, with respect to the Entrance of Port Jackson Harbour, I beg leave to Submit the enclosed report, which I trust will be found sufficiently explicit to enable Shipping to enter Port Jackson at any Hour of the Night with Safety.

Report on the
Lighthouse.

I have, &c.,

J. OXLEY, Surveyor-Gen'l.

True Copy:—J. T. CAMPBELL, Secy.

[Enclosure No. 2.]

REPORT ON THE MACQUARIE TOWER* AND LIGHT.

MACQUARIE Tower and Light is Situated on the Highest part of the Outer South Head of Port Jackson Harbour in Lat. $33^{\circ} 51' 40''$ So. and Longitude $151^{\circ} 16' 50''$ Est. from Greenwich. The Height of the Light from the Base is 76 Feet, and from thence to the level of the Sea 277 feet, being a total Height of 353 feet. The Inner South Head bears from the Light House, N. by W. $\frac{3}{4}$ West, distance $1\frac{1}{4}$ mile. The Outer North Head bears from it, N. by East 2 Miles. The Inner South Head and Outer North Head lay N.E. $\frac{1}{2}$ E. and S.W. $\frac{1}{2}$ W. of each other, distant $1\frac{1}{10}$ Mile. The Light can be seen from S.B.E. to N.B.E. Those Lines of Bearing clearing the Coast line $\frac{1}{2}$ a point each way, and may be discovered from a Ship's Deck on a clear Night 8 Leagues. The North End of the Sow and Pigs Reef bears from the Inner South Head S.W.B.W. $\frac{1}{2}$ a Mile.

Position and
bearings of
Macquarie
Lighthouse.

N.B.—The Bearings are Magnetic, and the distances computed in Nautic. Miles. The Var'n 9° East.

J. OXLEY, Surveyor-Gen'l.

Sydney, N. S. Wales, 29th April, 1818.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 7 of 1818," per ship David Shaw.)

Government House, Sydney, New South Wales.

My Lord, 16th May, 1818.

I have been Honored with Your Lordship's Circular, dated 6th November, 1817, Communicating the deeply lamented and ever to be deplored Events which on that day took place at Claremont.

Despatch
acknowledged.

Previous to My Receiving Your Lordship's Official Notification, the Afflicting Intelligence had reached this in too Unquestionable a Form to leave any Hope of its being premature; and,

* Note 81.

1818.
16 May.
Reception of
news of death
of H.R.H.
Princess
Charlotte.

in Consequence of it, All Business and Labour was Suspended for the Week, and on the Ensuing Sunday, the 5th Ulto., a Solemn Procession, Consisting of All the Civil and Military Officers and Gentlemen in the deepest Mourning, and I will add in the Most heart felt Distress, took place from the Government House to the Church of St. Phillip, where a suitable and impressive Sermon was delivered on the lamented Event by our Chaplain, the Revd. Mr. Cowper.

Public meeting
of sympathy.

As soon as Your Lordship's Notification had Publicity, an Earnest Entreaty from Several Gentlemen Addressed to Myself induced me to Call a Public Meeting, in order to give the respectable Inhabitants an Opportunity of Expressing their Sentiments in Such Manner as would be most Congenial to their feelings on this Occasion of deep sorrow.

Preparation
of addresses.

The Result of this Meeting has been that an Humble Address to His Royal Highness the Prince Regent and His Serene Highness Prince Leopold were drawn up, and voted with an Unanimity, which bespoke the Prevalence of only one Feeling, and that of the Most Sincere Sympathy and Regret.

If this first occasion of the Loyal and dutiful Inhabitants of the remote region of New South Wales Venturing to Address the Throne be not deemed presumptuous (and that it is designed in Humble Duty and Affection alone, I Can Vouch), nor too distant from the Period, in which Such Addresses May be Considered proper to Meet the Eye of their Royal and Serene Highnesses, whose Afflictions they pray to be considered Partakers in, I request Your Lordship to be pleased to present them at such time as Your Lordship may see fit.

Macquarie as
chairman of
the meeting.

The Momentous Occasion, so far Surpassing All Ordinary Ones, induced me personally to become the Chairman of the Meeting, which took place on the 14th Inst., and the Addresses, Which I have now the Sad and Melancholy Duty of transmitting to Your Lordship, bear My Signature Accordingly.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

Address to
H.R.H. the
Prince Regent.

ADDRESS TO HIS ROYAL HIGHNESS THE PRINCE REGENT.

May it Please Your Royal Highness,

We, His Majesty's Governor, Lieutenant Governor, Judges, Civil and Military Officers, and Other British Inhabitants of New South Wales, Deeply feeling the Heavy Rod with which the Whole Civilized World in either Hemisphere has been Chastened in the premature Death of Her Royal Highness, The Princess

Charlotte Augusta, Humbly Presume to Offer the Assurances of Our Grief, under this Dispensation of the Divine Will, and Our Undiminished Attachment to Your Royal Highness and His Majesty's August Family. And We devoutly Pray to that God, by Whom Kings Reign and Princes Decree Justice, and who is Equally present at the Uttermost Parts of the Sea, that *that* Consolation, which We have not to bestow, but of which We Stand in Need Ourselves, that *that* Peace, which the World Cannot Give, the Peace of God, which passeth All Understanding, May have been poured abundantly into Your Royal Breast, so that the Invaluable Life of Your Royal Highness may be preserved and prolonged to be a Blessing to Great Britain, to the Colonies, and to the Universal World.

1818.
16 May.
Address to
H.R.H. the
Prince Regent.

Signed by Desire of the Meeting,
L. MACQUARIE, Chairman.

[Enclosure No. 2.]

ADDRESS TO HIS SERENE HIGHNESS THE PRINCE LEOPOLD OF
SAXE COBURG.

Address to
H.S.H. the
Prince Leopold.

May it Please Your Serene Highness,

We, His Majesty's Governor, Lieutenant Governor, Judges, Civil and Military Officers, and other British Inhabitants of New South Wales, Beg Leave to address Your Serene Highness upon the Unspeakable Domestic Calamity and the Irreparable Public Loss, with which Your Serene Highness and the Whole Civilized World has been Afflicted in the Death of Your Most Amiable Consort, and the British Nation's Royal Hope and Pride, the Princess Charlotte Augusta, the Flower of the Brunswick Name untimely Cropt, and the Royal Fruit of a Nation's Expectancy frustrate.

We Humbly beg Permission with that Respect, Which is due to Your Serene Highness's Station and Character, and above All to Your Sorrow, now that we trust the first Shock of this Awful Visitation of Divine Providence will have been passed, to Present to Your Serene Highness the Assurances of Our deep Condolence and never Ceasing Gratitude and Veneration, Gratitude for All Your Serene Highness's Love and Protection of the August Child of the Nation, Whose Bereavement the Nation deplores, and Veneration for Your Serene Highness's Talents and Virtues, Whether belonging to Your Character by Birth, or to that by which Your Serene Highness is Connected for ever with the British Nation.

Signed by Desire of the Meeting,
L. MACQUARIE, Chairman.

1818.
16 May.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 8 of 1818," per ship David Shaw.)

Government House, Sydney, New South Wales,

My Lord,

16th May, 1818.

Despatch per
schooner Jeune
Ferdinand.

1. I had last the Honor of Addressing Your Lordship on the 3d of March of the present Year, the Original of that Dispatch having been transmitted by the Schooner Jeune Ferdinand; A Vessel bound for the Mauritius, and the Duplicate by the Ship Friendship via Bengal.

Despatches
acknowledged.

2. Since the Date of the above Dispatch, I have had the Honor to receive Your Lordship's and the Under Secretary of State's Letters, dated as per Margin,* and shall not fail to pay the Most prompt and respectful Attention to their several Contents and Commands.

Arrival of
the ship
Guildford.

3. The Transport Ship Guildford, Commanded by Captn. Magnus Johnson, with 198 Male Convicts on board from Ireland, Arrived in Sydney Cove on the 1st of April last, All in Good Health; Mr. Archibald Hume of the Royal Navy being Surgeon Superintendent of the Ship, and having a Guard of 35 Men of the 48th Regt., Commanded by Lieut. Vincent of the Same Corps, on board.

Arrival of the
ship Batavia.

On the 5th of April, The Transport Ship Batavia, Commanded by Captn. W. B. Lamb, with 218 Male Convicts from England, Anchored in Sydney Cove, All in Good Health; Mr. James Billing of the Royal Navy being Surgeon Superintend't, with a Guard Consisting of Small Detachments of the 34th, 46th, and 48th Regts. under the Command of Lieut. Elgee of the former Corps.

Arrival of the
ships Lady
Castlereagh
and Minerva.

On the 30th of April, the Transport Ships, Lady Castlereagh and Minerva, arrived in Sydney Cove; the former being Commanded by Captn. George Weltden, with 300 Male Convicts from England, All in Good Health, Mr. James Craigie Royal Navy being Surgeon Superintendent with a Guard of 50 Soldiers, Consisting of small Detachments belonging to the 34th, 46th, and 48th Regts. under the Command of Lieut. Brotheridge of the latter Corps, having under him Ensign Lax of the 34th Regt.; and the latter (Ship Minerva) being Commanded by Captn. John Bell, with 160 Male Convicts from Ireland, All in good Health, Mr. Hunter Royal Navy being Surgeon Superintendent, with a Guard of 30 Soldiers of the 48th Regt. under the Command of Captn. Allman of the same Corps, having Lieut't Wilson and Assistant Surgeon Fenton of the 48th Regt. under him.

Arrival of the
ship Neptune.

On the 5th Inst., the Transport Ship Neptune, Commanded by Captn. Robert Carnes, with 170 Male Convicts from England,

* 29 Augt.; 5, 29 Sept.; 18 and 20 Oct.; 6 Novr.; 12, 15 and 16 Decr., 1817.

Anchored in Sydney Cove, All in good Health; Mr. Reid Royal Navy being Surgeon Superintendent, with a Guard of 30 Soldiers of the 48 Regt. under the Command of Lieut't Bunney of the same Corps. This last Ship, having touched at the Cape of Good Hope, received on board there, and brought back to this Colony, Sixteen *Runaway Male Convicts* from Port Jackson, who had Contrived Means, thro' the Connivance of the Sailors, to Stow Away and Secrete themselves on board the Harriet, Merchant Ship of this Port, Which had Sailed direct for England from hence on the 22d of December last; this Ship was diligently Searched for Convict Runaways, before She Sailed from this Port; but it is hardly possible to find these Runaways, when the Sailors are in league with them and Connive at their Concealment on board, few Ships leaving this Port without Carrying off some Convicts of both Sexes in the same way. Every precautionary Measure is adopted to prevent this Criminal Practice in the Masters and Crews of Ships and Vessels trading to this Port; but as Yet All such precautions have proved Ineffectual, and it is remarkable that the Convicts, who have been the Shortest time in the Colony, are always those Who are the Most Anxious to Make their Escape from it.

1818.
16 May.

Runaway
convicts *ex*
ship Harriet.

Precautions
taken to prevent
escape of
convicts.

3. By the different Transport Ships, thus reported to have arrived here lately, Mr. Walter Lawry, Missionary, and Messrs. Wm. Clarke, John Bell, Chas. Windsor, John Jeffs and John Henry Martin, Free Settlers, have Come Passengers, Some of them having Wives and Children.

Arrival of
free settlers.

Both the Free People and Convicts Speak highly of the kind and humane Treatment they Experienced during the Voyage from the Commanders and Surgeon Superintendents of those 5 last Arrived Ships. Those Men, who Came out in the Lady Castlereagh, however appear, as to their Accommodation on board, to have been More Comfortable than any I have ever Seen Arrive in this Colony, and at the same time More Secure from Danger to the Safety of the Ship and Crew, owing to the Very Judicious Manner in which the Prison on board that Ship is fitted up at the Recommendation of and According to a New Plan suggested by Captn. Weltden; Namely, dividing the Prison for the Convicts into three distinct Separate Apartments, which Afford both More Room and More Air to the Unfortunate Prisoners Confined in them. I have Minutely Examined this New Prison on board the Lady Castlereagh suggested by Captn. Weltden; and, as I very highly Approve of its Arrangement, I beg leave most respectfully to recommend it for General Adoption in All Convict Ships to be sent out in future to this Country.

Arrangement
of prison on
ship Lady
Castlereagh.

1818.

16 May.

Impossibility of
absorbing new
convict labour.

4. Your Lordship will Observe that the five last Convict Ships, herein Specified, have All Arrived here within the Short Space of One Calendar Month and five days, bringing No less a Number than One Thousand and forty Six Male Convicts into the Colony in that Short time. The Consequence of so large an Importation of Male Convicts Coming at once into the Colony, and particularly so soon After last Year's Scarcity and the Losses Sustained by the Settlers in General, is that there is no Immediate Employment for so many Hands off the Store by the Settlers, and therefore the Whole or Greater part of those Convicts, Arrived in the last 5 Ships, Must be Clothed and Victualled for Several Months to Come at the Expence of the Crown, and Until the Settlers have so far recovered their recent Losses as to be able to Employ and feed a proportion of those Convicts now left on the Hands of Government.

Convicts sent
to Tasmania.

5. As Government Cannot possibly Employ so many Men in this part of the Territory, and as the Settlers and Public Works now Carrying on in Van Diemen's Land require a Considerable Number of Men, I avail Myself of this Opportunity of Supplying the Wants of the Settlements on that Island by sending thither a proportion of the Male Convicts, recently Arrived; without Landing them here. For this purpose, I have deemed it expedient to Charter the Ships, Lady Castlereagh and Minerva, and to enter into a fresh Agreement with their Commanders to Convey to, and land at the Derwent, their respective Shipments of Convicts, Amounting to about 450 Men between the two Ships, at the rate of two pounds per man Freight from hence to the Derwent, the Government furnishing Provisions for the Voyage; this being the Cheapest Rate of Freight that Could be procured, and there being an absolute Necessity for sending away from hence a large Proportion of the lately arrived Convicts to Van Diemen's Land, I trust the Measure, I have thus adopted, will meet with Your Lordship's Entire Concurrence.

Agreement
for their
conveyance.

Vessels
chartered to
convey troops
to Madras.

6. The Increased Strength of the 48th Regt. enabling Me now to relieve the Detachments of the 46th Regiment Stationed in Van Diemen's Land, I have Chartered the Ship, Lady Castlereagh, and Brig, Grey Hound, to Convey the latter to Madras at the rate of Eight pounds Sterling Passage Money for each Man or Woman, the Government furnishing Provisions. I hope this Measure will also be Approved of by Your Lordship, as No Cheaper Conveyance Could be procured for Conveying those Troops to India, and it being necessary to send them on to Join their Regiments as soon as possible. The Small Detachments of the 34th and 83rd Regiments, lately Arrived here from England

and the Cape of Good Hope, will also be sent on to India at the same time in the Vessels herein Named. After which the only part of the 46th Regt., that will remain in this Territory, is the Detachment at present Stationed at Newcastle, Consisting of a Captain and About Sixty Men, which I hope to be Able to relieve and send to Join their Corps in India in about two Months hence. For the Amount of Freight of the Troops now proceeding to India and Van Diemen's Land, and the Convicts proceeding to the latter Station, I have found it Necessary to Instruct the Deputy Commissary General to Draw Bills on the Lords Commissioners of His Majesty's Treasury, which I have to express my Hopes will be duly Honored.

1818.
16 May.

Detachment of
46th regiment
at Newcastle.

Bills drawn
for freight.

7. With the View to the finding Sufficient Useful Employment for any future large Importations of Male Convicts, that His Majesty's Government may deem it adviseable to send to this Colony, I respectfully Submit for Your Lordship's Consideration and Decision the Expediency, and indeed Necessity there now Appears to Me, of forming a small Establishment and Settlement in *Jervis Bay*, About 75 Miles to the Southward of Port Jackson, there being a very fine secure and Safe Harbour there for Shipping of any Size, with Plenty of Very fine Coal in the Cliffs and Bluffs, and extensive Tracts of good Land fit for either Agriculture or Grazing within a few Miles of the North Side of that Bay and extending from thence Northerly to *Illawarra* or the five Islands; at which last place (about 45 Miles South of Port Jackson and immediately on the Sea Coast) Very large Tracts of fertile and excellent Land have lately been discovered, and some Grants* have already been given there to a few Settlers possessing Numerous Flocks and Herds. If a small Establishment were once formed in *Jervis Bay*, there might then be a Chain of Settlements and Farms Continued from thence, 'till they Joined those already Extended from Port Jackson to *Illawarra*, with Land as well as Water Carriage All the way from Port Jackson to *Jervis Bay*, which Certainly would prove highly beneficial to the Colony and Greatly Augment its Resources, besides furnishing Useful Employment for any Number of Convicts that Could be sent out here for some few Years to Come. I therefore recommend this Measure Strongly to Your Lordship's Most Earnest Consideration and early Decision, Assuring Your Lordship that in the Event of Your Approving of My Farming a Small Establishment at *Jervis Bay*, I shall Observe every possible Economy in Carrying this Measure into Effect Commencing only on a very limited Scale.

Proposed
settlement at
Jervis bay.

Lands granted
at *Illawarra*.

8. Two tolerably good Small Harbours have lately been discovered on the Western Coast of Van Diemen's Land, one being

* Note 167.

1818.
16 May.

Discovery of
Port Davey and
Macquarie
harbour in
Tasmania.

Proposed
settlement at
Macquarie
harbour.

named "Port Davey" and the other "*Macquarie Harbour*"; an excellent Species of Wood, Called the Huon Pine, fit for All purposes, grows in Abundance in Macquarie Harbour, in Which Also is to be found Plenty of Good Coal; the Lieutenant Governor of Van Diemen's Land has therefore lately suggested the Expediency of forming a small Settlement at "*Macquarie Harbour*," for the purpose of supplying the Other Settlements in Van Diemen's Land with Coals and Huon Pine, and as a Place of Banishment and Security for the Worst Description of Convicts; in which latter point of View I am inclined to think it would answer remarkably well indeed, as their Escape from thence would be next to Impossible. Herewith I take the Liberty of transmitting to Your Lordship, for further Information on this Subject, an Extract of a Letter Addressed to Me lately by Lieut. Governor Sorell, and I respectfully beg leave to Submit to Your Lordship's Consideration the Expediency of My being Authorized to Direct Lieut. Governor Sorell to establish a Small Settlement at Macquarie Harbour as soon as practicable. In View to this Measure being hereafter Carried into Effect, I have Already Authorized Lieut. Govr. Sorell to build a small Vessel of about 60 or 70 Tons Burthen at Hobart Town for the Use of Government, there being No Government Vessel of any sort Yet Allowed to be Attached exclusively to the Settlements of Van Diemen's Land; and as that Island is fast Increasing in Wealth Population and Importance, it becomes the more Necessary that One Governm't Vessel should be exclusively Allowed for the Use of those Settlements. I therefore Conclude Your Lordship will approve of my having Sanctioned one to be Immediately built at Hobart Town.

Government
vessel to be
built at Hobart.

Inability
to reduce
expenditure.

9. I am greatly grieved to say that I am as Yet Unable to make any Considerable Reduction in the Public Expenditure of this Colony, owing principally to the Vast Numbers of Convicts, which have been sent out to it within the last two Years, and the Settlers returning to Government some Hundreds of their Convict Servants, whom they Could not Afford to Maintain in Consequence of the Scarcity of Provisions and other serious Distresses occasioned by the Inundations of the Hawkesbury and Nepean Rivers in 1816 and 1817, of which Calamity the Settlers Yet feel the Severe Effects. But they are now recovering from their Distresses, and, if We Are only blessed with two more good Abundant Seasons like the last, the Settlers will once more be in a Comparative State of Affluence and Comfort. In the Mean time, however, they are Unable to take many Convicts off the Store, so that the Expence of Maintaining the latter must for

some little time longer fall principally on Government. I am therefore obliged to employ at present Strong Gangs of Convicts on the several Public Works in progress at Sydney, and in Constructing new and repairing Old Roads in the Interior of the Colony.

1818.
16 May.

10. As one Certain Means of greatly reducing the present very heavy Expences of this Colony, I would strongly but respectfully recommend that no more *poor Settlers* should be permitted to Come out to this Colony *for at least three Years to Come*; these poor Settlers, that Come out *as such*, are in fact the Ruin of the Country, their Sole Dependence being placed on what is termed here "their Indulgences" from Government; for the Moment these Indulgences Cease, they Contrive in some underhand way to Sell their Farms and take to lawless Pursuits, keeping low Public Houses, or becoming Itinerant Merchants Hawkers and Pedlars. If therefore, instead of Allowing those poor Men, decayed Tradesmen and Merchants and idle profligate Adventurers to Come out to this Colony, as Settlers, it were Confined to respectable *Monied Men*, Who Could support themselves, set a good Example of Industry to the other Colonists, and be able each to take Six or Eight Male Convict Servants or Labourers off the Store, the Expences of the Colony would very greatly be reduced thereby, and the Colony itself would rapidly Increase, not only in Wealth, but in Respectability and Importance. I therefore Most Earnestly recommend to Your Lordship to Consider and Adopt this Plan, giving it a fair Trial for at least three Years from the 1st of January next, Allowing No person Whatsoever, After that date, to Come out as a Settler to this Colony, who Cannot produce a satisfactory Proof that he not only possesses, but brings out with him, a Clear Capital of at least *Five Hundred Pounds* to be laid out *in the Colony* in his Agricultural Pursuits; at the same time fully Apprizing such persons, as are thus permitted to Come out *as Settlers*, that they are not to Expect or receive any further Assistance or Indulgence from Government, After their Arrival here, excepting Grants of Land in proportion to their respective Capitals with as many Male Convicts off the Store as they Can Afford to Maintain. If Your Lordship should be pleased to approve of and Adopt this Suggestion, I am Certain it Cannot fail to have the desired Effect of greatly lessening the Public Expenditure, and in the same Degree of adding to the Internal Resources and Respectability of the Colony in every point of View. I find after Eight Years Experience that by far the best and most industrious Class of *poor Settlers* are the *Emancipated Convicts*; and as there will

Proposed
restriction of
immigration.

Type of settlers
required.

Settlers to
possess capital
of £500.

Preference
for settlers from
emancipist
class.

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Always be a Sufficient Number of them disposed to receive Lands and settle permanently in the Colony, there never Can be any Necessity, and I am sure no Public Advantage derived, for allowing any more poor Settlers to Come out at all, the Country already Swarming with such Needy, Idle and profligate People.

General
progress of
the colony.

11. I have much Pleasure in reporting to Your Lordship that perfect Tranquility prevails at present throughout the Colony, and that it is daily Improving in every Respect, Notwithstanding the Depression occasioned by the last Floods; the Public Works, Specified in my former Dispatches both at Sydney and at the other Towns in the Interior, are getting on rapidly, and I hope to be able to Commence building a New Church at Sydney in about 6 Months hence, A Building of this Description, being Essentially Necessary and immediately required. The Whole of the Expence of it, and the other Public Buildings now in progress, will be defrayed from the Colonial Revenue.

Departure of
Oxley to
explore the
Macquarie
river.

12. No Accounts have been received of or from Lieut. King, since he Sailed from hence on his Voyage of Discovery on the 22d of Decr. last. Mr. Oxley, the Surveyor General, as Chief of the Expedition of Discovery* to the Westward of the Blue Mountains, and for tracing the Macquarie River to its Embouchure, set out from hence this Morning to Join his Party, Consisting of 15 persons now at Bathurst, waiting him, and furnished with Six Months Provisions and every other Necessary Equipment for the Expedition; the Result of which, I hope to have it in My power to Make Your Lordship a satisfactory and pleasing Report on in About 6 Months hence.

13. The Ship, at present under Dispatch direct for England, sailing several Days sooner than was expected, I am thereby prevented from transmitting to Your Lordship by this Opportunity the Usual Annual Accounts, Returns and Statements of the Colony; but I shall not fail to forward them by the next Opportunity that Offers, either direct to England or by way of India.

Transmission
of despatch.

14. I have entrusted this Dispatch to the Care of Lieutenant P. H. Mott of the Royal Navy, at present Chief Officer of the private Merchant Ship "David Shaw," which Ship sails from hence in a day or two direct for England; and I respectfully beg Leave to recommend Lieut. Mott to Your Lordship's Kindness, Favor and Protection.

I have, &c.,
L. MACQUARIE.

[Enclosure.]

[A copy of lieutenant-governor Sorell's letter will be found in a volume in series III.]

* Note 168.

GOVERNOR MACQUARIE TO EARL BATHURST.

1818.
18 May.

(Despatch marked "No. 9 of 1818," per ship David Shaw.)

Government House, Sydney, New South Wales,

My Lord,

18th May, 1818.

Early in the month of November, 1817, Mr. Jeremiah O'Flynn* arrived here by Merchant Ship Duke of Wellington, calling himself the Irish Roman Catholic Priest, and representing his Views in this Country to be those of a Popish Missionary under your Lordship's Sanction.

Arrival of
father O'Flynn.

Altho' Mr. O'Flynn could produce no Letter or Document to support the assertion of his being authorized to come here, and my present opinion was that his Story was a fabrication, yet a feeling of Delicacy, towards a person stiling himself "Apostolical Vicar" and "Prelate," rendered me unwilling to let him Know all at once that I discredited him; to which Line of Conduct, I had a further Inducement in his assuring me that he had expected Your Lordship's Authority would have reached me before his own arrival, and that he had then no hesitation in assuring me that it would arrive by the first ship from England. On these grounds, I yielded to his Request to be permitted to remain in the Country until Such first arrival should take place, he having Solemnly pledged his Word that, until his Mission should be regularly announced to me by your Lordship, he would not exercise any of the priestly functions.

No letters of
authorization.Limited
permission
to remain in
the colony.

This Permission, in conformity with the Terms of which it was Solicited, I confined to the period of the first arrival from England, which was, according to his statement, to bring his Credentials.

Several Ships having arrived in Succession without bringing the promised authority, I was led to the conclusion that Mr. O'Flynn's Story was false, and consequently that he was an Impostor. I also discovered that, So far from Keeping his promise of not celebrating Mass before regular authority should arrive, that he was not only busily Employed throughout the Country among the Irish Roman Catholics (with whom it abounds) in preaching and Instructing in Popery, but also in disseminating Principles of resistance to the General Orders of the Colony, and particularly to those which have for their Object the decent Religious observance of the Sabbath; and hereon I considered it necessary to endeavour to repress a conduct at once so much at variance with the Solemn Pledge he had given me, and likely to be so prejudicial to the Community; for which purpose, I conveyed Instructions to him to hold himself in readiness to embark from hence on board the Ship, which had brought him hither, and which was then (after a continuance of some months) about to return to England.

Religious
activities of
O'Flynn.Orders to
O'Flynn to
leave the
colony.

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Neglect of
O'Flynn to
embark on ship
Duke of
Wellington.

This Communication I expected would have met a ready compliance; but instead of that, Mr. O'Flynn retired to some skulking Place in the Country, where he could not be found, and from whence he did not return until after the Ship had Sailed. He then waited on me attempting to apologize for his late Conduct, and at the same time giving me the Strongest assurance that he would Embark by the next occasion for China or Elsewhere, and I, being reluctant to resort to Compulsory measures, again acceded to his wish and trusted to his Honor.

Activities of
O'Flynn.

Some months more having elapsed, during which many Ships had Sailed from hence, and finding that he was not embracing the opportunities they offered, but on the contrary that he was actually making converts among English Protestants, by means of assuring them that he would Cure all their Bodily diseases, which his prayers could only effect by their abjuring their Heresies and becoming Papists. I found likewise that he was tampering with the Soldiers of the 48th Regt., which was represented to me by Lieut. Colonel Erskine; and on these grounds I resolved on returning him to Europe by the present opportunity of the Ship David Shaw, for which purpose I directed him by Letter to hold himself in readiness to Embark in her.

Orders for
O'Flynn's
departure
in the ship
David Shaw.

The Letter, addressed to him on that occasion by my Secretary, received an answer so little Satisfactory, or indeed, Seeming So much to imply an Intention of deceiving me again (as he betook himself to the Country instead of complying with the Terms of that Letter) that I felt there was no other means left for me to get rid of this meddling, ignorant, dangerous character than by Securing his person, if possible. With this View, I gave orders for a Strict Search being made for him, and I am now happy to say it has proved Successful; for on the 15th Instant he was Secured, and is at this time confined to the Jail, where I mean he shall remain until the Ship shall be under weigh, at which time he will be Embarked for England.

Arrest and
confinement
in gaol.

Arrangements
for O'Flynn's
passage.

Notwithstanding that Mr. O'Flynn's manners bespeak a great deficiency in the accomplishments of a Gentleman, yet I have, out of respect for the character he assumed, ordered him a Passage and accommodations with the Ship's Officers, for which I have to pay the Sum of Fifty pounds Sterling in addition to Rations.

Mr. O'Flynn having Stated in one of his Letters that he was well Known to the Bishop of Norwich, and that his Mission was by your Lordship's Authority, I do myself the Honor to transmit herewith two original Letters addressed by him to my Secretary, the orthography and Composition of which will not be very likely to impress your Lordship with any very high Opinion of that

Gentleman's Qualifications for the Priesthood. Your Lordship will also receive Copies of the Letters addressed by my Secretary to Mr. O'Flynn.

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Convinced, from the experience I have had of this Country, that nothing can possibly promote or preserve its internal peace and tranquility So much as uniformity in matters of Religion, I beg leave most Earnestly to recommend that no Sectarian Preacher or Teacher be permitted to come hither.

Necessity for uniformity in religious beliefs.

It may not be altogether amiss to add, in order to point out the more fully the Inexpediency of permitting Popish Priests (especially those from Ireland) exercising any Spiritual Authority in this Colony, that the only Insurrection among the Convicts, which ever took place here, was instigated several years ago by Irish Popish Priests, and it cost in the Suppression of it the lives of 14 or 16 of those deluded, unfortunate people; and that the present Mr. O'Flynn has endeavoured to stir up those of his Communion to Similar outrage, on a late occasion of a Funeral, which was attended in the usual way by that very respectable Chaplain Mr. Cartwright, whom on the occasion Mr. O'Flynn treated with low and vulgar insolence. If it should at any time be considered advisable to sanction the Ministry of Popish Priests in New South Wales, I would beg to suggest that they should be Englishmen of liberal Education and Sound constitutional principles, and that they Should not come hither with any special Authority from the Pope, as Mr. O'Flynn represents himself to have done.

Insurrection caused by priests.

Attempt of O'Flynn to cause a riot.

Indeed, his inter-meddling has been already productive of much trouble, and I have no doubt that the Bigotry he has so zealously infused, even in the course of only Six Months which he has spent here, will not be easily eradicated, or its ill effects Speedily counteracted.

Evil influence of O'Flynn.

In order to secure the more effectually Mr. O'Flynn's Removal by the Ship "David Shaw," I have addressed a Warrant to the Commander of that Vessel, who is also a Master in His Majesty's Navy, charging him with the Care and Security of his Person, a Copy of which I do myself the Honor to transmit to Your Lordship herewith.

Warrant for deportation of O'Flynn.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

REV. JEREMIAH O'FLYNN TO SECRETARY CAMPBELL.

Sir,

The unpleasant Situation, I am placed in here with out his Excellency Sanction, will I hope be Sufficient appology for my intrusion on your precious time. Understanding that the

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O'Flynn's
anticipation of
letters of recom-
mendation.

Ship Harriet Sails for England in a short time, and that no access can be had to his Excellency untill after her departure, This deprives me of being able to Send any Satisfactory answer to Urope; my coming to this Country being publickly Known both in England and Ireland, and very well Known to E. Barthurst through the means of the Lord Bishop of Norrige, his Lordship Uncle, also Sir Henry Parnell having made application to his Majesty's Government for a free Passage and Sallary for Catholic Clergymen in New South Wales, and received as answer that Government would not do anything less than Sanction them in New South Wales in the same manner as they have been throughout his Majesty Dominions. This letter I expect every day with my trunks from Cork, and which I hope will be a Sufficient document, as I don't Know any Prelate in the British Dominions, having any written document from Government. I was not a ware of any such thing being wanted in this Collony; however as I am writing home to the Secretary of State and his Uncle the Bishop of Norrige, to whome I have the Honor of being personolly acquainted, also the Bishops of England and Ireland, who will lose no time in laying this Mission before the Government, and I hope obtain every Sanction and protection. Therefore I hope his Excellency will have no objection to my officiating until an answer is received from Urope, otherwise if it should be the wish of his Excellency that I should depart the Collony that I should get timely notice, as it is my wish to go to Goa, and from thence to China, awaiting your answer.

I have, &c.,

JEREMIAH O'FLYNN, V. Ap.

[Enclosure No. 2.]

SECRETARY CAMPBELL TO REV. JEREMIAH O'FLYNN.

Revd. Sir,

Secretary's Office, 28 Novr., 1817.

I was yesterday favored with a letter bearing your signature, but without date, on the Subject of your Arrival in this Country in the character of a Roman Catholic Missionary, &c.

Having availed myself of the earliest opportunity to lay your letter before His Excellency the Governor, I have it in Command to inform you that His Excellency, not having received any Instructions from His Majesty's Government respecting the Establishment of a Roman Catholic Mission in New South Wales, cannot by any means accede to your Solicitation to be allowed to celebrate the Service of the Church of Rome at this place; and as His Excellency has no reason whatever to Suppose that Such a Mission will be Sanctioned by the British Government, I am directed to inform you that your residence in this country cannot be permitted.

Request for
permission to
remain in the
colony.

Refusal of
O'Flynn's
request.

You will therefore have it in your power, agreeably to the wish expressed in your letter, to embark for Goa or China by the earliest opportunity, not deferring your removal beyond the period of the Sailing of the Ship by which you arrived here.

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I have, &c.,
J. T. CAMPBELL, Secy.

[Enclosure No. 3.]

SECRETARY CAMPBELL TO REV. JEREMIAH O'FLYNN.

Sir, Secretary's Office, 30th Jany., 1818.

Referring to the Communication I had it in Command from His Excellency the Governor, on the 28th Novr. last, to make to you on the necessity for your leaving this Colony by the Ship, by which you had then lately arrived in it, I have it now in command to inform you that the Ship alluded to, namely, The Duke of Wellington, is to leave this on the day after to-morrow (viz. Sunday the 1st of February) and you are to embark on her accordingly, no Authority having reached his Excellency from the Right Honorable the Secretary of State, either by the Ship in which you arrived or by any of those Since arrived, for your fixing your Residence here, either as a Roman Catholic Missionary Priest, or as a Settler, altho' you represented that in the first Character you would have been licensed by Authority, which has not been realized.

Orders for
embarkation of
O'Flynn on
ship Duke of
Wellington.

I am, &c.,

J. T. CAMPBELL, Secy.

[Enclosure No. 4.]

SECRETARY CAMPBELL TO REV. JEREMIAH O'FLYNN.

Revd. Sir, Secretary's Office, 5th May, 1818.

I have it in Command to inform you that, as there is a Ship (the David Shaw) about to Sail direct from hence for England on or about the 15th Instant, His Excellency the Governor will require and expect of you that you hold yourself in readiness to embark by that opportunity, His Excellency not having received any of those Instructions from His Majesty's Ministers respecting your residing in this country as a Roman Catholic Clergyman, which you have stated would be sent out long before this time.

Orders for
departure of
O'Flynn on ship
David Shaw.

In reminding you of the promise you gave His Excellency in regard to your quitting the Colony by the first opportunity direct for England, I have also to advert to the circumstance of your omitting the opportunity of the Vessel's departure, by which you had arrived, notwithstanding His Excellency's Instructions on that Head, and from hence I am instructed to inform you that your embracing the present opportunity must on your part be

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guaranteed by good Security, to be immediately entered into, otherwise measures will be resorted to, whereby effect will be given to His Excellency's Instructions herein.

It is hoped your ready Compliance at this time will Supersede the Necessity for any further measure being adopted to secure your departure.

I am, &c.,

J. T. CAMPBELL, Secy.

[Enclosure No. 5.]

REV. JEREMIAH O'FLYNN TO SECRETARY CAMPBELL.

Dear Sir,

Swan Hill, 5th May, 1818.

Acknowledg-
ment of letter.

I take the earliest opportunity of answering your letter, commanding me to hold myself in readiness for the David Shaw, I beg leave to acquaint you that I will hold myself in readiness, but having no means, as a British Subject the Governor is to provide me with a passage, I am on my way to Windsor for a few days, and won't return to Sidney before Sunday unless required by his Excellency.

Dear Sir,

Your very obt. H. Sert.,

JEREMIAH O'FLYNN.

[Enclosure No. 6.]

WARRANT FOR THE DEPORTATION OF REV. JEREMIAH O'FLYNN.

Warrant for
deportation of
Jeremiah
O'Flynn.

By His Excellency Lachlan Macquarie, Esquire, &c., &c. WHEREAS Mr. Jeremiah O'Flynn has been for some months past exercising the functions of a Popish Priest within this Territory, in violation of the Instructions given to him on that head, in breach of his own Solemn Promise, and in contravention of the Public Orders and religious Establishment of this Government,

And Whereas it has become expedient that the Said Mr. Jeremiah O'Flynn should be removed from hence as soon as possible, this is therefore my Warrant and Authority to you, the Commander of the Ship David Shaw, to receive the Body of the said Mr. Jeremiah O'Flynn from the custody of the Jailer and Chief Constable of Sydney, and him safely Keep and give a passage to on board your Said Ship to England. And you are hereby strictly charged on no account whatever to permit him, the Said Jeremiah O'Flynn, to return on Shore, or to escape from on board your said Vessel until your arrival in England, as you will answer for the Same to His Majesty's Secretary of State for the Colonies.

Given under my hand at Government House, Sydney, this
19th day of May, 1818.

L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

1818.
18 May.

(Despatch marked "No. 10 of 1818," per ship David Shaw.)

Government House, Sydney, New South Wales,

My Lord,

18th May, 1818.

I do myself the honor to transmit herewith a demand made by Mr. Oxley, the Surveyor General, for Sundry Instruments and Stationary, which he represents, in his letter which accompanied it, as being necessary to the Service of his Department. I also transmit a Copy of Mr. Oxley's letter on this occasion, which fully assures me of his demand being a necessary one; I have given my Signature of approval thereto, and have only to add my request that Your Lordship will give orders for its being furnished by an early opportunity.

I have, &c.,

L. MACQUARIE.

[Enclosure No. 1.]

A LIST of Instruments &c. wanted for the Service of the Surveyor General's Office, New South Wales.

One Standard Scale with Lipons Beam Compasses. Three Triangular Compasses. Two Elliptical Sector and Beam Compasses in one. Six improved Circumferentors, large Size, Space, Needles and brass Covers over the Glass. Three Sets of Plotting Scales. One Best Sextant with Brass stand and Counterpoise and Artificial Horizon in same case. One best Sextant single. Six Mountain Barometers on the best and latest construction. Two Common Barometers with Thermometers attached. Six best Thermometers. Two Perambulators. Two Artificial Horizons. Twelve Chains Two best Circular Protractors with rack work. One best Spirit Level with Telescope and Stares. Six Dozen Memorandum Books. Stationary of Sorts. Half a ream of Antiquarian Paper for large Plans.

Sydney, 15th May, 1818.

J. OXLEY, Surveyor-Gen'l.

App'd:—L. MACQUARIE.

[Enclosure No. 2.]

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

Sir,

Sydney, 15th May, 1818.

I beg leave to enclose for your Excellency's approval a List of Instruments, &c., necessary for the Service of this Department, being to replace Instruments damaged and worn out on Service, and also in lieu of those Supplied His Majesty's Coll Cutter Mermaid, employed on the Survey of the West Coast.

I have, &c.,

J. OXLEY, Surveyor-General.

1818.
18 May.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per ship David Shaw; acknowledged by under secretary Goulburn, 31st March, 1819.)

Government House, Sydney, N. S. Wales,

My Dear Sir,

18th May, 1818.

I cannot allow the present opportunity to escape me without giving you a Short private letter to condole with you most Sincerely on the calamitous and most afflicting dispensation of Divine Providence with which the British Empire, and every individual belonging to it, has been visited by the premature, unexpected, and ever to be lamented Death of the all-amiable, good and greatly beloved Princess Charlotte, the Hope and Pride of the British People!

This fatal and Heartrending intelligence reached us here on the first of April, and overwhelmed every British Bosom with the deepest sorrow and affliction, and was too strongly manifested to admit a doubt of the Sincerity of the mourners, every one considering it, not only the greatest possible National Calamity that could happen, but also an irreparable Personal loss. Tho' Exiles and so remote from the Mother Country, the Inhabitants of this Colony are not deficient in either Loyalty or the Common Sympathies of Nature, and the most unequivocal proofs were given by them of these Sentiments on this most melancholy occasion. As I think it cannot fail of proving acceptable to you to be made acquainted with the Measures adopted here to manifest our grief and sorrow for our beloved Princess, I take the liberty of forwarding to you, herewith for your perusal and information, four *Sydney Gazettes* which contain the Accounts* of the Steps that were deemed necessary to be adopted here on this for ever to be lamented event; and I fondly hope we shall not be considered as having overstepped the bounds of propriety and decorum on this occasion, or to have done more nor less than our Duty on this distressing occasion.

As my public Dispatches by this conveyance fully details the present state and affairs of the Colony, I need not obtrude on you here with any repetition of them. Suffice it therefore to say every thing is quiet and tranquil in the Colony, which continues in a progressive state of improvement.

I have, &c.,

L. MACQUARIE.

[A despatch from England, dated 29th May, 1818, was acknowledged by Governor Macquarie on 24th March, 1819. A copy is not available.]

* Note 169.

Expressions of
regret re death
of H.R.H.
Princess
Charlotte.

Reception of
the news in
the colony.

GOVERNOR MACQUARIE TO EARL BATHURST.

1818.
30 May.

(Despatch marked "No. 11 of 1818," per ship Lady Castlereagh.)

Government House, Sydney, New South Wales,

My Lord,

30th May, 1818.

The very unusual circumstance of so large a number of men as 300 arriving here from England in Such perfect Health, as those by the Ship Lady Castlereagh, which I have already noticed in my General Dispatch No. 8* of the present year, could not fail to induce me to attribute it to Some peculiar care and attention shewn to them on the Passage, and in this I have much Pleasure in reporting that I have not been deceived; for I have learned that the Commander, Captn. Weltden, treated them with every humane and considerate attention, and that the Surgeon Superintendent Mr. Craigie was in like manner careful of their Health and comforts. But I have reason to believe that the System of arrangement in the Ship's Prison Room, which Captain Weltden had proposed and got carried into effect previous to his Sailing, also contributed in a very great degree to this desirable object.

Arrival of convicts per ship Lady Castlereagh.

Attention paid to health of convicts.

New system of prison arrangement.

With this impression, I feel it my Duty to make your Lordship acquainted with it, and hope thereby to Secure your Lordship's adoption of it for the Health and Comfort of future Embarkation of Convicts.

Commendation of the new system.

Captain Weltden having mentioned to me that he had proposed an arrangement for the fitting up of his Ship for the reception of the Convicts on a Plan which he considered an improvement of much importance, I deemed it worthy of attention and went on board to have a personal View of it. On Inspection, I found it to consist chiefly in the Subdividing of the Prison into three Parts, each Separate from the other by open iron railing, whereby the current of air was not impeded in any material Degree, and the Persons of the Convicts were better Secured than by the dark and gloomy bulk heads of heavy Timber, which had been heretofore in use in Prison Ships.

Inspection of the ship by Macquarie.

The additional expence, which will be incurred by the Adoption of His Plan, will, I am convinced, appear of very trifling consequence when your Lordship takes into consideration the Benefits arising from it. Captn. Weltden having also Suggested that Some further Improvements might be made for the Comfort of the Prisoners which occurred to him on the Passage, I have recommended to him to Submit his whole Plan of arrangement to the Commissioners of the Navy Board on his arrival in England.

Further improvements suggested.

1818.
30 May.

Having formed a very high opinion of Captn. Weltden's good Sense and Humanity, I beg leave to recommend him to your Lordship's Kind favour and good offices.

I have, &c.,
L. MACQUARIE.

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 12 of 1818," per ship Lady Castlereagh.)

Government House, Sydney, New South Wales,

My Lord, 30th May, 1818.

Availing myself of the Capacious accommodations of the Ship Lady Castlereagh (late Convict Transport) now about to return by way of India to England, and of the very obliging manner in which Captn. Weltden, her Commander, offered to take charge of them, I have shipped several Cabins, Tubs and Cases of the most admired rare and choice Flowers, Shrubs and Plants of this Country, which, under the Authority* conveyed to me from your Lordship respecting those for the Emperor of Austria, I have addressed to your Lordship.

The Articles now Sent are:—

For the Queen.—2 Plant Cabins (Nos. 1 and 2) containing various Shrubs and Plants, 1 Tub of Gigantic Lillies, and 1 Tub of Norfolk Pine Plants;

For the Emperor of Austria.—2 Plant Cabins (Nos. 1 and 2) containing various Shrubs and Plants, 1 Tub of Gigantic Lillies, and 1 Tub of Norfolk Pine Plants;

For Prince Leopold.—2 Plant Cabins (Nos. 1 and 2) containing various Shrubs and Plants, 1 Tub of Gigantic Lillies, 1 Case of Rock Lillies, and 1 Tub of Norfolk Pine Plants.

The accompanying Lists will inform Your Lordship of the names and numbers of the Several Plants, Shrubs and Flowers, contained in the Packages, meant respectively for the Queen, the Emperor of Austria and Prince Leopold.

I have on this occasion ventured to address a Proportion of these curious Productions to the Queen, and request that your Lordship will have the goodness to Present my Dutiful Respects therewith to Her Majesty.

Those for Prince Leopold I have been anxious to render acceptable, having learned from Colonel Addenbrooke that His Serene Highness wished to possess some of our most rare and choice Productions in this Kind.

In order to secure the safe arrival of these Flowers, Shrubs, and Plants, I have Selected a Person named Alexander Colley, who is conversant with their mode of Treatment, to whom I have on this occasion given a Free Pardon, He having a short period

Shipment of
plants and
shrubs per
ship Lady
Castlereagh.

Free pardon
for gardener in
charge of
plants.

of his Sentence of Transportation unexpired; but being not only intelligent as to the manner of treating Plants, but also of good conduct, I hope your Lordship will approve of the Indulgence thus extended to him. I have also provided him with a Free Passage, the better to secure his care and attention.

1818.
30 May.

I have, &c.,

L. MACQUARIE.

[Enclosures.]

[Copies of these descriptive lists of plants and shrubs will be found in a volume in series VI.]

GOVERNOR MACQUARIE TO EARL BATHURST.

(Despatch marked "No. 13 of 1818," per ship Neptune.)

Government House, Sydney, New South Wales,

My Lord,

6th June, 1818.

6 June.

I now do myself the Honor to transmit the Duplicates of those Dispatches, I had the Honor of Addressing to Your Lordship by the Ship David Shaw, which sailed direct for England on the 20th Ult.

Duplicates
of despatches
transmitted.

Since that Period, I have also addressed two short Dispatches to your Lordship by the Ship Lady Castlereagh, which sailed on the 4th Inst.; One of them was in recommendation of the Plan of Arrangement on board that Ship for the Accommodation of the Convicts, who arrived by her; The other was informing your Lordship of my having sent a Variety of Shrubs and Plants by the Lady Castlereagh to your Lordship's Address for the Queen, the Emperor of Austria and Prince Leopold. The Duplicates I need not trouble your Lordship with as they refer to Matters, which can be of interest only by the arrival of the Ship, by which the originals have been sent.

Despatches per
ship Lady
Castlereagh.

The Duplicates by the present occasion I have given in charge of Mr. Thomas Reid, Surgeon in the Royal Navy and late Surgeon Superintendent of Convicts per the Ship Neptune, who proceeds by her for England via Batavia.

Mr. Reid, having taken singular pains in reforming the manners of the unfortunate People, he had in Charge as Surgeon Superintendent, by Inculcating Religious Principles into them, and even instructing Several of the Youths among them so far as to enable them to read the Scriptures, has shown a goodness of Heart and Disposition meriting of every commendation, and I feel that I am doing an Act, which your Lordship will approve, when I take the Liberty of recommending such a man as Mr. Reid to Your Lordship's kind Favour and Protection.

Testimony in
favour of
Thomas Reid.

I have, &c.,

L. MACQUARIE.

1818.
— June.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

June, 1818.

[A copy of this despatch is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship General Stewart.)

12 June.

Sir, Downing Street, 12th June, 1818.

Recommendation of Panton as settler and for colonial appointment.

This Letter will be delivered to you by Mr. Panton, who has received Lord Bathurst's permission to proceed as a Settler to New South Wales, and to whom you will therefore be pleased to make on his arrival a Grant of Land proportionate to his means of cultivating it. As Mr. Panton has been particularly recommended to Lord Bathurst by Mr. Baron Adam, his Lordship desires me to express a hope that you will find an opportunity of conferring on Mr. Panton some appointment of moderate Value, which you may consider him well qualified to hold.

I have, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 2, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

3 July.

Sir, Downing Street, 3d July, 1818.

Refusal of request for stationery for use of Judge-advocate.

I have the honor to acknowledge the Receipt of your Dispatch of the 3d April, 1817, transmitting an application from Mr. Wylde to have his Office supplied with Stationery from the Government Stores; but, as I am not aware of any Colony in which an Allowance for Stationery is made to any Officer holding a corresponding Situation with that of Mr. Wylde, I do not feel that I could accede to his request without giving rise to similar applications on behalf of many Public Offices in other Colonies, whose Correspondence is no less extended than that of The Judge Advocate of the Colony of New South Wales.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 3, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir, Downing Street, 3d July, 1818.

Approval of proposed dietary scale for hospital.

I have the Honor to acknowledge your Dispatch No. 5, dated 1st April, 1817, relative to the proposed Alterations in the Establishment of the General Hospital for Medical Cure at

Sydney, as far as regards the Diet of the Patients admitted therein, and I have to acquaint you in reply that, as it appears that the plan which you have recommended will be more conducive to the health of the Patients and is also less expensive than that already in force, I have no hesitation in giving the Adoption of it the Sanction which you have solicited.

1818.
3 July.
Approval of
proposed
dietary scale
for hospital.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 4, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir,

Downing Street, 4th July, 1818.

4 July.

Having transmitted for the Information of the Commissioners of the Navy your Dispatch of the 1st April, 1817, relative to the line of Conduct, which you had adopted in regard to the payment of Ninety five Pounds to the Surgeons of Convict Ships for defraying the Expences of their Passage Home to this Country, I herewith transmit to you the Copy of a Letter, which has been received in reply, stating that provided there should not be any opportunity of Forwarding the Surgeons of the respective Vessels home by a King's Ship, it will be necessary for you to furnish them with a Certificate to that Effect, upon the production of which, upon their return Home, The Commissioners of the Navy Board will give directions that the Sum of Fifty Pounds shall be issued to them for providing their own Passage home; I am therefore to desire that in all future Cases you will adopt the recommendation of the Commissioners as suggested in the enclosed Letter.

System to
be adopted for
return passages
for surgeons
of transport
ships.

I have, &c.,

BATHURST.

[Enclosure.]

THE NAVY OFFICE TO UNDER SECRETARY GOULBURN.

Sir,

Navy Office, 22d May, 1818.

We have received your letter of the 12th instant, enclosing a copy of a letter from Governor Macquarie in justification of his conduct in not victualling Dr. Arnold, late Surgeon of the Northampton, Convict Ship, during his stay at New South Wales, and in refusing to comply with his application for a passage home, and also stating the line of conduct he has observed, since the receipt of a dispatch from Earl Bathurst, as to the Victualling of Surgeons of Convicts Ships and granting to them allowances for their passages to this country; and we request that you will inform his Lordship that we consider the sum of Ninety five pounds, which Governor Macquarie intends to pay to each of

1818.
4 July.

System to
be adopted for
return passages
for surgeons
of transport
ships.

the Surgeons, as Passage Money home from that Colony, to be too great an allowance for that purpose, and that we have informed each of the Surgeons, that have lately proceeded in Convict Ships to New South Wales, that, if the Governor cannot provide them with a passage home, we will allow them on their return £50 for providing their own conveyance to England; we therefore recommend that Governor Macquarie may be instructed to grant to the Surgeons of Convict Ships, on their application to him for a passage home, a Certificate of their having so done and of his being unable to comply with their request, provided that there should be no King's Ship at the time at the Colony destined for England, in which they could be accommodated; on the production of which Certificate by the respective Surgeons, and their proving to us that they did not return to this country in a King's Ship, the sum of £50 will be paid to them by this Board for providing their own passage.

We are, &c.,

R. TEPPIINGS.
J. D. THOMSON.
J. BOWEN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Hadlow; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir,

Downing Street, 4th July, 1818.

I am directed by Lord Bathurst to enclose to you the Copy of a letter which has been addressed to him by Mr. Gore, Provost Marshall of New South Wales, praying for compensation for the losses which he has sustained during his residence in the Colony; I also enclose a Copy of the answer, which has been returned to his application, and I am to desire that in case Mr. Gore should not be already in possession of a Grant of Land proportioned to his means of Cultivation, that, in consideration of his long Services, you will allot to him a Grant accordingly.

I am, &c.,

HENRY GOULBURN.

[Enclosure No. 1.]

PROVOST-MARSHAL GORE TO EARL BATHURST.

My Lord, Sydney, New South Wales, 17th December, 1817.

Impelled by urgent Necessity, I humbly Venture to submit a Brief Statement of my case to your Lordship's humane Consideration, confident should it be in your Lordship's power to afford me any adequate compensation for the Losses, I have sustained in this Colony, that your Lordship will most willingly do so.

Claim for
compensation
by W. Gore.

I beg leave most respectfully to inform your Lordship that, recommended by the Earl of Harrington to My Lord Castle-reagh, then Secretary of State for the Colonies, I was appointed by His Majesty's Commission, bearing date the 1st of August, 1805, Provost Marshal of the Settlements in this Territory, and that I took upon me the Duties of the Appointment on the 6th of August, 1806; from the exercise of which I was however (under circumstances of aggravated and extreme cruelty) Suspended in January, 1808, for 2 years by the persons, who had at that time usurped this Government; but to which I was again restored by Governor Macquarie, on His Excellency assuming the Government of the Colony in January, 1810; and I was Subsequently obliged to proceed to England in the Month of May in the same year, as an Evidence on the part of the Crown against the late Lieutenant Colonel Johnston; from whence I returned in May, 1812; and after my return to this Country, I resumed the Duties of my Office, which I continued to discharge, till the then Court of Civil Jurisdiction had been suspended by Ellis Bent, Esquire, late Judge Advocate, in consequence of his having declined to give a Qualified permission to such Attorneys to practice in his Court, as were sent here under Sentence of the Law; and that from the same cause and Motives all proceedings in the Supreme Court of Civil Judicature having been in like manner Suspended by Jeffrey Hart Bent, Esquire, late Judge thereof, from the Month of July, 1814, untill May, 1817; it will appear to your Lordship that during a period of 12 years, I have held the Commission of Provost Marshal, to which a Salary almost nominal of Five shillings a day is attached; I have not for Seven years and an half of that time derived any other Emolument from my appointment than the five shillings per Diem. Permit me therefore, My Lord, to entertain the Humble Hope that in as much as my Arbitrary Suspension by the late Lieutenant Colonel Johnston, my Subsequent Voyage to England as a Witness on his Trial, and the Suspension by the late Judges of all proceedings in the Courts of Law have neither been the Act, nor the result of any misconduct on my part, and that I have been on all the foregoing occasions the unoffending and passive Victim of individuals who exercised a temporary resistance and opposition to the Measures of the existing Government of the Colony. And in as much as I had during the proceeding period of Illegal Suspension from my Office, of my absence in England as an Evidence, and the Interruption and Suspension of the Courts of Law, to contend against the innumerable difficulties that a Person is exposed to, who is a Stranger in a Country, remote from friends and Relatives, in which I had not only to sustain a becoming

1818.
4 July.

Appointment
of Gore as
provost-
marshal.

Suspension
after arrest of
Bligh.

Reinstatement
by Macquarie.

Suspension of
courts of
justice.

Salary of
provost-
marshal.

Loss of
emoluments
by suspension
of duties.

1818.
4 July.

Request for
compensation.

Rank, but likewise to maintain and Educate a family of Seven Infant Children, which necessarily obliged me to incur expences and embarrassments. Allow me, My Lord, to entreat Your Lordship to take my most distressing case into your humane Consideration, and to Authorize and recommend to His Excellency the Governor in Chief, to whom I appeal for the Truth of the foregoing Statement, to Grant me such reasonable relief and remuneration from the Police fund of the Colony, as he may consider the various privations and continued heavy Losses, I have been subjected to, may entitle me to.

I have, &c.,

WM. GORE,

P.-M. to the Settlements in H.M.'s Territory of N. S. Wales.

[Enclosure No. 2.]

UNDER SECRETARY GOULBURN TO MR. WILLIAM GORE.

Sir, Downing Street, 2d July, 1818.

Refusal of
pecuniary
remuneration.

I am directed by Earl Bathurst to acknowledge the receipt of your letter of the 17th December, 1817, applying for compensation for the Losses you have sustained during your residence in New South Wales; and I am to acquaint you that, although from the peculiar circumstances, which have occurred during that period, you have been excluded from the enjoyment of certain Emoluments incidental to your Situation, yet, as you have been during the whole time in the regular Receipt of the Salary attached to the Office, his Lordship cannot consider you as entitled to the pecuniary Remuneration which you solicit. In consideration however of your long Services in the Colony, Lord Bathurst has directed Governor Macquarie to make to you such a Grant of Land, as may be proportioned to your means of Cultivation, provided the Governor shall have reason to be satisfied with your Conduct, and that you shall not be already in the possession of such a Grant as your Services appear to entitle you to hold.

I have, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 5, per ship Hadlow; acknowledged by Governor Macquarie, 22nd March, 1819.)

5 July.

Sir, Downing Street, 5th July, 1818.

Lemon juice
and bottles
delivered to
surgeon from
convict ships.

A Communication having been made to this Department by The Commissioners of the Victualling Board, stating that on passing the Accounts of Mr. W. L. Moncrieff, Master of the Shipley Convict Ship, it appeared that Seven Hundred and Twenty Pounds of Lemon Juice, contained in 450 Bottles and

packed in 25 Cases, were delivered to Mr. D'Arcy Wentworth, Surgeon General at New South Wales, on the 25th May, 1817, and also that Mr. Lewis Evan Williams, Master of the Sir W. Bensley, Convict Ship, had taken credit in his account for Eight Cases containing 144 Empty Lemon Juice Bottles, delivered to Mr. D'Arcy Wentworth on the 29th March, 1817; I am now to desire that you will call upon Mr. Wentworth accordingly to account for the said Lemon Juice, the Bottles, and the Cases delivered to him from the above mentioned Vessels, and also for any other Stores appertaining to the Victualling Department, which he may have received, or may in future receive from Convict Ships or other Vessels.

1818.
5 July.

Lemon juice
and bottles
delivered to
surgeon from
convict ships.

I have, &c.,

BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Hadlow; acknowledged by Governor Macquarie to Earl Bathurst, 22nd March, 1819.)

Sir, Downing Street, 9th July, 1818.

9 July.

Various Applications having been made to this Department respecting the fate of Charles Simpson, who was convicted of Felony at the Nottingham Assizes in the Year and was transported in the *Indefatigable* in the Year 1812, I am directed by Lord Bathurst to desire that you will make the necessary Enquiry, and report to me respecting him, as his Name does not appear in the General Return lately arrived.

Report to be
made re
Charles
Simpson.

I am, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Hadlow; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 10th July, 1818.

10 July.

A Native of Otaheite,* who was brought to this Country in the Kangaroo by Capt. Jefferies, having a desire to return to New South Wales as he has no means of Subsistence in this Country, I am directed by Lord Bathurst to acquaint you that a Passage has been accordingly provided for him on board the *Hadlow*, and I am to request you will take the earliest opportunity of any Ship, that may be likely to touch at Otaheite, of forwarding this Person to his own Country.

Return
of a native to
Otaheite.

I am, &c.,

HENRY GOULBURN.

* *Marginal note.*—John Topy, the bearer of this Letter.

1818.
13 July.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Hadlow; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 13th July, 1818.

As the Shipley, Convict Vessel, has been engaged to convey back to this Country the different Detachments of the 84th Regiment, which have proceeded to New South Wales on board the Vessels named in the Margin,* I am directed by Lord Bathurst to desire (in compliance with a wish expressed by the Commissioners of the Navy to that Effect) that you will provide the respective Surgeons and Superintendants of those Vessels with Passages home on board the Shipley, as well as any other Naval Surgeons, who may be waiting for passages to this Country, provided there is room on board the Vessel.

I am, &c.,

HENRY GOULBURN.

Ship Shipley engaged for transport of troops.

Passages to be provided for surgeons.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Shipley; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

14 July.

Sir, Downing Street, 14th July, 1818.

I herewith transmit to you by the direction of Earl Bathurst the Assignment of One Hundred and Fifty Male Convicts, Shipped on board the Shipley for the Colony of New South Wales.

I am, &c.,

HENRY GOULBURN.

Assignment of convicts per ship Shipley,

and per ships Morley and General Stewart.

[*Similar letters covering the assignments, which are not available, of one hundred and sixty-four male convicts on the ship Morley, and of two hundred and fifty male convicts on the ship General Stewart, bearing the same date, were transmitted by the respective ships.*]

EARL BATHURST TO GOVERNOR MACQUARIE.
(Despatch No. 6, per ship Hadlow; acknowledged by Governor Macquarie, 22nd March, 1819.)

20 July.

Sir, Downing Street, 20th July, 1818.

I have herewith the honor of transmitting to you the Copy of a letter from Mr. Hobhouse to Mr. Goulburn of the 25th May last, enclosing one from The Judge Advocate General relative to the Case of Two Prisoners, vizt. Gunner George Pinkerton of the Royal Artillery, and Private William Connaghton of the 72d Regiment, who were sent out as Convicts from the Cape of Good Hope, by the Authority of Lord Charles Somerset, under Sentence of Court Martial held at that Settlement; and I am to

Pardons to be granted to Pinkerton and Connaghton.

* Gen. Stewart, Tyne, Earl St. Vincent, Morley, Shipley.

desire that you will, under all the circumstances of the Case, grant a Pardon to the Prisoners in question, and that they may be provided with a Conveyance to The Cape of Good Hope, if they should be disposed to leave the Colony of New South Wales.

1818.
20 July.

Pardons to be granted to Pinkerton and Connaghton.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

UNDER SECRETARY HOBHOUSE TO UNDER SECRETARY GOULBURN.

Sir,

Whitehall, 25th May, 1818.

I am directed by Lord Sidmouth to transmit to You the inclosed Copy of a Letter, which his Lordship has received from the Judge Advocate General, respecting two Prisoners, vizt. Gunner George Pinkerton of the Royal Artillery and Private William Connaghton of the 72d Regiment, who have been sent as Convicts to New South Wales under Sentences of Courts Martial, held at the Cape of Good Hope by the Authority of the Governor, Lord Charles Somerset, Commanding His Majesty's Forces at that Settlement; and I am to desire that You will lay the said Letter before Lord Bathurst, and move his Lordship to be pleased to issue Instructions to the Governor of New South Wales to Grant a Pardon to the Prisoners in question, and that they may be provided with a Conveyance to the Cape of Good Hope, if they should be disposed to leave the Colony of New South Wales.

I am, &c.,

H. HOBHOUSE.

[Enclosure No. 2.]

UNDER SECRETARY BECKETT TO LORD SIDMOUTH.

My Lord,

Downing Street, 21 May, 1818.

I have the honor to request Your Lordship's interference with respect to two Prisoners, vizt. Gunner George Pinkerton of the Royal Artillery and Private William Connaghton of the 72d Regiment, who have been sent as Convicts to New South Wales under Sentences of Courts Martial, held at the Cape of Good Hope by the authority of the Governor, Lord Charles Somerset, Commanding His Majesty's Forces at that Settlement.

On referring to the Proceedings in these two Cases, it appears that the Sentences in both were passed by the Court and Confirmed and carried into Effect by his Lordship, under a misapprehension of the Law; I would therefore submit to Your Lordship that the Prisoners in Question should receive a Pardon, and that Directions should be given to the Governor of New South Wales to provide a Conveyance for them back to the Cape of Good Hope, if they should be desirous of returning thither.

Reasons for requesting pardons.

I have, &c.,

J. BECKETT.

1818.
21 July.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 7, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir, Downing Street, 21st July, 1818.

Having directed that the necessary Communication should be made to The Lords Commissioners of the Admiralty on the subject of your Dispatch No. 6 of the 1st April, 1817, respecting the Manufacture of The New Zealand Hemp into Cordage or Sail Cloth, I have now the Honor to enclose to you the Copy of a letter, which has been received in reply from Mr. Barrow, containing the result of various Experiments, which have been made of the actual and Comparative Strength of the Article in question.

I have, &c.,

BATHURST.

[Enclosure No. 1.]

SECRETARY BARROW TO UNDER SECRETARY GOULBURN.

Sir, Admiralty Office, 22nd June, 1818.

With reference to your Letter of the 7th Ultimo, with its Enclosures on the Subject of Manufacturing New Zealand Flax or Hemp into Cordage or Sail-Cloth, accompanied by Specimens of the Cordage and Flax in question, I am Commanded by My Lords Commissioners of the Admiralty to transmit to you herewith, for Lord Bathurst's Information, a Copy of a Report from the Navy Board, dated the 19th Inst. with its Enclosures, containing the result of Experiments, which have been made of the actual and comparative Strength of the Said Flax or Hemp; by which it will be seen that the New Zealand Article is weaker than the Riga and Chili Hemp, nearly in the proportion of one Third.

I am, &c.,

JOHN BARROW.

[Enclosure No. 2.]

THE NAVY BOARD TO SECRETARY CROKER.

Sir, Navy Office, 19th June, 1818.

We duly received Mr. Barrow's Letter of the 18th Ultimo, accompanied by Copies of Letters from Mr. Goulburn and Governor Macquarie, and of a Memorial from Mr. Robert Williams, a Rope Maker at Sydney, on the Subject of manufacturing the New Zealand Flax or Hemp into Cordage and Sail Cloth for Exportation to this Country, together with Specimens of the Cordage and Flax in question.

In consequence of the directions of the Lords Commissioners of the Admiralty, contained in Mr. Barrow's Letter, we sent the Paper and Specimens to Commissioner Sir Robert Barlow, and desired him to cause experiments to be made on the strength of

Reports of experiments on the strength of New Zealand hemp.

the Articles, compared with Cordage of the Same Sizes manufactured in the Rope Yard at Chatham, and report his opinion of the quality and character of the New Zealand Hemp; and the Commissioner having with his letter of the 13th Inst. transmitted to us a Report of the Rope Yard Officers, containing a Table, which shews the result of the Experiments, which he has caused to be made (and at most of which he was present) on the actual and comparative strength of the New Zealand Flax or Hemp and of Riga and Chili Hemp, We transmit, to be laid before their Lordships, a Copy of that Report, by which it will be seen that the New Zealand Article is weaker than the Riga and Chili Hemp nearly in the proportion of one third.

The Commissioner has stated that he concurs with the Officers in their observations on its quality and character.

We are, &c.,
T. TUCKER.
E. BOUVERIE.
E. STEWART.

[Enclosure No. 3.]

MESSRS. HAITE AND FENWICK TO SIR ROBERT BARLOW.

Sir, Chatham Rope Yard, 10th June, 1818.

Agreeably to your directions of the 26th Ultimo to make trial of the comparative strength of the Specimens of Line, Twine and Yarn, manufactured from New Zealand Hemp or Flax, against similar sizes of those Articles, made from Riga and Chili Hemp; and to report to you the results, with our opinion of the quality and character of the New Zealand Hemp, We beg to state that We have tried their strength by suspension, and the following are the results of the triall, vizt:—

	New Zealand.			Riga.			Chili.		
	Cwt. qr. lb.			Cwt. qr. lb.			Cwt. qr. lb.		
No. 1. Lines Hawser, laid 3 Strands, suspended in the clear, broke with	12	3	15	18	1	15	18	2	1
No. 2. Lines Cable, laid 3 Strands	2	3	12	3	1	16	3	2	20
No. 3. Lines Hawser laid 4 Strands with a Heart	5	0	16	7	0	9	7	0	17
No. 8. Single thread Yarn, three twisted together into Twine	0	0	6	none	made		0	0	11
No. 9. Twine three thread coarse	0	1	20	0	2	3	0	2	10
No. 10. Twine two thread coarse	0	0	23	0	1	11	0	1	1
No. 11. Twine two Do.	0	0	19	0	0	25	0	1	4
No. 12. Twine 2 do. fine	0	0	21	0	0	27	0	1	0

It will therefore appear that the Lines and Twine from New Zealand Hemp bore little more than two thirds the weight of those made from Riga and Chili Hemp.

The Specimens of Hemp are too small for us to form a correct judgment as to their fitness for Cordage; they appear much worked down for fine uses; and none has been transmitted in a rough state, clean from the Stems or Reeds, to enable us

1818.
21 July.
—
Reports of experiments on the strength of New Zealand hemp.

1818.
21 July.

Reports of
experiments on
the strength
of New Zealand
hemp.

to ascertain its length, natural fibre and produce, when worked down; however, the Memorialist states its growth from two to six feet and even by the Sea Side 10 feet; the latter we would remark is the most likely to produce Hemp fit for Cordage; it is certainly flexible and fit for fine uses, and might be manufactured into Canvass. We have tarred a small piece, and it appears to imbibe Tar equally as well as Russian Hemp.

We are, &c.,

J. M. HAITE. W. FENWICK.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 8, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

22 July.

Sir,

Downing Street, 22d July, 1818.

Legal opinion
re jurisdiction
of courts in
New South
Wales.

I have the honor to transmit to you the Copy of a Report, which has been received from His Majesty's Attorney and Solicitor General, in reply to a Case which was referred for their opinion relative to the necessity of those persons, who might sue or be sued, being resident in New South Wales at least at the Commencement of the Action; also relative to the power of Convicts to sue or be sued in the Courts there under the General Terms of the present Charter of Justice, and I am to request that you will cause the same to be communicated for the Information of The Judge Advocate and Judge of the Supreme Court accordingly.

I have, &c.,

BATHURST.

[Enclosure.]

MESSRS. SHEPHERD AND GIFFORD TO EARL BATHURST.

My Lord,

Serjeant's Inn, 13th May, 1818.

We have had the honor to receive Your Lordship's letter of the 4th May, transmitting to Us the Copy of a Letter, which has been addressed to Your Lordship's Under Secretary by the Judge Advocate and Judge of the Supreme Court of the Colony of New South Wales, enclosing a case for consideration, vizt. Whether by the present Charter of Justice, under which the Courts of Civil Jurisdiction are established in the Colony, any person can sue or be sued therein, unless he be resident within the Territory or its Dependencies, at least at the commencement of the Action; as also whether Convict Prisoners, even though in the employ of Government, cannot sue and be sued in the Courts there under the general terms of the Legal Charter, and your Lordship is pleased to request that we will take the same into consideration and report on the cases in question.

We have the honor to report to Your Lordship that, by the present Charter of Justice under which the Courts of Civil

Cases
submitted for
consideration.

Jurisdiction are established in the Colony, it is necessary that the person sued should be resident within the Territory or its dependencies at the commencement of the suit. But we do not think it is necessary that the party suing, as Plaintiff, should be so resident, the restriction with respect to residence not applying to them, and the provisions of the statute 54 Geo. 3rd c. 15 fortify us in this opinion. We think that prisoners convicted of felony, even tho' in the employ of Government, cannot sue in the Courts of the Colony; for, tho' the words of the Charter are general "any person or persons," yet we think they must be taken to mean any person or persons capable of suing, and felons convict are not so capable; but tho' they cannot be Plaintiff in a suit, they may be sued as Defendants, since they cannot take advantage of their own disability.

We have, &c.,

S. SHEPHERD. R. GIFFORD.

1818.
22 July.

Necessity for residence of defendants, but not of plaintiffs.

Convicts ineligible as plaintiffs.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

22nd July, 1818.

[A copy of this despatch is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 9, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir,

Downing Street, 24th July, 1818.

24 July.

Upon the receipt of your dispatches of the 15th May and of 3d and 5th June, 1817, I did not fail to make an immediate communication to The Lords Commissioners of the Admiralty With respect to the Conduct of Lieutenant Jefferies of the Kangaroo, in order that their Lordships might take the necessary Measures for bringing that Officer to Punishment for his insubordinate, irregular, and in every respect culpable Conduct. As there were legal Impediments to bringing this Officer to a Court Martial, Their Lordships were prepared, upon the case stated by you and Governor Snell, to remove him from the List of Lieutenants of the Navy. I was however subsequently induced to recommend to their Lordships a more lenient course, in consideration of Lieutenant Jefferies having furnished to His Majesty's Government the means of prosecuting with Success their Claims upon Mr. Blaxcell, who died upon his Passage home, and whose Effects would, but for the Interference of Mr. Jefferies, have been lost to the Public. I have therefore intimated to Their Lordships that in consequence of the Services rendered by Mr. Jefferies, I am not disposed to press his Punishment with any degree of Severity.

Consideration of reports re conduct of C. Jefferies.

Services rendered in prosecuting claims on estate of G. Blaxcell.

1818.
24 July.

After the Conduct pursued by Lieutenant Jefferies in the Colony, I have thought it incumbent upon me, both for your satisfaction and to prevent any misunderstanding, which might arise from his remaining unpunished, to state to you distinctly the only grounds upon which Lenity has been extended to him.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 10, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir,

Downing Street, 24th July, 1818.

I have had the Honor of receiving your Dispatch No. 14 and No. 31,* in which you detail some further proceedings of Mr. Moore in the Colony, and the reasons which have induced you to suspend a Compliance with the Instructions which I conveyed to you in my Dispatch No. 91* for his being reinstated in the Situation of Solicitor to the Colony.

Considering the extreme Impropriety of his Conduct in having affixed to a Petition to The House of Commons the name of a Person without his Authority or Consent, and regarding this Offence as more particularly deserving Animadversion in a person of his Profession, I have no difficulty in approving the Discretion which you have exercised with respect to his Case and in confirming his Removal from the Office of Solicitor.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 11, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir,

Downing Street, 24th July, 1818.

I have had the honor of receiving your Dispatch No. 17 of the 3d April, 1817, with respect to the course you had adopted relative to the Grant of Land to Lieutenant Colonel Davy, and I have to approve of your having declined to allot to him in the first instance a larger Grant than Two Thousand Acres. If I had been aware that Colonel Davy had already received Land to the Extent of Three Thousand Acres, I should not have so readily acquiesced in the wish of his Friends that an Allotment of Five Thousand Acres should be made to him, which, from the manner in which it was disposed, was naturally considered by them as independent of what had been formerly given to him. Under all the circumstances of the Case, however, I do not see any Objection, if it is the Intention of Colonel Davy to continue to reside in the Colony, to making to him an Additional Grant of One Thousand Acres, besides the Five Thousand already allotted,

* Note 171.

Approval of
Macquarie's
action re
W. H. Moore.

Dismissal of
Moore from
office.

The question of
land grants to
Thomas Davey.

explaining to him at the same time that the Loss, which he sustained in consequence of the Capture of the Emu, is the only ground upon which this Indulgence is given to him.

I have, &c.,

BATHURST.

1818.
24 July.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 12, per ship Hadlow; acknowledged by Governor Macquarie, 22nd March, 1819.)

Sir, Downing Street, 24th July, 1818.

I have the honor to transmit to you herewith the Copy of a Letter from Viscount Sidmouth respecting the Free Pardon of Thomas Messling and of Richard Rose at the Expiration of Seven Years of their Sentences, and I am to desire that you will take the necessary Measures accordingly for complying with the request contained in his Lordship's Letter, provided the Conduct of the Prisoners, during their Stay in New South Wales, shall have been such as to merit this Gracious Act of His Royal Highness The Prince Regent's Mercy.

Free pardons
proposed for
Messling and
Rose.

I have, &c.,

BATHURST.

[Enclosure.]

LORD SIDMOUTH TO EARL BATHURST.

My Lord, Whitehall, 14th July, 1818.

Application having been made to me in favor of Thomas Messling, who was convicted at the Summer Assizes, 1813, holden for the County of Norfolk, of receiving Stolen Goods, and who was sent to New South Wales in the Ship Indefatigable, and also in favor of Richard Rose, who was convicted at Winchester in March, 1813, of aiding the Escape of French Prisoners of War, and in pursuance of his Sentence was Transported in the Ship, Earl Spencer, I have to request that your Lordship will communicate to the Governor of New South Wales my wish that the Prisoners in question should receive Free Pardon at the expiration of Seven Years of their Sentences, provided that they have conducted themselves during the whole time of their Residence in the Colony in an exemplary and proper manner.

I have, &c.,

SIDMOUTH.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 13, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir, Downing Street, 24th July, 1818.

Having had occasion to observe the great Expence, which has been incurred in New South Wales from the Practice, which has heretofore prevailed in making to Civil and Military Officers

1818.
24 July.

Land grants and
indulgences
to civil and
military officers
to be
discontinued.

on their Arrival in the Colony liberal Grants of Land with proportionate Indulgences in Government Men on the Stores and Cattle on long Credits, and considering that the Continuance of such practice in the present improved State of the Colony is not only an unnecessary expence but detrimental to the Public Service in other respects, I have to signify to you The Pleasure of His Royal Highness The Prince Regent that the practice of granting Lands and other Indulgences to Civil and Military Officers should be altogether discontinued. In acting upon this Instruction, however, you will not consider yourself precluded from making Grants of Land to such Meritorious Civil or Military Officers, as may retire from the Service for the purpose of becoming Settlers in the Colony; but you will be careful not to extend to them any other Indulgence than those allowed to Ordinary Settlers under the established Regulations.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 14, per ship Hadlow; acknowledged by Governor Macquarie, 24th March, 1819.)

26 July.

Sir, Downing Street, 26th July, 1818.

I have had the honor of receiving your Dispatch No. 30 of the Year 1817.

Explanation of
censure passed
on Macquarie *re*
court martial
on Vale.

You appear so entirely to have misunderstood the Tenor of my Dispatch to which it professes to be a reply, that I cannot avoid distinctly bringing before you the grounds upon which I felt it my duty to censure your line of Conduct with respect to Mr. Vale; it was not in any degree my Intention to approve, nor indeed did the dispatch convey my approbation of Mr. Vale's Proceedings; I certainly considered them to be unbecoming his Clerical Character, and as such to deserve animadversion; but the Question was not whether Mr. Vale had acted properly or improperly, but whether the course pursued by you for investigating his Conduct was one which the Laws permitted you to adopt. Upon a point of this Nature, I of course deferred to the opinion of those who are the Law Servants of the Crown, but finding their opinion to be that the Trial of Mr. Vale by Court Martial, upon the Charges preferred against him, was altogether contrary to Law, it was impossible for me not to pronounce your Conduct in so trying him illegal. I am sure that you cannot but admit that the presumable Guilt of any Individual affords no Justification for adopting towards him any course of proceeding other than what the Law prescribes; and I feel so confident that

you will allow also, that violations of the Laws, whatever be their Object, can never add Strength to a Government or increase its Influence; Had Mr. Vale in the Instance in question been legally amenable to a Court Martial, I should have had nothing to object to his being put Upon his Trial before it; but having ascertained that the Law did not admit of his being so tried, I could not in fairness conceal from you that you had acted illegally, and having acted illegally, it was equally impossible for me to express, on this instance, that approbation of your Conduct, which I have so often had the Gratification of conveying to You.

1818.
26 July.
Explanation of
censure passed
on Macquarie *re*
court martial
on Vale.

I have, &c.,
BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Hadlow; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 1st August, 1818.

1 Aug.

I am directed by Lord Bathurst to transmit to you here- with the Assignment of One Hundred and Fifty Male Convicts shipped on board the Hadlow for the Colony of New South Wales.

Assignment
of convicts *per*
ship Hadlow.

I am, &c.,
HENRY GOULBURN.

[Enclosure.]

[*A copy of the assignment of convicts is not available.*]

There were two despatches, dated 4th and 14th August, from England to Governor Macquarie, which were acknowledged on the 24th of March, 1819. Copies of these are not available.

GOVERNOR MACQUARIE TO UNDER SECRETARY GOULBURN.

(Despatch per ship Mary.)

Government House, Sydney, N. S. Wales,

My dear Sir, 16th Aug., 1818.

16 Aug.

I last did myself the honor of writing you early in June by the circuitous route of India per Doctr. Reid of the late Male Convict Ship Neptune, which sailed from hence for Calcutta on the 10th of that Month. Since then nothing worthy of Notice has occurred in this Country excepting the return of Lieut. King of the R. Navy, in the Mermaid Cutter, from his Survey of the Western and North West Coast of Australia,* which took place on the 29th of last Month. I have now the Honor to forward to you herewith a Letter from Lieut. King to Your own Address, and another addressed to the Secretary to the Board of Admiralty.

Return of
lieutenant
P. King.

* Note 84.

1818.
16 Aug.

Reports made
by Lieutenant
King.

I learn from Lieut. King that he has made no discovery of any importance, although his Survey extended to the Northward, as far as Ten Degrees South, and within about Thirty miles of the Gulph of Carpentaria. I also learn from him that he did not fall in with or hear any tidings of the French Expedition, fitted out in Old France some time since for exploring the Coasts of this Continent. For other particulars, I beg leave to refer you to Lieut. King's own Letter.* I have much pleasure in stating that only one Man of Lieut. King's Crew died during the Voyage, and that the rest arrived here, all in good Health, with the exception of one man now under Medical care in Hospital.

Progress report
from John Oxley
on his
expedition.

Having detached two Men with Mr. Oxley's Expedition for about 125 Miles on his Route from the Point of his final departure from the Depot,† formed in the Wellington Valley (which is 100 Miles west of Bathurst), for the purpose of being returned by him with a Report of his Progress so far, I have now much pleasure in forwarding, to you for your own and Earl Bathurst's information, a Copy of Mr. Oxley's Report to me, dated the 20th of June, transmitted to me by the two men above alluded to, and received by me here on the 10th of last month. Since which time no accounts have been received of, and from Mr. Oxley's Report, as it is so full and clear in itself, Greatly fear, however, that from the circumstance of the *Macquarie River* continuing to flow so long in a North Westerly direction (about 250 Miles from Bathurst), there is little prospect of its changing its direction, so as to reach the Ocean on the Eastern Coast of Australia, and that the probability is that it will finally discharge itself into some Inland Sea or Great Lake.

Speculations
re Macquarie
river.

If however it should alter its course farther on, so as ultimately to reach the Sea on the Eastern Coast, it must become then a River of great magnitude and prove a most important acquisition not only to this Colony, but also to the British Nation. At all Events, Mr. Oxley's present Expedition, combined with his former and Lieut. King's Nautical Survey, must add considerably to the Stock of Geographical Knowledge of Australia.

I have, &c.,

L. MACQUARIE.

Arrivals of
convict ships.

P.S.—Sydney 16th Augt. 1818. The long expected and looked for Convict Ship *Tottenham* has not yet arrived here, nor has any Convict Ship arrived here, either from England or Ireland, since the 31st of April last; The *Lady Castlereagh* and *Minerva*, Male Convict Ships, which arrived here both on that Day, the former from England and the latter from Ireland, being the last and latest arrivals from either of those Countries. L.M.

* Note 172. † Note 168.

[Enclosure.]

1818.
16 Aug.

SURVEYOR-GENERAL OXLEY TO GOVERNOR MACQUARIE.

On the Macquarie River, 20th June, 1818,

Sir, Lat. $31^{\circ} 49' 37''$ So. Long. $147^{\circ} 52'$ Et.

The Expedition* having proceeded down the River upwards of 125 Miles from Wellington Valley, I thought it adviseable that the two men, who accompanied us for that purpose, should return to Sydney with an account of our Proceedings hitherto in obedience to Your Excellency's Instructions.

Progress report
on expedition.

Our progress from Wellington Valley, which we finally quitted on the 6th Inst., has been generally through as fine a Country as can reasonably be conceived, the South Bank of the River being equally rich and beautiful. Until the 13th of June, the Country North and N.E. of us was broken into gentle Irregular Hills with good Vallies well watered, and the River received an accession of two Small Streams from those Quarters, named respectively Erskine and Taylor's Rivulets; for the last 40 miles, the Country has been nearly a perfect level of excellent quality, generally dry and free from the highest River floods. The Timber also was extremely good, far better indeed than any I had previously seen west of the Blue Mountains.

Description
of country
traversed.

The River has in no particular disappointed the Expectations, I had formed of its permanency and magnitude; altho' I was in hopes that its course would have been more northerly, which would have enabled it to receive such waters as flow westerly from the high lands, which are known to be to the East of us. As long as the Course of the River continues N. Westerly through a level Country, of course no reasonable expectation can be formed of receiving any water from the Eastward. There are however two small Streams crossed in the former Journey yet to join it from the Southward.

The Macquarie
river.

No two Rivers can be more dissimilar than the "Macquarie" and the "Lachlan," whether the nature of the Country, thro' which they respectively run or the Rivers themselves be considered; the Macquarie, independent of being twice as large, receives a constant and permanent Supply from a Multitude of Springs and Water Courses, and as yet its waters have continued whole and undiminished. The Lachlan, on the contrary deriving its existence from Rains, was constantly dissipating its waters over low and marshy Land, of which we have seen not the slightest appearance in the neighbourhood of the Macquarie. However painful it would be to find myself ultimately deceived in expectations, which I cannot but consider rationally grounded, I would rather hazard the Mortification, I should feel in that case, and give it as my firm conviction that from all present

Comparison of
the Macquarie
and Lachlan
rivers.

* Note 168.

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16 Aug.

appearances the Macquarie will either terminate on some part of the coast or flow into an Interior Sea, than that its waters will be found both lost and wasted in a manner similar to those of the Lachlan.

Indications
of minerals.

Many parts of the Country, we have passed through, had every indication of containing Minerals, particularly Iron. On the Banks of the River, we found a considerable Strata of Saponaceous Earth resembling in its qualities *Fuller's Earth*. I beg leave to send your Excellency a small sample of it, trusting it will on examination be found of the same nature.

Health of the
expedition.

With the exception of Thos. Thatcher, Private in the 48th Regt., who had his left arm seriously lacerated by the bursting of his Musquet, when firing it as a Signal to the Boats, we have met with no accidents, and the whole party are in perfect Health.

Commendation
of Thatcher
and Hall.

Thatcher and Hall, the two men who accompanied me from Bathurst, have conducted themselves in the most satisfactory manner, and made no difficulties or objections to the distance they were taken, tho' somewhat above 250 miles on the whole, and I respectfully beg to recommend them to Your Excellency.

Chart and
diary.

I enclose for your Excellency's Information a Sketch of the Course of the Macquarie from Bathurst, including a part of our Track on the last Expedition, and also a Copy of my Diary, to which I beg to refer your Excellency for the more minute Detail of our Observations and Proceedings.

I beg your Excellency will be assured that, to the Extent of our means, no Exertions will be wanting to carry into full Effect the Design and Object of the Expedition, and sincerely hoping that the final result of it will be Satisfactory to your Excellency and interesting and useful to the Colony.

I have, &c.,

J. OXLEY, Surv'r-General.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 15, per ship *Globe*; acknowledged by Governor Macquarie, 24th March, 1819.)

19 Aug.

Sir,

Downing Street, 19th August, 1818.

I have reserved, for a separate Communication, my reply to those Dispatches,* which refer to the Expedition dispatched into the Interior under the Command of Lieutenant Oxley.

Approval of
expedition under
John Oxley.

I did not fail indeed to submit to The Prince Regent all that was connected with this important Subject, and I have much Satisfaction in conveying to you His Royal Highness's Entire Approbation of the manner, in which the Expedition was prepared and in which it was conducted, reflecting equal credit upon the local Authorities and upon the Talents and Zeal of Lieutenant Oxley, and of the Officers and others who accompanied him.

* Note 173.

His Royal Highness has been pleased entirely to approve of the Remuneration, which you propose to make to Mr. Oxley of Two Hundred Pounds and to Mr. Evans of One Hundred Pounds; but it appears further adviseable to His Royal Highness that the Sum of Fifty Pounds should be given to Mr. Cunningham, and to Messrs. Parr and Fraser, the Sum of Twenty five Pounds each, as an acknowledgement of their Exertions and of their Attentive discharge of the Duties, which were assigned to them; and also that some small Donation should be made to each of the Men, whose Conduct may have been approved by Mr. Oxley, as a mark of Approbation with which their Perseverance and Subordination under Difficulties of no ordinary Kind is viewed by His Royal Highness.

1818.
19 Aug.
Monetary grants to be made to members of expedition.

I entirely approve of the permission, which you have given to Mr. Oxley to publish his Journal, and I have directed My Under Secretary to communicate with Mr. Murray, the Publisher, and to afford every Assistance which may render the Work, when published, more acceptable to the Public.

Publication of Oxley's journal.

If the Result of this Expedition disappointed the Hopes which had been entertained with respect to The Lachlan River and the Fertility of the Country through which it flows, it has on the other hand given rise to new Expectations that the River Macquarie, flowing, as far as it has yet been discovered, through a Country of superior Fertility and with a Character very different from the Lachlan, may lead to the Sea.

Speculations re Macquarie river.

It would be undoubtedly important that this point should be clearly ascertained; and from the circumstances detailed in Mr. Oxley's Journal, I am led to believe that to follow the course of the Macquarie would not be attended with any material Difficulty; I cannot avoid recommending this as a fit Object of another Expedition, and I most willingly leave it to you to make such arrangements with a view to it, as you may consider most effectual to secure its early Attainment.

Proposed expedition to the Macquarie river.

If Mr. Oxley and his former Companions can be again induced to embark in it, I feel that it will afford the best hopes of a satisfactory Result; but if not, I trust to your Discretion and Zeal to make such a Selection of Individuals, as may be most for the Interest of the Service and for the credit of the Colony.

I cannot conclude my Dispatch upon this subject without expressing how entirely The Prince Regent has been pleased to approve of your exertions in forwarding Lieutenant King upon his voyage of Discovery, and of furnishing him with the means of conducting it to a successful Termination.

Approval of equipment of King's expedition.

I have, &c.,

BATHURST.

1818.
24 Aug.

EARL BATHURST TO GOVERNOR MACQUARIE.
(Despatch No. 16. per ship *Globe*; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir, Downing Street, 24th August, 1818.

Despatches
acknowledged.

I have received and submitted to The Prince Regent your several Dispatches of the Dates and Numbers specified in the Margin.*

Approval of
Macquarie's
relief of
distressed
settlers.

His Royal Highness has not failed to derive considerable satisfaction from the Assurances, which you have thought yourself warranted in conveying, of the Peace, Tranquillity and Progressive Improvement of the Colony placed under your Administration; His Royal Highness deeply deplores the Loss sustained by the late serious Inundations; but great as that Loss has been, His Royal Highness feels that it must be satisfactory to you to have, by means of the prudent Measures adopted at an earlier period of making Settlements on the high Grounds, afforded a Security against the Extent of its Ravages, and thus saved the Colony from the Horrors of a Famine. Under a Calamity, which though limited in extent, is of so serious a Nature, His Royal Highness is sensible that it was impossible for you to withhold all pecuniary Assistance from the Sufferers; but, as in many Cases the Loss sustained by them has arisen from their own imprudence alone, you will be careful that the Assistance given be merely for the Relief of their present distress, and not in any Degree as an Indemnification for Losses sustained. I should also be desirous of ascertaining whether the Stores issued were distributed gratuitously, or only, as I trust has been generally the case, at reduced Prices suited to the circumstances of the parties who received them.

Arrival of
Wylde and
Field.

I was most happy to learn the safe arrival in the Colony of Mr. Wylde and Mr. Barron Field, and the commencement by them of their Official Labours in a manner so much to your Satisfaction. I trust that there is, in the Characters and Qualifications of these Gentlemen, a sufficient Security against the recurrence of those unpleasant and irritating transactions which have arisen out of the conduct of Mr. Jeffery Bent. With respect to that Gentleman, I would only now observe that, if I forbear to enter into the details with respect to him which form so large a portion of your Correspondence for the Year 1817, it is from a disposition to avoid recurring to a series of transactions, So little creditable to Mr. Bent, and now that he is removed from the Colony, so undeserving of further notice.

Forbearance
to criticise
correspondence
re J. H. Bent.

Quarters to be
provided for
Field.

Mr. Field was undoubtedly assured, on his acceptance of the Office of Judge of the Supreme Court, that he should be provided with suitable Quarters for his Residence, and I have therefore no difficulty in approving the Arrangement, which you have made

for affording him the necessary accommodation. It was equally stated to this Gentleman, and to Mr. Wylde, that they were to proceed to the Colony with the same Advantages in point of Rations and Servants, as were enjoyed by their Predecessors, subject however to their receiving, in common with other Civil Officers, a Compensation for all or either of those Indulgences, whenever the General Abolition of them should be determined on. The Claim of Mr. Wylde to enjoy the Advantages in respect of Servants, which are given to other Magistrates of the Colony, in consideration of his acting in that Capacity, is one which I am only able to decide by Reference to the practice of the Colony. If Mr. Wylde's Predecessor, who for a certain time also assisted as a Magistrate at the Weekly Meeting, received that Advantage, I see no reason why it should be withheld from the present Judge Advocate; while on the other hand, if not enjoyed by Mr. Bent, I am sure that Mr. Wylde, upon his being so informed, will not insist upon such a Claim.

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Rations and
servants for
Wylde and
Field.

Claim of Wylde
as a magistrate
to servants.

I regret extremely to learn the Inefficacy of the Measures, which you had adopted for guarding the Wild Cattle against the Depredations, to which they have for so long a period and to such Extent been subject; and I on this account the more lament the difficulties which have arisen from driving them from their present pastures to the other side of the Blue Mountains, where they might have ranged undisturbed in pastures of equal Extent and Fertility to which they now occupy, and, by the Rapidity of their Increase, have laid the Foundation of the future Wealth of the Colony. I entirely agree with you however in considering the Temptation, which in their present situation they afford to the Commission of Crimes, to be one which ought no longer to be allowed to exist.

Problem of the
wild cattle.

The Plan, which you have transmitted to me in your Dispatch, sufficiently evinces the rapid Growth of the Colony, by shewing the small Quantity of Land which remains at the present period at the disposal of the Crown. It, at the same time, suggests the necessity of deciding, with as little delay as possible, in what quarter the Colony should be first extended; and If I am unable at the present Moment to give you any precise Instructions on this point, it is only from my desire to give due weight to the variety of important Considerations by which a decision, so materially affecting the future Welfare of the Colony, must be guided. With respect to Port Jarvis, indeed I see no Objection to its occupation and Settlement, beyond what would arise from placing a certain Number of Convicts in a Situation, where the limited Military Force at your Disposal would give you very inadequate Means of effectual Control. If however you consider

Plan of settled
districts.

Proposed
settlement at
Jervis bay.

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the Objections as likely to be obviated by a judicious Selection both of Settlers and Convicts, I have no inclination to withhold my Sanction to its early Settlement.

The question of
crown reserves
between
land grants.

With respect to the reserved Lands, I am so far prepared to acquiesce in Mr. Oxley's Reasoning on the subject, as to admit that the Interests of the Crown have not hitherto suffered from departing from the System, which prevails with respect to them in other Colonies; I have little doubt indeed that the Growth of the Colony has been to a certain degree ameliorated from the circumstance of not retaining as Reserves the alternate Allotments of Land; but as the first difficulties of Settlement are long since overcome, and as the population is now sufficiently great to admit of a greater degree of separation, I see no reason why, in future, the Reserves on behalf of the Crown should not be in such Situations, as to ensure the rapid Augmentation of their Value from the Cultivation of the adjoining Allotments. It may indeed in some cases expose Settlers to temporary Inconvenience to have their respective Establishments separated by an uncultivated Reserve; but it must be recollected, that this Inconvenience is in general the only price paid for the Land they cultivate, and it is not therefore just that the Crown should lose the only Benefit which it derives from its Liberality to them. I must therefore leave it to your Discretion in future to make these Reserves in such a manner as may give to the Crown every fair Advantage without materially interrupting the Comfort or safety of the Inhabitants.

Confirmation
of Meehan's
appointment as
deputy surveyor-
general.

I am happy to inform you that the reasons, which you have adduced for retaining a Deputy Surveyor General, appear to me satisfactory, and I derive an additional satisfaction from the circumstance of my being thus enabled to reward the meritorious Services of Mr. Meehan by continuing him in that Office.

Expenditure on
public buildings.

On the Subject of Public Buildings, which are either in progress or in contemplation, I must always regret, at a moment like the present, the necessity of incurring the heavy expence to which such works necessarily lead. For although I am aware that you propose to defray the Expence altogether from the Colonial Funds, which would otherwise be available for other expences of the Colony, the charge upon this Country is ultimately the same. I however generally agree with you in the absolute necessity of those, which you have proposed; for, if the object of the Establishment in New South Wales be the Reform of the Population, I am aware that it must altogether fail, unless means are provided for Lodging under proper Superintendance and Control those who may be sent there, and for affording them the Advantages of Discipline and Instruction. With this view the Barracks for Convicts, the Factory and the Churches, which you

Buildings
approved.

propose to erect, have my entire Approbation. Nor am I disposed to object to the Building of the Light House, which though less indispensable, was I believe required by the increased and increasing Trade of the Colony. But with respect to this Building, I feel myself called upon to make the same Observation, which I consider applicable to your proposal for erecting a New Government House, not implying, as you seem to have construed my dispatch, that the Undertaking Was in itself unnecessary or improper, but objecting to the disposal of so large a Sum as would be required for it without the previous Sanction of the Government at Home, they being the proper Judges of the Objects to which the disposeable Means of the Colony should be applied. I am happy that I have not the same remark to make upon your proposal for building a Court House. With respect to that undertaking, I do not mean to dispute the convenience of a separate Building for the purposes of Administering Justice, but I look upon this as a convenience, which may be safely postponed till a more favorable period, and until other more urgent works are completed.

1818.
24 Aug.

Criticism of
erection of
lighthouse.

As I conclude that the increased Salary to Captain Gill, as Civil Engineer of the Colony, ceased on his departure from the Colony, I see no reason to object to a Remuneration, which you made to him in consequence of his Special Qualifications for the Office. I should however consider it objectionable to make any Allowance to his Successor beyond the 7s. 6d. a day originally assigned to that Office.

Salary of civil
engineer.

The Allowance to Mr. Greenway of Three Shillings a day also meets with my Approbation; but I cannot consent to his being considered as holding a permanent Office, or to his receiving the Allowance for any longer period than his Services in the Superintendance of the Buildings may appear to you to be required.

Engagement of
civil architect.

I have to signify to You His Royal Highness's Entire Approbation of your not having permitted the Priest o'Flynn to remain in the Colony. As he proceeded thither not only without the Sanction of His Majesty's Government, but after an Intimation that such permission would be refused him, he could have no claim whatever to your Indulgence.

Approval
of action re
O'Flynn.

I am happy to inform you that The Bishop of London has strongly recommended Two Clergymen as Chaplains for the Colony. They will proceed at an early period, and as they have been distinctly informed that they are not to receive Rations or Emoluments beyond an annual Salary of £250, you will govern yourself accordingly with respect to them. When however I excluded all other Emolument, I of course do not consider a Glebe House and Land, and the Advantages annexed to its Occupation, as falling within that Limitation.

Appointment
of chaplains.

1818.
24 Aug.
Surgical staff to
be increased.

Removal of
Smith.

Pensions for
Mountgarrett
and Luttrell.

I trust also that I shall soon have an opportunity of sending out an increased Number of Surgeons for the Colony. From the number of Applications I have received, I do not anticipate any difficulty on the Subject, and consequently cannot feel authorized in augmenting the Allowances, which have theretofore been made to them. The Removal of Mr. Smith, the Assistant Surgeon, as recommended in your Dispatch No. 7 of the 18th March, 1816, is not liable to any Objection.

Referring to the Renewed Representation, which you have made in your Dispatch No. 40* as to the deplorable Situation of the Colonial Surgeons, Messrs. Mountgarrett and Luttrell, if left without any provision for their maintenance, I have to acquaint you that His Royal Highness The Prince Regent has been graciously pleased to approve of your allowing to them, on their Removal, from the Colonial Funds equal to The Half pay of their respective Situations. You will understand however that they are not to receive any Advantages from the Colony beyond their Allowance, excepting only such a moderate Grant of Land as you may (if they possess the means and disposition to cultivate Land) be willing to assign to them.

I anticipate some difficulty in finding a proper person to act as Superintendent for the Factory at Paramatta, but shall not fail to take every means of securing the Services of any one that may appear qualified for this important and difficult Situation.

I have, &c.,
BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Globe; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 24th August, 1818.

Acknowledg-
ment of
despatch re
Blaxland.

I am directed by Lord Bathurst to acquaint you, in reply to your Dispatch No. 7 of the 1st April, 1817, containing a Report on the Case of Mr. Jno. Blaxland, that the explanation therein contained is perfectly satisfactory to his Lordship.

I am, &c.,
HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 17, per ship Globe; acknowledged by Governor Macquarie, 18th March, 1819.)

29 Aug.

Sir, Downing Street, 29th August, 1818.

I have the honor to acknowledge your Dispatch No. 13* of 1817, transmitting a Correspondence, which had passed between Mr. Judge Advocate Wyld and yourself on the subject of

* Note 174.

appointing a Clerk of the Peace and Solicitor to the Crown to the Colony, and recommending that Mr. Wylde, Senior, should receive that appointment with a Salary of Five Hundred Pounds Sterling a Year.

1818.
29 Aug.

I entirely Concur with you in the propriety of having such an Officer on the Colonial Establishment, and I willingly attend to your Recommendation of Mr. Wylde, Senior, as a person qualified to hold the Situation. Before however deciding on the Salary to be assigned to them, I must, in the first instance, be informed as to the Amount of Fees, which the person holding those Situations, may be expected annually to realize. I conceive that they will of necessity be very considerable, and in such case I have to desire that they may be carried to the Public account, paying to this Officer from their Proceeds an Annual Salary of not more than Four Hundred Pounds. Should the fees fall short of that Sum you will consider yourself authorized to make up the annual Profits of the Two Offices to that Amount; and you will remember that, in this case as in all others, when Salaries may be granted in future, the parties are not to look for those Allowances either of Rations, Fuel or Servants at Government Expence, which in the Infancy of the Colony were considered necessary for the Maintenance of the Public Officers.

Approval of
appointment of
clerk of peace
and solicitor
to crown.

Salary
proposed.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 18, per ship Globe; acknowledged by Governor Macquarie, 24th March, 1819.)

Sir, Downing Street, 29th August, 1818.

I have the Honor to acknowledge the receipt of your Dispatch No. 38, dated 12th December, 1817, relative to the Conduct of Mr. John Drummond, and your having in consequence suspended him from his Situation as Naval Officer at Hobart Town; and I have now to acquaint you in reply that, having considered the circumstances therein stated, and also the facts urged by Mr. Drummond in palliation of his Offence, I cannot but consider him unfit to hold any longer the Situation in question.

Approval of
removal of John
Drummond.

I have, at the same time that I convey to you my approbation of your having suspended Mr. Drummond from his Situation as Naval Officer at Hobart Town, to express my regret that the various Claims upon my Patronage do not permit me to attend to your recommendation of Mr. Beamont as his Successor.

Appointment
of a successor.

I have, &c.,
BATHURST.

1818.
4 Sept.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.
(Despatch per ship Globe; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 4th Septem., 1818.

I am directed by Lord Bathurst to transmit to you here- with the Assignment of Two hundred and forty Male Convicts, Shipped on board the Globe for the Settlement of New South Wales.

I am, &c.,

HENRY GOULBURN.

[A similar despatch, dated 15th September, covering the assign- ment of one hundred and sixty male convicts, per the ship Lord Sidmouth, was transmitted by that ship. Copies of both assign- ments are not available.]

Assignment
of convicts per
ship Globe;

and per ship
Lord Sidmouth.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 19, per ship Surrey; acknowledged by Governor Macquarie, 31st March, 1819.)

13 Sept.

Sir, Downing Street, 18th September, 1818.

I have received from the Revd. Mr. Marsden, the Senior Chaplain of the Colony, a Report of Two Trials,* which took place before the Courts at Sydney in 1817 at the Suit of Mr. Marsden, in both of which Mr. Campbell the Secretary was De- fendant. The Crime, charged against Mr. Campbell and of which I regret to find that he has been guilty, is a Libel published in the *Sydney Gazette*, of which he is from his Official Situation the Censor. I am sure that you will feel how much this latter circumstance aggravates the Offence of Mr. Campbell, and will see the necessity of marking with some animadversion a line of Conduct, which adds to a violation of the Laws so high a Breach of Official Duty. I have therefore to desire that you will express to Mr. Campbell the disapprobation with which I have viewed his Conduct, and assure him that it is only in consideration of his having so long filled his present Situation with credit, that I am induced to forego any more severe notice of a proceeding, so little creditable to himself and so calculated to disturb the peace of the Colony. At the same time, however, that it is my painful Duty to mark my Disapprobation of Mr. Campbell's Conduct, I am happy to express the satisfaction, which I received from your General Order of the 31st January,† and observed, in the prompti- tude of the disavowal of the Publication, that disposition to do justice to Mr. Marsden's Missionary Labours, which you have always evinced, and that laudable anxiety to remove any unfavor- able Impression, which the Publication of such a Libel in the *Government Gazette* was not a little calculated to excite.

I have, &c.,

BATHURST.

Libel on
Rev. S. Marsden
by
J. T. Campbell.

Disapprobation
of Campbell's
conduct.

[A despatch from England, dated 21st September, was acknowledged by Governor Macquarie on the 24th March, 1819. A copy of this is not available.]

1818.
21 Sept.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Surrey; acknowledged by Governor Macquarie to Earl Bathurst, 24th March, 1819.)

Sir, Downing Street, 22nd Sept., 1818. 22 Sept.

I herewith transmit to you by the direction of Earl Bathurst the Assignment of One Hundred and Sixty Male Convicts, Shipped on board the Surry for the Colony of New South Wales.

Assignment
of convicts per
ship Surrey.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 20, per ship Hibernia; acknowledged by Governor Macquarie. 19th July, 1819.)

Sir, Downing Street, 29th Sept., 1818. 29 Sept.

I have not failed to communicate with His Royal Highness The Commander in Chief with respect to the opinion that you have expressed in your Dispatch No. 18 of the 4th April, 1817, as to the Inadequacy of the present Garrison of the Colony, and I regret that I cannot hold out much expectation of any addition being made to it; for the Reductions of the Army, which either have taken place or are now in progress, leave, as you must be well aware, no disposeable Regiment applicable to such an Object. I am happy however to believe that the number of Recruits, sent out since the date of your last dispatch, will have so far augmented the Battalion under your Command, as to relieve all present anxiety on the subject; and I would take this opportunity of calling your Attention to a point, upon which I had intended to address you even previous to the receipt of your Dispatch, namely whether there is not at present in the Colony a Free Population to such an Extent as to authorize the Formation of a Militia Force under the Rules and Regulations to which such a Service is usually subject. A Measure of this Nature, by placing at your Disposal an additional Force in case of Emergency, would at once remove both the Apprehension of Danger and the willingness which might exist on the part of the ill disposed to create disturbance in the Colony; and as the Regulations, under which it might be established, need not be burdensome to the Inhabitants to whom they would be applicable, I am not aware that there could be, on their part, any reasonable Disinclination to the measure. On this Important subject, however,

Macquarie's
proposal for
augmentation of
military force.

Proposals for a
militia force.

1818.
29 Sept.

I shall be happy to receive your Observations, and to give them that Consideration, to which from your long Residence in the Colony and your unremitting Attention to its Interests, they are so eminently entitled.

I have, &c.,
BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 21, per ship *Hibernia*; acknowledged by Governor Macquarie, 20th July, 1819.)

7 Oct.

Sir, Downing Street, 7th October, 1818.

Free pardon
to be granted to
James Allen.

I have the Honor to transmit to you herewith the Copy of a letter, which has been written by the direction of Lord Sidmouth in behalf of James Allen, who was transported in the Admiral Gambier; and I am to desire that, in compliance with the wish of his Lordship, you will grant a free Pardon to the said James Allen 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 CLIVE TO UNDER SECRETARY GOULBURN.

Sir, Whitehall, 21 September, 1818.

Application having been made on behalf of James Allen, who was Convicted of Sheep stealing at Bedford in July, 1806, and whose Sentence of Death was commuted to Transportation for Life, and in pursuance of such Sentence was conveyed to New South Wales in the Ship Admiral Gambier, I am directed to acquaint You, for Lord Bathurst's Information, that Lord Sidmouth, upon full consideration of all the circumstances of the Case, is desirous that the said James Allen should receive a Free Pardon and be permitted to return to this Country, provided he has Conducted himself with propriety during the time He has been at New South Wales; I am therefore to desire that You will move Lord Bathurst to be pleased to communicate to the Governor of New South Wales Lord Sidmouth's Sentiments respecting the Prisoner above mentioned.

I am, &c.,
HENRY CLIVE.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch marked "Private," per ship *Hibernia*.)

18 Oct.

Sir, Downing Street, 18th October, 1818.

Resignation
tendered by
Macquarie.

I have the honor to acknowledge the receipt of your Private and Confidential Letter of the 1st December last, in which you state the reasons which have induced you to tender your Resignation as Governor and Commander in Chief of New South

Wales, and I gladly avail myself of the less Official mode of Communication, to which you have resorted, in order to explain to you the reasons which have induced me to defer submitting your resignation to The Prince Regent, until you shall have had an opportunity of reconsidering a determination, which I cannot but consider to have been hastily adopted.

1818.
18 Oct.

Macquarie to reconsider his determination.

In the first place, I must express my regret that you should have so far misunderstood the Tenor of my communications, as to consider them as conveying any imputation upon your Character and the uprightness of your Intentions. I am happy to assure you that of these I never entertained a doubt; nor upon a Review of the Dispatches, in which you consider such Imputations to have been conveyed, can I see any ground for the Inference, which you have drawn. I have certainly in your case, as in that of many other Officers holding similar Situations abroad, felt myself obliged in some instances to differ from you in opinion, and in others to disapprove the Conduct which you have adopted. But however your Conduct might have appeared to require disapprobation or censure, I have nevertheless always given you full credit for the Motives by which your Conduct, however erroneous, has been influenced. So far indeed from admitting that you have in any one case had occasion to complain of want of support on the part of His Majesty's Government, or of an undue regard to the Statements of your Adversaries, I am convinced that the whole Tenor of my communications on the subject of the Colony has been to uphold your proper Authority, and to discountenance those attacks to which, in common with other Public Men, you have undoubtedly been subjected. But I must at the same time confess that I should have thought myself guilty of a great dereliction of Public Duty, If I had abstained from pointing out to you those cases in which you have either transgressed the Laws, or adopted an erroneous Line of Conduct. You would in my opinion have had just reason to complain if, by omitting to mark my disapprobation, I had given encouragement to a repetition of what was either illegal in itself or beyond the limits of your Authority, nor can I doubt but that you will on reflection admit that, in so expressing my sentiments to you, I have done what was most consistent with a discharge of my Duty without any Impeachment of your Authority.

No criticism intended of Macquarie's motives.

Criticism of methods.

Macquarie's authority upheld by secretary of state.

Necessity for criticism.

I have certainly never been insensible of the Difficulties, to which every person placed in the Administration of a Colony like New South Wales must be of necessity be exposed; and I have much satisfaction in recurring to the occasions, on which I have approved the manner in which they have been surmounted, and I

1818.
18 Oct.

Consideration
shown to
Macquarie.

cannot give a better proof of the Confidence which, notwithstanding some Errors of Administrations to which all those in such Situations are liable, is still reposed in you, than by withholding to take any Measure for appointing a Successor, until I shall learn that you still persist in your Determination to return to England.

I have, &c.,
BATHURST.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.*

26 Oct.

Recommendation
of
J. Raine
as a settler.

Sir, Downing Street, 26th October, 1818.

I am directed by Lord Bathurst to transmit to you a Letter addressed to his Lordship by Lord Erskine in favor of Mr. J. Raine, who proceeds as a Settler to New South Wales, and in doing so to acquaint you that Lord Bathurst will be happy at your having it in your power to shew any Attention to a Gentleman, who appears from his education and qualifications likely to become a useful Settler in the Colony.

I have, &c.,
HENRY GOULBURN.

[Enclosure.]

[A copy of this letter is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 22, per ship Hibernia; acknowledged by Governor Macquarie, 20th July, 1819.)

29 Oct.

Acknowledgment
of
despatch re
bank of
N.S.W.

Sir, Downing Street, 29th October, 1818.

I have had the Honor of receiving your Dispatch of the 29th March, 1817, in which you state the reasons, which had induced you to consider the Establishment of a Colonial Bank as a Beneficial Measure for the Colony, and transmit for my approbation a Copy of the Charter, which you had granted to certain Individuals who had embarked in such an Establishment. Upon referring the Charter in question to His Majesty's Law Servants for their Report, it appears to be their opinion "that you were not legally empowered, either by your Commission or Instructions, to grant such a Charter, and that it is consequently null and void." You will therefore intimate to the Gentlemen composing that Establishment that they can only consider themselves in the Situation of persons associated for the purposes of Trade, and as such not entitled to any of those special Privileges, which it was the Object of the Charter to confer. Under these circumstances, it becomes unnecessary for me to enter into

Invalidity of
charter granted
by Macquarie.

* Note 22.

any view of the Provisions of the Charter. I must confess however that it appeared to me to contain some provisions of so objectionable a Nature that I cannot regret its want of Legal Validity; and the less as I am not aware of any Public Benefit to be derived from the Establishment of a Bank under the proposed Charter, which will not equally flow from its being conducted by Private Individuals at their own risk without any Interference on the part of the Government, or any protection beyond what is afforded to all other Traders. So long as this Bank is conducted upon sound Principles, it will of course derive from the Government a due degree of support; but you will carefully avoid incurring any responsibility on account of it, or in any degree implicating the Faith of the Colonial Government in its Pecuniary Transactions.

I have, &c.,

BATHURST.

1818.
29 Oct.

Criticism
of the granting
of a charter.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Bencoolen; acknowledged by Governor Macquarie to Earl Bathurst, 28th February, 1820.)

Sir,

Downing Street, 10th November, 1818.

10 Nov.

I am directed by Lord Bathurst to acquaint you that he has received a letter* from Mr. James Badgery, dated 13th December, 1817, stating that he had been deprived of the Grant of Land allotted to his Son by Colonel Paterson during the Usurpation of the Government of New South Wales, and I enclose for your Information a Copy of the answer which has been returned to him. I am at the same time directed by Lord Bathurst to add that although Mr. Badgery has no claim whatever to the land originally granted to his Son By Colonel Paterson yet his Lordship considers that if he has fully cultivated the Land originally assigned to him, he has on Public Grounds, distinct from his own merits, a fair Claim to a further Grant.

Claim of James
Badgery to a
land grant.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

UNDER SECRETARY GOULBURN TO MR. JAMES BADGERY.

Sir,

Downing Street, 9th November, 1818.

I am directed by Lord Bathurst to acknowledge the receipt of your Letter of the 13th Decr., 1817, enclosing a Correspondence, which has taken place between you and the Governor with respect to your receiving a confirmation of a Grant of Land, made to one of your Sons by Colonel Paterson, and to acquaint you that, as it appears from that Correspondence that the Grant

Confirmation
of land grant
refused.

* Note 177.

1818.
10 Nov.

in question was one of those made during the Usurped Government of the Colony, and as such, resumed in common with many others on Governor McQuarie's arrival in the Colony, Lord Bathurst fully enters into the reasons, which have induced the Governor after so long a period to decline granting the compensation required; nor does his Lordship see any reason to direct in this respect a compliance with your request. At the same time, however, Lord Bathurst has directed me to express his belief that, had you applied to Governor Macquarie for an additional Grant of Land on the Ground of having fully cultivated that already made to you, and of having conducted yourself with propriety during your Residence in New South Wales, The Governor would, so far as the Public convenience admitted, have shewn you the same Indulgence, which he may have extended on similar Grounds to other persons in the Colony.

I am, &c.,

HENRY GOULBURN.

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 23, per ship *Hibernia*; acknowledged by Governor Macquarie, 20th July, 1819.)

Sir, Downing Street, 10th Novr., 1818.

His Royal Highness the Prince Regent having been pleased to appoint Mr. Edward Ford Bromley to be Naval Officer at Hobart's Town, Van Diemen's Land, I am to signify to you the Pleasure of His Royal Highness that you should instruct Lieutenant Governor Sorell to make out the proper Warrant for that purpose, and upon Mr. Bromley's arrival at the Derwent to put him in possession of the Appointment with a Salary of Five per Cent. on the Duties collected to commence from the time of his taking upon himself the Duties of his Situation.

I have, &c.,

BATHURST.

EARL BATHURST TO GOVERNOR MACQUARIE.

(A circular despatch; acknowledged by Governor Macquarie, 20th July, 1819.)

Sir, Downing Street, 17th Novr., 1818.

It is with deep concern that I communicate to you the intelligence of the Decease of the Queen who departed this Life this Day at One O'Clock to the inexpressible Grief of all the Royal Family after a tedious illness which Her Majesty bore with the Most pious Fortitude and Resignation.

I have, &c.,

BATHURST.

Application for
land grant to
be considered.

Appointment of
E. F. Bromley as
naval officer at
Hobart.

17 Nov.

Death of H.M.
the Queen.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Baring; acknowledged by Governor Macquarie to Earl Bathurst, 20th July, 1819.)

1818.
10 Dec.

Sir, Downing Street, 10 Decr., 1818.

Lord Bathurst having received an application from the Wife and friends of George Carter, to whom a free Pardon was sent out in 1817, to procure his return to this Country, I am directed by his Lordship to desire that you will do all in your power to facilitate the Passage of the Man in question to England by inducing any Master of a Ship to receive him on board to work his Passage home, or, if that be impracticable and the Man is deserving of consideration, by making a moderate payment for his Passage.

Carter to be assisted to return to England.

I have, &c.,

HENRY GOULBURN.

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

(Despatch per ship Baring; acknowledged by Governor Macquarie to Earl Bathurst, 20th July, 1819.)

Sir, Downing Street, 16th Decemr., 1818.

16 Dec.

I am directed by Lord Bathurst to transmit to you the Assignment of Three Hundred Male Prisoners, Shipped on board the Baring for the Colony of New South Wales.

Assignment of convicts per ship Baring.

I am, &c.,

HENRY GOULBURN.

[Enclosure.]

[A copy of the assignment is not available.]

UNDER SECRETARY GOULBURN TO GOVERNOR MACQUARIE.

26th December, 1818.

26 Dec.

[A copy of this despatch, recommending lieutenant Robison, is not available.]

EARL BATHURST TO GOVERNOR MACQUARIE.

(Despatch No. 24, per ship Baring; acknowledged by Governor Macquarie, 20th July, 1819.)

Sir, Downing Street, — December, 1818.*

— Dec.

I have had the honor of receiving Your Dispatch of the 15th May last, in which you State the reasons, which had induced you to decline acceding to the request of The Rev'd Mr. Marsden to return Home on Leave of Absence.

Refusal of Marsden's application for leave of absence.

Viewing in the same light, as you have considered them, the great Disadvantages which must have resulted from diminishing the actual Number of Clergymen resident in New South Wales,

* Note 178.

1818.
— Dec.

I have to express my entire approbation of your having forborne a compliance with Mr. Marsden's pressing Solicitation for him to return Home, until some prospect was afforded of his place being adequately supplied during his absence.

Chaplains for
the colony.

The arrival of The Revd. Mr. Hill and The Revd. Mr. Cross, who are Passengers in the Baring, will I trust enable You to comply with Mr. Marsden's wish for Leave of Absence; and I am sure it will be to Mr. Marsden a source of sincere satisfaction to find that, whatever Private Inconvenience he may have sustained from a prolonged absence from this Country, yet at least that the Public Interests of the Colony, as far as a Supply of Clergymen is concerned, have not suffered from his detention in New South Wales, or from his consequent inability to represent in Person to The Archbishop of Canterbury the Religious Wants of the Colony.

I have, &c.,
BATHURST.

COMMENTARY.

COMMENTARY

ON

DESPATCHES.

JANUARY, 1816—DECEMBER, 1818.

Note 1, page 2.

Your Petitioner held a Grant of Land on Norfolk Island.

In the registers preserved at the office of the registrar-general at Sydney, there is no record of a grant of land at Norfolk island to Norfolk King, nor of any grant given in compensation for it, either in New South Wales or Tasmania.

Note 2, page 3.

Also pages 31, 39, 42, 48, 49, 52, 97, 98, 99, 100, and 102.

Per H.M. brig Emu.

The despatches were carried by H.M. brig *Emu* to the Cape of Good Hope, and from that port to England by H.M.S. *Amphitrite*. The *Emu* was detained at the Cape under the circumstances detailed in the enclosures to Earl Bathurst's despatch, dated 4th December, 1816 (*see* page 192 *et seq.*).

Note 3, pages 4, 5, and 10.

Former communication.—Communication.—Former communications.

Governor Macquarie's previous despatch relating to Mr. Justice Bent was dated 22nd June, 1815 (*see* page 479 *et seq.*, volume VIII). The communication relating to expenditure on roads was contained in the eighteenth paragraph of the despatch to the Earl of Liverpool, dated 18th October, 1811 (*see* page 387, volume VII).

Note 4, page 7.

Also pages 12 and 13.

One Trustee for the Road.

The first commissioners for public roads were appointed by Governor Macquarie in 1810. They were three in number—D'Arcy Wentworth, Simeon Lord, and Andrew Thompson. On the 13th of May, 1810, these three commissioners executed a contract with James Harrex for making and completing a public turnpike road from Child's corner in the town of Sydney to the toll-bar at the Hawkesbury, and for keeping the same in repair for seven years.

In the *New South Wales Almanac* for the year 1815, published by George Howe, James Mileham was mentioned alone as "Trustee and Commissioner of Turnpike Roads and Highways." In the similar publication for the following year, the Trustees and Commissioners of Turnpike Roads from Sydney to Hawkesbury mentioned were D'Arcy Wentworth, Simeon Lord, and James Mileham; and for roads to and from Liverpool, Thomas Moore.

Note 5, page 9.

Another Dispatch.

This despatch will be found on page 31 *et seq.*

Note 6, page 11.

In the Same Clause.

This was the penultimate clause in the letters patent which created the governor's and supreme courts (*see* volume in series IV). It was as follows:—

“And further know Ye that We, for preserving the peace of Our said Settlement and the Islands thereunto adjacent, of our especial grace, certain knowledge, and mere motion, have granted, ordained, directed and appointed, and by these presents do grant, ordain, direct and appoint that our present and all Our future Governors, Lieutenant Governors, and Our Judge Advocate, Judge and Deputy Judge Advocate, for the time being, shall be Justices of the Peace within the said Territory and its Dependencies, and all places or Settlements therein; and that all and every such Justice and Justices of the Peace shall have the same power to keep the Peace, arrest, take Bail, bind to good behaviour, suppress and punish riots, and to do all other matters and things, with respect to the Inhabitants residing or being in the places and Settlement aforesaid, as Justices of the Peace have within that part of Great Britain, called England, within their respective jurisdictions. And these our Letters Patent for the enrolment or exemplification thereof shall be, as well unto the Said Courts respectively, as unto all and every other Person or Persons whomsoever, a sufficient warrant and discharge from time to time for all and whatever they shall do or execute in pursuance of our Royal Will and Pleasure, hereinbefore declared.”

Note 7, page 30.

They are appendages to no Court House.

The public offices of the judge-advocate for some years had been attached to his official residence, and in some cases had been used as a court-room, prior to the location of the courts in a wing of the general hospital in Macquarie-street.

Note 8, page 51.

Memorial—List.

The memorial and “list” will be found on pages 629 and 628 in volume VIII.

Note 9, page 52.

Also page 98.

My Several Dispatches Addressed to Your Lordship in the Years 1813, 1814, and 1815.

These despatches will be found in volume VIII (*see* synopsis, pages 687, 688, and 689). The particular points on which Governor Macquarie desired instructions were forwarded as an enclosure (*see* page 411) to a despatch to under secretary Goulburn, dated 17th May, 1817.

Note 10, page 54.

Also page 342.

Tribes.

The aborigines of the county of Cumberland, N.S.W., were divided into a great number of tribes. When the settlement was first established, it was

found that the Cadigal tribe inhabited the district from South Head to Darling harbour, the Wanngal tribe from Darling harbour to Parramatta; the Wallumedegal tribe occupied the northern shore of the Parramatta river opposite the Wanngal tribe, whilst the Cammerragal tribe possessed the land about the middle and north harbours of Port Jackson. Other named tribes in the neighbourhood were Gweagal, Noronggerragal, Borogegal, Gomerrigal, and Boromedegal.

Note 11, pages 55 and 57.

An American Privateer.

The convict transport ship *Francis and Eliza* sailed from Cork on the 5th of December, 1814. On the 4th of January following, she was captured by the American privateer *Warrior*. After detaining her for twenty-four hours, whilst all guns, ammunition, much of her stores and all the ship's papers were removed, the privateer's commander, Champlin, set the *Francis and Eliza* at liberty to continue her voyage. While under capture, several of her crew deserted and went on board the privateer, and, when the *Francis and Eliza* arrived at Teneriffe, her commander, William Harrison, was compelled to send his chief officer and four of the crew back to England in one of H.M. ships for mutinous conduct. The ship being short handed, seamen were engaged at the different ports of call under verbal agreements, as the ship's papers had been seized. As the crew were discontented and mutinous, the good conduct of the convicts on board was certainly deserving of praise.

Note 12, page 57.

The New System.

This system had been suggested and ably advocated by William Redfern in a report to Governor Macquarie, dated 30th September, 1814 (*see* page 290 *et seq.*, volume VIII).

Note 13, page 60.

The Second Tour made by Mr. Evans.

This was the expedition which led to the discovery of the Lachlan river (*see* page 611 *et seq.* and note 138, volume VIII).

Note 14, page 60.

Also page 73.

A small Phial.

This phial was marked as enclosure No. 2 to this despatch, whilst the letters of Dr. Bromley and J. Bowman formed additional un-numbered enclosures. They have been grouped as enclosure No. 2 for convenience of reference.

Note 15, page 60.

Permission to send their Horned Cattle across the Blue Mountains.

In general orders, dated 10th June, 1815, Governor Macquarie announced that he did not think it expedient to make any grants to the westward of the Blue Mountains, until he received instructions from the secretary of state. At the same time, he ordered that no person should be allowed to cross the mountains, unless he had applied for and obtained a written pass (*see* page 576, volume VIII). It was not long, however, before the settlers began to avail themselves of the new pastures. In a road book, kept by William Cox, when making a road through Woodriff's farm to Emu ford, there is the

entry, under date 21st July, 1815: "Mr. Lawson crossed the River with 100 Head of Horn Cattle for the West Country; his Horses appear so bad, I do not think he will get his cart there at all."

About the middle of the year 1815, some of the government cattle were depastured in the neighbourhood of Cox's river, and a provision depôt was established there. In April, 1816, this depôt was attacked and plundered by a party of hostile natives, who had crossed the mountains from the east, and the stockmen were driven away. In May, 1816, sergeant Jeremiah Murphy, with a detachment of the 46th regiment, was stationed at the river for the protection of the stockmen and cattle, and to keep the communication open between Sydney and Bathurst.

The first draft of fat cattle, consisting of one hundred head belonging to government, were driven for slaughter from westward of the Blue Mountains in October, 1815.

Note 16, page 61.

My former Dispatch.

This despatch was dated 16th March, 1815 (*see* page 437 *et seq.*, volume VIII).

Note 17, page 62.

Also pages 489 and 543.

The Brig belonging to Government.

The keel of this vessel had been laid down by orders of 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 vessel was launched by Governor Macquarie, and named the *Elizabeth Henrietta* in honour of Mrs. Macquarie. This vessel was unfortunate in her early career. On the 30th of 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.

Note 18, pages 63 and 64.

Your Lordship's Commands.—Your Lordship's Commands.

The commands were contained in Earl Bathurst's despatches numbered 47 and 42 (*see* page 624 *et seq.*, and page 478, volume VIII).

Note 19, page 65.

Grants of Land were all Cancelled.

All grants of land made by the insurrectionary administrators were cancelled by Governor Macquarie by a proclamation, dated 4th January, 1810 (*see* page 227 *et seq.*, volume VII), acting under instructions from Viscount Castlereagh (*see* page 82, volume VII).

Note 20, page 70.

Also page 718.

The old Government House.

This building occupied the site which now forms the south-western corner of Phillip and Bridge streets. The foundation-stone was laid by Governor Phillip on the 15th of May, 1788 (*see* note 117, volume I). On the ground

floor, facing Sydney Cove, there were three large rooms opening into one another. Commencing from the easterly end, these rooms were the drawing-room, 50 ft. by 18½ ft., the dining-room, 30 ft. by 16½ ft., and the parlour, 20 ft. by 16½ ft. The drawing-room was 11½ ft. high, and formed a wing of the house; in it were hung the portraits of Their Majesties the King and Queen. The dining-room and parlour were 9 feet high, and above them was built the first story, which contained the bed-rooms. In front of this part of the building, a verandah was erected. The offices were connected with the main building at the south-western corner.

Note 21, page 100.

My Dispatch No. 4.

This despatch was dated 8th March, 1816 (*see* page 42 *et seq.*).

Note 22, page 105.

Also pages 120, 159, 189, 214, 380, 392, 402, 441, 447, and 840.

Under Secretary Goulburn to Governor Macquarie.

Copies of these despatches are preserved in the record office, London, but there is no evidence of their delivery to Governor Macquarie, with the exception of the letters relating to Edward Shackley (page 402), Charles Windsor, John Jeffs, John Bell, Rev. Walter Lawry (all on page 477).

Note 23, page 109.

Your Dispatch No. 4.—My dispatch (No. 60).

The Duty.—The discontinuance.

The despatches numbered 4 and 60 will be found on page 461 *et seq.* and on page 648, volume VIII. The duty imposed on spirits and the discontinuance of retail issues from the government stores were announced in general orders, dated 31st December, 1814 (*see* pages 471 and 472, volume VIII).

Note 24, page 109.

Your request on behalf of Mr. Campbell.

In his despatch dated 24th March, 1815 (*see* page 469, volume VIII), Governor Macquarie proposed that the salary of J. T. Campbell should be increased from £282 10s. 0d. to £365 0s. 0d. *per annum*, and that he should be appointed "Colonial Government Secretary."

Note 25, page 110.

Mr. Marsden's account.—The Plan.

Mr. Marsden's account will be found on page 576 *et seq.*, volume VIII, and the proposal for a trading monopoly in New Zealand on page 561 and page 583 *et seq.* in the same volume.

Note 26, page 110.

Also page 133.

Your letter of the 1st July.

The full text of this letter will be found in a volume in series IV. In this letter, Ellis Bent criticised very adversely the port regulations proposed by Governor Macquarie (*see* page 411 *et seq.*, volume VIII). He stated that he was highly concerned as a judge to inquire "whether the Governor of this Territory, under the pretence of local circumstances requiring it,

can abrogate Acts of Parliament, which he is sworn to enforce." He contended that the proposed port regulations were directly contrary to many of the plantation laws, and he could not conceive that His Majesty's ministers were aware "that a Governor of N. S. Wales, of his own authority, implied from but by no means granted by the words of his commission, should make laws imposing penalties of £500, or hard labour at the Coal Mines for three years, upon free British subjects to be inflicted at the discretion of magistrates," who he stated were inexperienced in the administration of justice.

After discussing the port regulations, Bent stated that Macquarie regarded him simply as an officer of his staff; that he was directed to wait every morning at government house to receive Macquarie's commands; and that he was ordered in common with all civil officers not to go more than seven miles from Sydney without permission. Bent asserted that it was "the favorite maxim at Government House that Sydney is a garrison, and that the Government is a strictly military Government, and according to that maxim the colony is governed." In consequence, Bent stated that it was impossible to continue the upright execution of his office, unless he was made entirely independent of the colonial government.

Bent also protested strongly against Macquarie's interference with the magisterial duties by sending to the bench lists of persons, who were to be licensed by the magistrates to keep public houses, leaving no discretionary powers to the bench; against his interference in the control of the gaols, and, without the knowledge of the magistrates, directing the infliction of corporal punishment on persons confined therein. Macquarie's practice of granting remission of sentences without reference to the judge-advocate was also the subject of adverse comment.

The letter concluded with a criticism of Macquarie's refusal to locate the courts of justice in the northern detached wing of the general hospital, and of his endeavours to force the admission of ex-convict attorneys to practice in the courts.

Note 27, page 111.

The reasons which induced His Majesty's Government . . . to retain the Title of Judge Advocate.

In a despatch to Ellis Bent, dated 11th December, 1815 (*see* volume in series IV), Earl Bathurst stated that "The Colony did not appear to H.M.'s Government sufficiently advanced to admit of withdrawing that appearance of Military Restraint, which had been found necessary on its first formation, and which the Composition of its population had rendered it indispensable subsequently to maintain. The Continuance therefore of a Judicial officer, who bore a Commission exclusively Military, and who, tho' a Military Officer, was by the Charter placed above the Civil Judge, appeared to have many advantages with a View to the Maintenance of that due Subordination in the Settlement, upon which its Welfare depends."

Note 28, page 112.

Your letter of the 1st July.

This letter will be found in a volume in series IV. It contained a strong protest against the admission of ex-convicts to practice as attorneys in the courts of justice. The reasons advanced against such procedure were similar to those contained in J. H. Bent's letter to Governor Macquarie, dated 20th April, 1815 (*see* page 495 *et seq.*, volume VIII). In concluding, Bent stated that the "rule and principle" of Macquarie's action was "*Quod Gubernatori placet, legis habet vigorem.*"

Note 29, page 113.

Your Dispatch No. 7 and . . . Confidential Letter of the 22d March.

These despatches will be found on page 553 *et seq.* and page 458 *et seq.* in volume VIII.

Note 30, page 113.

Also page 339.

His Capture on his passage to the Colony.

Lieutenant-governor Thomas Davey arrived in Port Jackson on the 25th of October, 1812, on board the convict transport ship *Minstrel*. Earl Bathurst was in error when he referred to "his Capture on his passage to the Colony." Davey himself was not captured. Some personal property of his was shipped on the first brig named *Emu*. This vessel was taken by the American privateer *Holkar* on the 30th of November, 1812, and all her cargo was seized by the enemy, after lieutenant Bissett, her commander, had sunk his papers and despatches (*see* note 188, volume VII).

Note 31, page 114.

Also page 339.

A Grant of Land.

By a deed, dated 20th September, 1813, Governor Macquarie granted three thousand acres of land to lieutenant-governor Davey. This grant was situated on the west side of the Coal river in the districts known as Caledon and Ulva in Tasmania, and was named Carrington Plains.

By a deed, dated 9th January, 1821, Governor Macquarie granted Thomas Davey, Esquire, two thousand acres of land in the Illawarra district of New South Wales. This grant was situated between the sea coast and Illawarra lake.

Note 32, page 114.

The account of your Tour.

The account of Governor Macquarie's visit to Bathurst was contained in his despatch dated 24th June, 1815. (*see* page 557, volume VIII), and in general orders, dated 10th June, 1815 (*see* page 568 *et seq.*, volume VIII). The journal of G. W. Evans during his expedition to the Lachlan river will be found on page 611 *et seq.*, volume VIII.

A copy of Earl Bathurst's despatch numbered 68 is preserved in the office of the chief secretary, and is dated the 9th instead of the 18th of April, 1816.

Note 33, pages 124 and 129.

The Agreement.

The terms of John Blaxland's agreement will be found on page 491 in volume V.

Note 34, page 124.

One of the Sydney Gazettes.

In the issue of the *Sydney Gazette* for the 10th of June, 1815, notice was given of the acceptance of tenders for the delivery of fresh meat into the public stores. Seventeen tenders were accepted for delivery at Sydney, two at Parramatta, and two at Windsor. Those at Sydney included one by William Broughton of 6,000 lb. for delivery on the 8th of July.

Note 35, page 135.

Also pages 273 and 274.

The said Grants of Land.

Captain John Shea arrived in the colony with the first fleet. He was in command of the second of the four companies of marines, which formed the guard for the convicts. He died on the 2nd of February, 1789, fifty-three weeks after landing in Port Jackson. In David Collins' *Account of the English Colony in New South Wales* (volume I, page 232), it is stated that, in September, 1792, Governor Phillip selected "the ground, formerly cultivated by the late Captain Shea," as the site of the burial ground for Sydney. This site is now occupied by the Town Hall. As Governor Phillip did not make his first land grants to James Ruse and others until the 30th of March, 1791, and as lieutenant-governor Grose did not make the first land grant to an officer (ensign William Cummings) until the 31st of December, 1792, it is clear that the claims to land grants by the son, Charles Shea, were ill-founded. Further, the burial ground was situated north of the line drawn from the head of Darling harbour to the head of Woolloomooloo bay, which Governor Phillip had fixed as the southern boundary of the town of Sydney, and within this boundary no grants were to be made. The statement by James Meehan, at the beginning of the second paragraph (*see* page 274) of his report on Charles Shea's claims, is erroneous. No officer received a land grant from Governor Phillip, and on the 12th of February, 1793, lieutenant-governor Grose granted one hundred acres each to George Johnston, captain, to John Macarthur and Thomas Rowley, lieutenants of the New South Wales Corps, to John Palmer, commissary, and to John White, principal surgeon of the settlement. It is difficult, therefore, to understand why the statement was made that "no Officer of *any rank* in the Colony had, at the time alluded to (1787-1788), received a greater Portion than *One hundred Acres* of Land and that but *once*."

Note 36, page 139.

Three Detachments of the 46th Regiment.

Instructions were issued by Governor Macquarie to the three officers in command of these detachments on the 9th of April, 1816. Captain W. G. B. Schaw was ordered to proceed into the interior for the purpose of punishing the natives, who had manifested a strong feeling of hostility against the settlers on the banks of the Nepean, Grose, and Hawkesbury rivers, and had committed many cruel murders. Directions were given that all aborigines, men, women, and children, who were met with from Sydney onwards, were to be made prisoners of war; any who "showed fight" or endeavoured to run away were to be shot, and their bodies hung from trees in the most conspicuous places near where they fell, so as to strike terror into the hearts of the surviving natives. Lieutenant Charles Dawe was ordered to the Cowpasture district, and to co-operate with captain Schaw. Captain James Wallis was ordered to the districts of Appin and Airds, and was ultimately to meet captain Schaw at George Woodhouse's farm in the last-named district. The detachments set out on the 10th of April, and twenty days later Governor Macquarie sent orders to captain Schaw for their return to headquarters. The most important episode of these punitive expeditions occurred to the party under captain Wallis. This detachment had a moonlight skirmish with the natives near William Broughton's farm in the Appin district. Fourteen of the natives were killed, and a considerable number were taken prisoners. The killed included several women and children, who met their death by rushing in despair over precipices. Amongst the men killed there were several who had committed recent murders.

Note 37, page 148.

Lieutenant Governor Collins.

This was an error of under secretary Goulburn, Paterson *vice* Collins being intended.

Note 38, page 148.

A Grant of Land of 500 Acres.

The grant to John Campbell Burton was made by lieutenant-governor Paterson on the 4th of July, 1809. It was situated within the boundaries of the modern parish of Narellan. The particulars relating to the granting of this allotment were detailed in the despatch to Viscount Castlereagh, dated 9th July, 1809 (*see* page 166 *et seq.*, volume VII).

Note 39, page 163.

A requisition from Alexander Riley Esquire.

The requisition and other exhibits will be found on page 167 *et seq.*

Note 40, page 164.

Wednesday, 3rd July, 1816.

In the copies of this despatch and its enclosures, which are preserved in the record office, London, four pages are missing. These pages covered the proceedings of the meeting of magistrates for the 3rd and 4th of July, 1816. In the Mitchell library at Sydney, there are preserved an incomplete set, mostly of the duplicates of the governor's despatches. This set was given by the imperial government to the government of New South Wales. Amongst these copies, the four pages missing in the record office, London, are all that are preserved of this despatch, dated 31st August, 1816, and its enclosures. The proceedings for the 3rd and 4th July, 1816, have been copied, therefore, from these four pages in the Mitchell library.

Note 41, page 187.

Mr. Emmett.

William Emmett arrived in the colony in the year 1807, and the Right Hon. William Windham instructed Governor Bligh to grant him one hundred acres of land. After the usurpation of Bligh's government, he was appointed by major Johnston as a member of the court of civil jurisdiction to assemble on the 24th of March, 1808.

Note 42, page 188.

Under Secretary Goulburn to Governor Macquarie.

The manuscript copy of this despatch, which is preserved in the record office, London, is a remarkable instance of the variations in different transcripts of the same despatch. It is as follows:—

“Sir,

“Downing Street, 20th September, 1816.

“This Letter will be delivered to you by Lieutenant Colonel Sorell, who has been appointed to the Situation of Lieutenant Governor of Van Dieman's Land; and I am directed by Lord Bathurst to recommend him to your favorable Notice and Protection; and I am to desire that you will afford him every assistance in your power in enabling him to fulfil the Duties of the Office, to which he has been appointed.

“I am, &c.,

“HENRY GOULBURN.”

Note 43, page 191.

His Letter of the tenth Instant.

The letter of Dr. Daniel Quarrier was not transmitted to Governor Macquarie. It was dated "His Majesty's Ship Leander, Portsmouth, Nov. 10th, 1816," and was as follows:—

"My Lord,

"An entire stranger addressing your Lordship may be deemed presumptuous, but I trust that my motives, when they are known, will plead my excuse, and I shall not trespass further on your Lordship's time than by informing you that William Chamberlain, a boy of eight years of age, was inticed from Port Jackson in New South Wales by the Captain or Crew of the Frederick, South Sea Whaler, which ship was captured on her voyage home in the year 1812-13 by the Sans Souci, French Privateer. The Sans Souci was afterwards captured by the Andromache Frigate, of which Ship I was the Surgeon, and the boy was found on board of her. In consequence of a wound he received in the removal from Le Sans Souci to the Andromache he was brought more particularly under my notice, and from the destitute and forlorn condition in which I found him placed, it naturally excited the feeling of compassion and humanity. I therefore retained him on board the Andromache until she was paid off in July, 1814, when finding that the poor boy was again to be thrown upon the wide world without friends or any person who might be inclined to take notice of him, I sent him to Scotland where he remained at School until I brought him into this Ship in January, 1816. The boy has been lately affected by Hip Joint disease, and is consequently rendered unfit for His Majesty's Service, and, as my Establishment in Scotland is broken up, I am under the necessity of applying to your Lordship to request that you would be pleased to order him a passage to his Native Country where he may be enabled to join his parents, who, I am informed, are Settled at Port Jackson; as I understand there are Several Convict Ships on the Eve of departing from the Thames, I have taken the liberty of Soliciting your Lordship's indulgence towards him by ordering him a passage by the first conveyance. The boy is now eleven or twelve years of age and has good ability. I have myself taught him to read and write, and I shall take upon myself to equip him with clothing for the Voyage.

"I am, &c.,

"D. QUARRIER, M.D., Surgeon, Leander."

Note 44, page 198.

Also page 502.

Extract of a Letter from

In his reply to this despatch on the 4th of December, 1817, Governor Macquarie hazarded the opinion that the author of this letter was the Reverend Samuel Marsden. In this conjecture he was wrong. The letter was written by Nicholas Bayly to Sir H. E. Bunbury. Nicholas Bayly had been an ensign in the New South Wales Corps, but had retired as a lieutenant, and had settled in the colony. He had taken an active part in the usurpation of the government of William Bligh, and had been appointed secretary to George Johnston on the day following Bligh's arrest. The full text of the letter was as follows:—

"Sir,

"Bayly Park, New South Wales, 13th March, 1816.

"My Brother, General Bayly, having informed me that I am indebted to you for a Letter being written by Mr. Goulburn at the Desire of Lord Bathurst to Governor Macquarie in my favor, I have the pleasure of thanking you for your obliging Interposition. I have written to the Governor on the

Subject, He denies ever having received such a Letter; His Excellency's Letter I have forwarded to my Brother. Any eligible Situation that I might obtain through your Interest would be conferring a favor on me, for which I should retain a most grateful remembrance. I have a Family of Eight Children entirely unprovided for, It is therefore most probable that I am doomed to remain a fixture here; what Situations there may be I cannot say, but there is none I should be so anxious to fill as that of Colonial Secretary.

"As every Arrangement in this Colony must in a great measure be guided by your Influence as Under Secretary of State to this Department I will take the Liberty of submitting a few observations concerning it.

"The treatment of the Convicts is the first Subject I wish to bring under your Consideration; the propriety of compelling them to Labor after their arrival here has been questioned, their Sentence I understand only expresses that they shall be transported to New South Wales for a certain Number of Years, or for Life; if that should be the case, every doubt would be removed by adding "to hard Labor." On their arrival here, after Government has selected the Artificers and most useful Men, the remainder are distributed to Individuals, who according to the Colonial Regulations should be compelled to do a certain portion of Labor for those to whom they are assigned; but of late years they are become extremely Idle and Insolent, nor have the Magistrates the power of preventing it. New regulations are wanting respecting their treatment, cloathing, Victualling and Labor."

[*The first paragraph in the extract on page 198 formed a continuation of this paragraph. The first paragraph on page 200 had the following sentences prefixed:—*]

"A Penitentiary Home is much wanting; the women should be entirely seperated from the Men; Distinction should be made between the Good and the Bad Characters; no punishment they dread so much as having their Heads shaved, and being compelled to wear their Slop Cloathing; for they are extremely fond of Dress and of wearing their Hair in curls, and no reward they consider of so much value as their free Pardon."

[*The conclusion of the letter was as follows:—*]

"If a Judge could be found like the late Judge Advocate Mr. Ellis Bent, (And it is for the sake of Justice and Humanity to be hoped there are many) and appointed to this Colony, it would be the greatest benefit that Government could bestow upon it. Mr. Bent's Character is not easy to be described, He was Mild and Merciful; in all legal Decisions firm and just; no Power could bias him to act contrary to his Conscience; His Life was an example of every Public and Private Virtue; His Death is deeply lamented, and this Colony most severely feels his loss !!!

"Do you not think that the Judge should be perfectly independent of the Governor, and that all regulations that are intended for Colonial Laws should be drawn out by the Judge; Mr. Bent was my most intimate Friend, and he has repeatedly pointed out to me the illegality of different Orders and Regulations that have been issued. I recollect particularly His telling me that the Governor had sent him a set of Port Regulations for his Approval; He told me they were so Arbitrary and illegal that he neither could, or would sanction them, they are however now in force? The Order requiring every Person, who leaves this Colony, to *go in Person* to the Governor's Secretary to be mustered and to pay half a Crown, also every Sailor, previous to his leaving the Harbour, being obliged to leave His Ship to come on Shore to the Secretary's Office to be mustered and to leave half a Crown, He very much disapproved of. The mustering and paying the half Crown arose originally with a view to prevent any Prisoners leaving the

Colony but such as had obtained their Free Pardons; Those Persons were therefore on their leaving this ordered to attend at the Secretary's Office that their Certificates might be compared with the Indents, and the half Crown was paid as a remuneration to the Clerk for his trouble; but of late it is extended to every Person leaving the Colony.

"There are other subjects on which I beg to intrude a short time longer on your patience.

"The Duties on every Article of Colonial Produce are so extremely high, as to discourage every kind of enterprise.

"The Distillation of Spirits under certain regulations would I consider be of great importance to this Colony; it would at all times ensure a sufficiency of Grain, as none but the Overplus after the wants of the Colony were supplied should be distilled; it would be giving a stimulus to Agriculture, it would be the means of keeping the Money in the Colony that is annually taken out for the purchase of that Article, and it would be productive of many other essential advantages.

"Lastly would it not add to the benefit and respectability of the Colony, If the situations of Principal Superintendant of Police, and that of Treasurer of the Police Fund, were separated, and that neither of the Persons who held those appointments should be allowed to deal in Spirits. The influence of the Police Officer is incredible, and should for the sake of Example be filled by a Person of the greatest Morality and respectability; Mr. Wentworth, the Principal Surgeon, holds both those Appointments and at the same time is the greatest dealer of Spirits in the Colony.

"I have made these statements with the hope that the Colony for which I feel interested may be benefitted by them; I have stated nothing but what is well known to be true, and what if necessary can at any time be substantiated; If they should appear worthy your consideration, and relief should be obtained thereby, I shall consider myself as most fortunate in having pointed them out. I shall at all times feel much Honored in giving you any information respecting this Colony which you may be desirous of obtaining and should there be any Native Curiosities which you should think worth the trouble of naming, I shall be extremely happy in the pleasure of procuring them for you,

"and have the Honor to remain, &c.,

"NICHOLAS BAYLY."

Note 45, page 202.

I much regret that you did not confine it to Corn grown in Van Dieman's Land.

In a despatch dated 13th April, 1816 (*see* a volume in series III), lieutenant-governor Davey complained to Earl Bathurst of the methods adopted by Governor Macquarie. He stated "that, in consequence of His Excellency Governor Macquarie having imported a large quantity of Grain by *Contract from India*, the Settlers on this Island will this Year be deprived of the Market, which they would otherwise have found in that Settlement for a surplus of at least Fifty thousand Bushels of wheat, the Growth of this Season, and which Your Lordship will see must greatly damp the Agricultural exertions of this Island." It is probable that Davey's criticism influenced Earl Bathurst in his remarks to Governor Macquarie.

Note 46, page 202.

To learn.—Opinion.—Mr. Parker.

The references were contained in paragraphs 6, 7, and 8 (*see* page 56 *et seq.*) of the despatch dated 18th March, 1816.

Note 47, page 203.

Samuel Leigh.—*Appointments specified in your Dispatch No. 7.*

Governor Macquarie's reports on these two subjects were contained in the last part of paragraph 8 and in paragraph 9 (*see* page 59) of the despatch dated 18th March, 1816.

Note 48, page 204.

Directions.—*Discretion.*—*Principle.*—*Principle.*

The "directions" will be found on page 639, volume VIII. The three last references were to paragraphs 22, 24, and 26 (*see* pages 64, 65, and 67) of the despatch dated 18th March, 1816.

Note 49, page 204.

At the date of your dispatch.

The date of the despatch was the 18th of March, 1816.

Note 50, page 206.

Your dispatch No. 4 of 1816.

This despatch was dated the 8th of March, 1816 (*see* page 42 *et seq.*).

Note 51, page 207.

Also page 543.

That part of the Coast of New Holland which was not surveyed or examined by the late Captain Flinders.

During the years 1801 to 1803, Matthew Flinders in H.M.S. *Investigator* had examined the southern coast of Australia from Cape Leeuwin to Bass strait, the eastern coast from Port Jackson to the Cumberland isles off the coast of Queensland, the gulf of Carpentaria from Cape York to Cape Arnhem, and a small portion of the northern coast of the northern territory. The north-western and western coasts of Australia from the neighbourhood of Melville island to Cape Leeuwin were not examined, and also the eastern coast of Queensland from the Cumberland isles to Cape York. At this period, the continent of Australia was regarded generally as divided into two parts, eastern and western, known as New South Wales and New Holland. It was to the north-western and western coasts of the continent that lieutenant King was directed to devote his attention.

Note 52, page 207.

Also page 488.

Lieutenant King.

Philip Parker King was the son of Philip Gidley King, the third governor of New South Wales. He was born on the 13th of December, 1791, at Norfolk island, shortly after his father's return from England as lieutenant-governor. In November, 1807, he entered the navy on the frigate *Diana*, and on the 18th of May, 1808, he attained the rank of midshipman. For six years he was on active service in the Bay of Biscay, the North Sea, and the Mediterranean. On the 28th of February, 1814, Sir Edward Pellew promoted him to a lieutenancy on the *Trident*, of 64 guns, which acted as guard-ship at Malta.

Note 53, page 216.

The introduction of 40,000 Dollars.

These dollars were imported on H.M.S. *Samarang*, which arrived in Port Jackson on the 26th of November, 1812. They were valued at £10,000, and

were contained in fourteen boxes, which were landed and conveyed to government house at Sydney. On the 5th of December following, they were examined and counted by a committee consisting of William Broughton, acting commissary, H. C. Antill, major of brigade, and Thomas Archer, acting deputy commissary. By direction of Governor Macquarie, these dollars were cut and re-stamped, making "holey dollars" and "dumps," by William Henshall, an expirée. They were put into circulation between January and August, 1814 (see page 333, volume VIII).

Note 54, page 216.

A strong Proclamation.

The text of this proclamation, dated 30th June, 1810, was as follows:—

"Whereas the forgery of promissory-notes in writing for the payment of small sums of money hath of late time been so much practised, to the subversion of common truth and justice, the prejudice of trade and credit, and to the manifest injury of industrious individuals, that it is necessary, for the more effectual preventing of such an offence, to adopt certain regulations in regard to the making of such promissory-notes; and whereas also divers persons have contrived to issue and negotiate divers promissory-notes for the payment of certain small sums of money without possessing any apparent means of paying the same, and have accordingly made default therein when such notes, so negotiated, have been presented to them for payment, whereby very serious and frequent public inconveniencies and private distress have been and are daily sustained; and it is highly expedient that a more speedy, easy, and effectual method of recovering payment of the sums for which such notes shall have been issued should be henceforth allowed: It is, therefore, hereby declared by His Excellency the Governor that, from and after the 15th day of July, in the year of our Lord, 1810, it shall not be lawful for any person whatsoever, resident in or an inhabitant of the territory called New South Wales, to issue or negotiate any promissory-note or undertaking payable on demand to the bearer thereof for the sum of five pounds, or for any sum of money less than the sum of five pounds in the whole, unless every part of such note or undertaking, excepting only the date thereof, the place where the same shall be issued, the name of the person to whom the same shall be payable, and of the person issuing the same, and of the entering clerk, if any, and also the sum for which the same shall be drawn payable, be printed. And it is hereby further declared, by the authority aforesaid, that all such notes or undertakings shall bear date of the same day on which the same shall be respectively issued by the drawer or drawers thereof, and shall in the body thereof express to be drawn for the payment of a certain sum sterling. And it is hereby further declared, by the authority aforesaid, that if any person liable to the payment of any note or undertaking payable on demand to the bearer thereof for the payment of five pounds, or of any sum of money less than five pounds in the whole, shall neglect or fail to make payment in money of the sum or sums for which such draughts, notes, or undertakings shall be respectively given or issued, or so much thereof as shall remain due thereon respectively, by the space of three days after demand thereof made by the holder or holders of such notes or undertakings, it shall and may be lawful for any one or more of the justices of the peace for the territory of New South Wales (whereof the Judge-Advocate of the said territory must be one), and such justices are hereby required, upon complaint made by the holder or holders thereof, to summon the person or persons against whom such complaint shall be made, and after his, her, or their appearance, or in default thereof, upon due proof upon oath, to be administered by or before such justices, of such summons having

been given, such justices shall proceed to hear and determine the said complaint, and award such sum to be paid by the person or persons respectively liable to the payment of every such note or undertaking to the holder or holders thereof, as shall appear to such justices to be due thereon, together with such a sum for costs, not exceeding the sum of twenty shillings, as to such justices shall seem meet; and if any person or persons shall refuse or neglect to pay or satisfy such sum of money as upon such complaint as aforesaid shall be adjudged upon the same being demanded, such justices shall, by warrant under their hands and seals, cause the same to be levied by distress and sale of the goods of the party so neglecting or refusing as aforesaid, together with all costs and charges attending such distress and sale, returning the overplus, if any, to the owner. And it is further declared, by the authority aforesaid, that in case it shall be returned upon such warrant that the person or persons against whom the same was directed have not any goods or chattels whereby the sum therein mentioned can be levied, that then and in such case it shall be lawful for the Judge-Advocate, by warrant under his hand and seal, to commit such person or persons to His Majesty's gaol, in the town of Sydney, until the same shall be discharged and satisfied."

Note 55, page 219.

A Public Meeting.

This meeting was held on the 29th of November, 1816, and was fully reported in the issue of the *Sydney Gazette* dated 7th December following. It was then resolved that, as the difference of value between colonial and sterling currency was fifty *per cent.*, it should be reduced, "as to the present Rate of Value and Change in Colonial Currency," to one-third, making 20s. colonial currency equal to 13s. 4d. sterling; that it was necessary to reduce all bargains, contracts and agreements to payments in sterling rates, and a scale for this purpose was drawn up; that rates of wages should be fixed in sterling money, and a scale was agreed upon. It was further recommended that the copper coin in circulation at one hundred *per cent.* local enhanced value should be called in, and re-issued by government at sterling value.

In consequence of this meeting, Governor Macquarie issued government and general orders, under date 7th December, 1817, fixing the rate of wages at the scale recommended.

Note 56, page 219.

A Meeting.

A meeting had been held on the 22nd day of November, 1816, at the judge-advocate's chambers, for the purpose of taking into consideration "the present state of the Colonial Currency, and what would be the consequence of an immediate Stirling Circulation." There were present lieutenant-governor Molle, judge-advocate Wylde, D. Westworth, Richard Jones, Alexander Riley, Thomas Macvitie, Robert Jenkins, J. R. O'Connor, Richard Brooks, C. Hook, J. T. Campbell, Simeon Lord, and Thomas Wylde. Seven resolutions were carried. They were:—

1. "That the present Meeting is desirous that a Sterling Currency should take place in this Colony under such Regulations and Provisions, as His Excellency the Governor may deem proper and applicable to a reduced price of Labour and rate of Stirling Charges in every kind of Dealing and Trade within the Colony.

2. "That a Sum of not less than Twenty Thousand Pounds, in Shares of not less than One Hundred Pounds each invested in a Public Colonial Bank, transferable by assignment or otherwise in due course of Law, will be necessary for supplying a circulating medium for the uses of the Colony.

3. "That every Subscriber of £100 have a right of a single Vote at every Meeting to be assembled in every Year upon all general Questions, with regard to the Government and general Interests of the Bank, and upon the appointment of the Committee and Officers, and passing of the Accounts:—no Subscriber being allowed to have, in Right of any number of Shares in the said Bank, more than Votes upon any Question submitted to the Meeting.

4. "That the internal Management of the Bank and its immediate Concerns be committed to a Chairman and Persons, chosen by the Subscribers yearly and appointed Directors of the Same.

5. "That the general object and Business of the Bank be to advance, upon due Interest and the credit of the Bank, pecuniary assistance to the Colonial Trader, Agriculturalist and Settler, as well as to afford a Safe Depository of Money committed to its Security and charge.

6. "That no Dividends shall ever take place or be made upon the Fund of £20,000 as first established:—but that the same shall be made upon the Interest of the Bank Capital at such rate and times, as a Public Meeting shall authorize upon Suggestion from the Directors in that Respect.

7. "That, in conviction of the beneficial results that would be thus given to the Colony in every view of its best Interests, as well as to put an end to the destructive consequences and embarrassment of the present Colonial Currency, the Undersigned thus voluntarily pledge themselves as approving the measure of a Sterling Currency as above suggested, the Establishment of a Colonial Bank upon proper Regulations, as hereafter to be considered and adopted, and to become Subscribers thereto and to support the measure with all their Influence and Interest, provided His Excellency the Governor be pleased to Sanction the Same with his general Approbation and Permission."

These resolutions were signed by all those mentioned above as being present.

Governor Macquarie gave his consent to these proposals, and a public meeting was held in the court-room on the 5th of December to give effect to the proposals. At this meeting, thirty-seven persons took up one hundred and five £50 shares between them, and nine others consented to take up an unspecified number of shares. The thirty-seven persons and the number of shares taken by each were:—

J. Wylde	4	H. C. Antill	2	Geo. Crossley	2
D. Wentworth	6	Wm. Broughton	2	Jno. Grono	2
Richard Jones	5	Wm. Gore	2	Wm. Hutchinson	2
Alexander Riley	6	Edwd. Riley	2	John Hosking	2
Thos. Macvitie	2	John Wentworth	2	Wm. Davis	2
J. R. O'Connor	2	Jas. Mileham	1	Ed. Redmond	4
Chas. Hook	2	George Howe	5	Joshua Holt	2
J. T. Campbell	4	Mich. Robinson	2	Geo. Bowman	1
Simeon Lord	2	Jas. Foster	2	James Smith	2
Thos. Wylde	4	Edwd. Eagar	10	Thomas Wills	2
Fredk. Garling	4	Wm. Roberts	4	S. McGuigan	1
Wm. Redfern	2	J. J. Moore	2	John Gill	2
Chas. Throsby	2				

The nine remaining first subscribers were lieutenant-governor Molle, Robert Jenkins, Richard Brooks, William Browne, Sir John Jamison, James Birnie, Thomas Moore, Rowland Hassall, and John Harris.

Note 57, page 233.

The Committee of Fifteen.

The first meeting of subscribers to the capital fund of the bank was held on the 18th day of December, 1816, when a committee of fifteen subscribers was

elected to draw up the regulations for the government of the company. This committee consisted of all the signatories on page 233, with the addition of the name of Sir John Jamison. At a general meeting held on the 7th of February, 1817, all the regulations were adopted unanimously with the exception of that numbered 7, which was carried on a division. The first meeting of directors was held on the 12th day of February, 1817.

Note 58, page 234.

Proclamation.

The legal rate of interest was fixed by an ordinance, dated 14th July, 1804 (see page 87, volume V).

Note 59, page 238.

The Letter from the Secretary to the Treasury.

A Letter written by Deputy Commissary General Allan.

These two letters will be found on page 157.

Note 60, page 248.

The old System.

When the settlement was founded, the commissariat department was a distinct colonial entity in the charge of a "commissary of stores and provisions," who was directly under the control of the governor. The first commissary was Andrew Miller, who resigned in 1790 because of ill-health. After the wreck of H.M.S. *Sirius* at Norfolk island in March, 1790, the purser, John Palmer, was appointed to succeed Miller as commissary. As the colony developed, the department expanded, and the staff was increased by the appointment of assistant and deputy commissaries and storekeepers. These officials received a colonial salary, rations, and allowances. In the year 1812, it was decided to alter the system, and the commissariat in the colony became a branch of the army commissariat, a sub-department of the English treasury. The change was made immediately after the arrival of deputy commissary-general David Allan in the convict ship *Fortune*, on the 11th of June, 1813.

Note 61, page 250.

The Government Orders.

These orders were dated 25th March, 1815 (see page 545, volume VIII).

Note 62, page 257.

The System.

The system of victualling the sick consisted merely of issuing to them the ordinary rations established by general orders. These rations were issued three times a week to the patients individually, irrespective of the diseases from which they were suffering. As many of the patients did not require their full ration of meat, it was the practice of many of the townspeople to attend at the hospital and purchase the surplus. In the early days, when spirits were the common medium of exchange, this practice gave rise to many evils. No change was made until the year 1818, when William Redfern introduced the simple expedient of retaining the surplus rations, selling them, and with the proceeds purchasing milk, vegetables, and sundries for the patients.

Note 63, page 274.

Without which no title can have any Validity.

The original registers of all deeds of grant, bearing dates on and after the 3rd day of January, 1792, are still extant, and are preserved in the office

of the registrar-general at Sydney. The copies contained in these registers form the basis of all titles to lands obtained by grant from the crown. With one exception only, no claim to a land grant has ever been admitted, when a copy or extract of the deed has not been recorded in these registers.

Note 64, page 278.

A Government and General Order.

This general order will be found on page 312 *et seq.*

Note 65, page 279.

Also page 317.

His Brother's Tomb-Stone.

Ellis Bent died on the 10th of November, 1815, at the early age of thirty-two years. His remains were accorded a public funeral, and, after a service in St. Phillip's church, were interred in the burial ground, which occupied the present site of the Sydney Town Hall. When this burial ground fell into disuse, they were removed on the 22nd of September, 1825, to a vault, which had been prepared on Garden island. When the ground at Garden island was required for naval purposes, they were again removed to the graveyard belonging to the church of St. Thomas at North Sydney.

Note 66, page 279.

One Letter.—A Letter.

These letters were numbered 6 in enclosure No. 1, and 1 in enclosure No. 3 (*see page 286 et seq. and 310 et seq.*).

Note 67, page 280.

If he Cannot get Employment.

J. H. Bent's subsequent career, after leaving the colony, indicates that the British government did not consider him blameworthy for his conduct in New South Wales. In 1820, he became chief justice of Grenada; then successively chief justice of St. Lucia, first puisne judge of Trinidad, and finally chief justice of British Guiana. The last post he held for sixteen years, and he died in office, at the age of 72 years, on the 29th of June, 1852.

Note 68, page 280.

A long Series of Letters.

These letters will be found numbered from 7 to 36, both inclusive, in enclosure No. 2 (*see page 297 et seq.*), and from 1 to 4 in enclosure No. 5 (*see page 317 et seq.*).

Note 69, page 281.

In a Dispatch.

This despatch was dated 18th April, 1816 (*see page 107 et seq.*).

Note 70, page 293.

The Judge Advocate's Residence.

The circumstances relating to the building of the judge-advocate's official residence by Ellis Bent were reported by Governor Macquarie in despatches dated 9th November, 1812, and 28th June, 1813 (*see pages 530 and 711, volume VII.*).

Note 71, page 309.

The Honble. The Premier Judge.

The judge-advocate was the premier, and the judge of the supreme court the junior judge in the colony. The reasons for the retention of the title of judge-advocate will be found in note 27. The judge-advocate presided in the governor's court, and from the decisions of that court there was no appeal. The judge presided in the supreme court, and from its decisions appeal might be made to the governor, sitting with the judge-advocate in court of appeal. The judge-advocate's salary was £1,200, and the judge's £800 *per annum*.

Note 72, pages 310 and 315.

An Advertizement in the Sydney Gazette.

An Order of discharge.

The "advertizement" was as follows:—

"Government and General Orders.

"Government House, Parramatta,

"Saturday, 7th December, 1816.

"Civil Department.

"William Broughton, Esq., and Alexander Riley, Esq., who were appointed Members of the Supreme Court in this Territory by my Precept, dated the 22d of April, 1814, are hereby discharged from all further Duty in that respect.

"LACHLAN MACQUARIE.

"By Command of His Excellency,

"J. T. CAMPBELL, Secretary."

Note 73, page 311.

Such Advertizement has been refused insertion by Your Excellency's authority.

The proofs of the *Sydney Gazette* were submitted to the secretary to the governor, J. T. Campbell, for his approval before publication. In this way, Governor Macquarie indirectly exercised a censorship over all matter which appeared in the newspaper. The same practice had been followed since the commencement of the *Gazette* in 1803, under the governments of P. G. King, William Bligh, and the insurrectionary administrators.

Note 74, page 313.

A Public Despatch.

This despatch will be found on page 112. Governor Macquarie's first quotation was a paraphrase of the concluding remarks in the third paragraph.

Note 75, page 318.

Also page 322.

One of the Port Regulations.

This regulation was numbered XIII (*see* pages 658 and 659, volume VII).

Note 76, page 324.

The public Dispatch of my predecessor.

This despatch will be found in note 124, volume VII.

Note 77, page 330.

Also pages 410 and 494.

A Memorial Addressed to the House of Commons.

A copy of the text of this memorial is not available. In a private despatch to under secretary Goulburn, dated 15th December, 1817 (*see page 732 et seq.*), the substance of the charges made was discussed. Governor Macquarie was charged with influencing the decisions of the jury at an inquest, in which his coachman was interested; with personally giving orders for corporal punishments without any previous magisterial inquiry; with selling pardons to convicts; with prohibiting bans of marriage; with arbitrarily pulling down houses; with seizing upon lands, which were presumably private property; and with influencing the courts of justice (*see note 163*).

Note 78, page 345.

Mr. Judge Advocate Wylde.

John Wylde, LL.D., accompanied by his family and his father, Thomas Wylde, arrived in the colony on the 5th of October, 1816. He had been appointed deputy judge-advocate for the settlements in New South Wales by commission, dated 1st January, 1816. He was subsequently appointed a judge under the charter of justice, promulgated in 1824, but resigned the position in February, 1825, and returned to England. In 1826 he received a pension of £500 *per annum* pending his nomination to a colonial appointment. In 1827 he was appointed a judge at the Cape of Good Hope, and he remained on the bench in that colony until 1854. He died on the 13th of December, 1859. He was a brother of the first Baron Truro, who spelt the family name as Wilde, by which it is now known.

Note 79, page 345.

Mr. Justice Field.

Barron Field was the son of Henry Field, a surgeon to Christ's hospital, and was born on the 23rd of October, 1786. He was educated as a barrister, and was called to the Inner Temple on the 23rd of June, 1814. About this period, he devoted himself to literature, compiled an analysis of Blackstone's *Commentaries*, and was theatrical critic to the *London Times*. He was an intimate friend of Charles Lamb, who introduced him to the select literary coterie then in London. Finding that the pursuit of literature was unremunerative, he accepted a commission, bearing date 14th May, 1816, as judge of the supreme court in New South Wales. He arrived in the colony on the 24th of February, 1817. His tenure of office was marred by his participation in party strife. He left the colony on the 4th of February, 1824, and was subsequently appointed judge at Gibraltar. He died on the 11th of April, 1846. Whilst resident in the colony, he wrote the *First Fruits of Australian Poetry*, published in 1819. In 1825, under his editorship, a volume, entitled *Geographical Memoirs of New South Wales by various hands*, was published. He subsequently contributed many articles to magazines. His prose was considered good, but his verse very poor.

Note 80, pages 346, 348, and 352.

A separate Dispatch.—A Short Dispatch.—A Separate Dispatch.

These despatches will be found on page 276 *et seq.*, page 338 *et seq.*, and page 236 *et seq.*

Note 81, page 352.

Also page 789.

A Light House and Tower at the South Head.

This lighthouse was erected at the outer south head of Port Jackson close to the site of the present structure. John Oxley's description of the tower and light and its magnetic bearings was forwarded by Governor Macquarie with his despatch, numbered 6 and dated 16th May, 1818 (*see* page 789). In general orders, dated 28th November, 1818, the expense of maintaining the light was directed to be defrayed by a charge on the tonnage of all ships entering the heads of Port Jackson after the 1st of January, 1819, excepting such vessels as were registered at Port Jackson or at any of the ports in the territory.

Note 82, page 353.

Most of them have hitherto been very badly planned.

Prior to the appointment of F. H. Greenway as government architect, it is not clear who was responsible for the plans and designs of the public buildings. The plans for the general hospital in Macquarie-street, Sydney, were drawn at the beginning of the year 1810; but, when holding his inquiry in the years 1819-1820, Mr. Commissioner Bigge was unable to ascertain the name of the architect. Architecture was a hobby of Mrs. Macquarie, and there is evidence that a man named Pan designed one public building, using a book on cottage architecture loaned by Mrs. Macquarie.

Note 83, page 356.

A former Dispatch.

Governor Macquarie reported the necessity for sending from England a superintendent for the factory at Parramatta in his despatches dated 17th November, 1812 (*see* page 614, volume VII), and 7th October, 1814 (*see* page 312, volume VIII).

Note 84, pages 356 and 747.

Also pages 488, 726, and 825.

Australia.

The Continent of Australia, which I hope will be the Name given to this Country instead of . . . "New Holland," which properly speaking only applies to a part of this immense Continent.

These were probably the first occasions when the word Australia was used in official correspondence. The origin of the word is involved in obscurity. In the memorial of Fernandez de Quiros, published at Pamplona in 1610, the phrase "Austrialia incognita" appeared on the title page, and the word "Austrialia" in the first and seventh paragraphs. This memorial was translated into English and French, and published at London and Paris in 1617; in these translations, "Austrialia" was rendered as "Terra Australis" and "La Terre Australle" respectively. *Purchas, His Pilgrimes* was published at London in 1625; in the fourth volume, a translation of the memorial of De Quiros was printed, and in the first paragraph (page 1423) the rendering is "Australia incognita," although in the seventh paragraph the rendering remains "Austrialia del spiritu santa" (page 1426); in the same volume (page 1432) there is "A note of Australia del Espiritu Santo, Written by Master Hakluyt." These are probably the first two occurrences of the word Australia in print. In 1676, there was published at Vannes a small duodecimo volume, containing 267 pages of text, entitled "*La Terre Australe Connue*,

c'est a dire La Description de ce pays inconnue jusqu'ici, de ces mœurs et de ces coutumes, par Mr. Sadeur." This edition was suppressed; but, in 1692, the book was republished at Paris "avec privilege du Roy" under the title of "*Les Aventures de Jacques Sadeur dans la Decouverte et la Voïage de la Terre Australe contenant Les Coutumes et les Mœurs des Australiens.*" This book was reprinted at Paris in 1693 and 1705, at Amsterdam in 1732, and a modified version at Lyon in 1796. The book was an imaginary account of travels, said to be written by Gabriel de Foigny or Foigni, a cordelier; it contained however frequent usages of the words "Australien" and "Australienne." A translation of this book was published in London in 1693, under the title of "*A New Discovery of Terra Incognita Australis or the Southern World by James Sadeur, a Frenchman.*" In the table of contents of the chapters, the translator rendered (chapter IV) "Description de la Terre Australis" into "A Description of Australia," and chapter X contained "the Animals and living creatures peculiar to Australia"; the word Australia occurs also on pages 50 and 130. In Bayle's dictionary, published in 1710, the word Australia occurs three times in note G, article Sadeur. In 1756, Charles de Brosses, president of the parliament of Dijon, published at Paris his *Histoire des Navigations aux Terres Australes*. On page ii of the preface he divided "la terre Australe" into "Magellanique, Polynesie et Australasie," and in tome 1, page 80, he stated "l'une (portion) dans l'Ocean des Indes au sud de l'Asie, que j'appellerai par cette raison Australasie"; on page 17, tome 1, he used also the word "Australiens." In Callendar's translation of De Brosses, published in 1766, "Australasie" was rendered "Australasia," and "les Austraux," "Australians" (page 63, volume I). Alexander Dalrymple, in the preface (page xv) to his *Historical Collection of the several Voyages, etc.*, published in 1770, after adopting the terms used by De Brosses, stated, "I have inserted another head of partition, Australia, comprehending the discoveries at a distance from America to the eastward." In Hawkesworth's account of lieutenant James Cook's voyage in H.M.S. *Endeavour*, published in 1773, reference was made (volume III, page 602) to "the islands, which were discovered by Quiros and called Australia del Esp'tu Santo." In the preface (page xiii) to the account of captain Cook's third voyage, published in 1784, the sentence occurs, "Who has not heard or read of the boasted Tierra Australia del Espiritu Santo of Quiros?" In 1794, George Shaw, M.D., F.R.S., in his *Zoology of New Holland*, referred on page 2 to "the vast Island or rather Continent of Australia, Australasia or New Holland." In 1799, the voyage of the missionary ship *Duff* during the years 1796-7-8 was published; this work contained a chart showing the track of the ship, and the terms "Greater Australia" and "Lesser Australia" were applied to the islands in the south seas. In 1806, volume II of admiral Burney's *Chronological History of Voyages, etc.*, was published. This volume contained a chart, published by act of parliament, on which the islands discovered by De Quiros were called "Australia del Esp'tu Santo," and on pages 299, 479, and 481 of the same volume the word Australia was used. Malte Brun, in his *Geographie Universelle*, the first volume of which appeared in 1810, advocated the terms "Oceania" and "Oceanians," "names which will supersede the unmeaning or inaccurate designations of Australasia, Notasia, Austral-India and Australia." In his *Annales des Voyages*, published in 1810, Malte Brun included an essay by Matthew Flinders on the fate of La Perouse; in this paper, Flinders advocated the names "Austral-land" or "Australia" for the island continent, but "il reste a savoir si ce nom sera adopté par des géographes européens."

It is evident that prior to the publication of Flinders' *Voyage to Terra Australis* in 1814, the word Australia had been used by many authors and

geographers; but, of these, George Shaw, in 1794, and Matthew Flinders, in 1810, were the only writers quoted above to use it specifically in reference to the island continent.

In his *Voyage*, Flinders wrote in a footnote, "Had I permitted myself any innovation upon the original term *Terra Australis*, it would have been to convert it into *Australia*." In the collection of charts published with this volume, one was entitled "General Chart of *Terra Australis* or *Australia*."

Although the word *Australia* was officially used by Governor Macquarie in 1817, it was some years before it came into general use. W. C. Wentworth, in the first edition of his *Statistical Account*, published in 1819, used the term *New Holland*; but, in the third edition, published in 1824, he wrote that "the most eminent modern geographers have given to it the appropriate name of *Australia*." Peter Cunningham, in his *Letters describing Two Years' Residence in New South Wales*, published in 1827, wrote (volume I, page 9), "*New South Wales* (or *Australia* as we colonials say)." Charles Sturt, in the preface to his *Two Expeditions into the Interior of Southern Australia*, published in 1833, stated that the name *Australia* had been adopted "of late years."

It is probable, therefore, that George Shaw, in 1794, was the first writer to use the name *Australia* in a printed book, as applied strictly to the island continent; that Matthew Flinders either found the word in Dalrymple or some other work, or reinvented it, and advocated its use in its modern sense; that Governor Macquarie proposed its adoption after reading Flinders' *Voyage*; that Macquarie's use of the word contributed largely towards its general adoption; and that the word came into general use between the years 1820 and 1830.

The term *New Holland* was applied to the continent some time after the year 1644. When he received his commission in 1786, Governor Phillip's jurisdiction was confined to the territory of *New South Wales*, which was defined as extending from the eastern coast to 135 degrees of east longitude. About that date (1786), geographers adopted the practice of dividing the continent into *New Holland* west of and *New South Wales* east of the said meridian of longitude.

Note 85, page 356.

Also pages 404, 477, and 726.

An Expedition

After receiving Earl Bathurst's instructions, Governor Macquarie commenced preparations for the expedition. Twelve men were selected to accompany John Oxley; G. W. Evans was appointed second in command, Allan Cunningham and Charles Fraser, botanists, and William Parr, mineralogist. A depôt was formed on the Lachlan river about nine miles above its junction with the Belubula river. All provisions and equipment were taken to the depôt, and two boats were built there by George Hubbard, a member of the expedition. John Oxley received his instructions from Macquarie on the 24th of March, 1817, and on the 28th of April following a start was made from the depôt. Part of the expedition proceeded down the river in the boats, whilst Oxley, travelling with the horses, examined the surrounding country. In this way, the Lachlan river was followed to the neighbourhood of the modern town of Monwonga below Forbes. It was then found impracticable to follow the river further owing to the flooded state of the country. Accordingly Oxley abandoned the boats, and on the 18th of May commenced a south-westerly course away from the river, hoping to reach the coast near cape Northumberland. This course was followed until in the neighbourhood of Mirrool creek, a little more than twenty miles from the

Murrumbidgee river, when he turned north, keeping to the west of the Cocoparra range. On the 23rd of June, he unexpectedly fell in with the Lachlan river about twenty miles above Hillston north. The river was then traced until the 9th of July, when the party was near the modern town of Oxley. On the return journey, the river was followed to the neighbourhood of the junction of Goobang creek, where, on the 1st of August, the main stream was crossed on a raft. Taking a course in a general direction of E.N.E., the tributaries of the Little river were crossed, and the Macquarie river was met with about twenty miles above the town of Wellington. This river was then followed to Bathurst, which was reached on the 29th of August.

Note 86, page 357.

William Cox . . . went . . . to the River Lachlan to examine it.

An account of William Cox's examination of the Lachlan river is not available. He was employed also in superintending the removal of the equipment and stores for the expedition of John Oxley from Bathurst to the depôt on the Lachlan river.

Note 87, page 358.

Also page 713.

The recent Discoveries . . . to the Southward as far as Shoal Haven.

The exploration of the Illawarra district was accomplished by private parties (*see also note 87, volume V*). The first land grants in the district were dated on the 24th of January, 1817 (*see note 167*).

Note 88, page 358.

The Request.

The request was made in the thirteenth paragraph of the despatch dated 24th March, 1815 (*see page 469, volume VIII*).

Note 89, page 362.

Proclamation.

This proclamation will be found on page 141 *et seq.*

Note 90, page 369.

That part of His Majesty's Instructions.

The reference was to the seventeenth paragraph of the general instructions to Governor Macquarie, issued at the time of his appointment (*see page 195, volume VII*).

Note 91, page 370.

The Terms Township and District as Synonymous.

John Oxley made use of the word "township" with its older and larger meaning. In this sense, it consisted of an aggregation of settlers in a defined area, and usually contained one or more collections of houses known as "towns." The township, whose area was frequently as much as 20,000 or 30,000 acres, roughly corresponded to the modern "shire." Governor Macquarie, on the other hand, used the term with its more restricted modern meaning in his general orders, dated 15th December, 1810 (*see page 399, volume VII*).

Note 92, page 370.

The Description of those Lands have been recorded and sent home.

The description of these lands were recorded in the secretary's registers, which are still preserved in the office of the registrar-general at Sydney. Copies of the deeds were sent to England by Governor King with a despatch dated 1st March, 1802 (*see* page 446, volume III).

Note 93, page 371.

My Letter dated 20th Sepr., 1814.

This letter will be found on pages 331 and 332, volume VIII.

Note 94, page 379.

The Point of Precedency.

The governor's court and the supreme court both exercised civil jurisdiction. The governor's court was given prior rank, but its jurisdiction was limited to causes in which the amount of damages involved or debt or thing in demand did not exceed £50 sterling. Whereas the supreme court was given three jurisdictions; an *ordinary* jurisdiction, in which cognizance was taken, as in the governor's court, of all pleas of land, and all personal pleas whatsoever, provided that the amount involved or the debt or thing in demand exceeded the sum of £50 sterling; an *equity* jurisdiction, in which it was directed to follow the rules of the high court of chancery in England; and an *ecclesiastical* jurisdiction, which was confined to the granting of probates of wills and letters of administration.

The governor's court was constituted by the judge-advocate and two fit and proper *persons, resident* in the territory, appointed from time to time by the governor. The supreme court was presided over by a judge, who was assisted by two *magistrates* of the territory, appointed by the governor.

The judge-advocate was the senior judicial officer, and received a salary of £1,200 *per annum*; the judge of the supreme court a salary of £800 *per annum*. By their commissions, the judge-advocate was appointed to "discharge the duty of Deputy Judge Advocate," and "to observe and follow such Orders and Directions from time to time, as you shall receive from Our Governor of Our said Settlements or any other Your Superior Officer"; whereas the judge of the supreme court was commissioned simply "to have, hold, exercise and enjoy the said Office during Our Pleasure and your Residence within the said Territory and its Dependencies, with full Power and Authority to hold the said Supreme Court, as established by Our Letters Patent."

Note 95, page 384.

A Property in the Service of such Offender.

Such Convicts as are permitted to transport themselves.

The practice, adopted in the transportation of convicts, was to assign by deed the services of the convicts to the contractor for the ship, in which they were to be transported. In the same deed, the contractor, in consideration of a nominal sum therein acknowledged to be paid, agreed to re-transfer the property in the services of the convicts to the governor or administrator of the colony on arrival at the port of destination. When transportation to the American colonies was practised, the clause relating to the re-assignment was frequently omitted. In consequence, the master obtained an absolute property in the services of the convicts, which he sold to the colonists in America. This was so profitable, that many shiploads of convicts were transported to America free of expense to the English government.

The practice of allowing persons to transport themselves was frequently adopted in the case of persons suspected of being engaged in treasonable practices in Ireland. These persons were allowed to banish themselves for life to avoid being brought to trial. (For a case in example, *see* page 551, volume V.)

Note 96, page 385.

A Letter.

W. H. Moore had been appointed one of the solicitors for New South Wales at a salary of £300 *per annum*. He had arrived in the colony *per* the ship *Marquess of Wellington* on the 27th of January, 1815. In February, 1816, he gave the Reverend Benjamin Vale professional advice, when the latter seized the American schooner *Traveller*. In consequence, Governor Macquarie discontinued his salary as from the date of the seizure (23rd February), removed him from the list of those victualled by government, and deprived him of all indulgences.

Note 97, page 386.

Also page 718.

A New Seal.

By his second commission, dated 2nd April, 1787, Governor Phillip was empowered to use the great seal of the territory (*see* page 4, volume I). The seal, however, was not made and approved by the King-in-council until the 21st of January, 1791. The official description of it was:—

“*On one side*:—Convicts landed at Botany Bay; their fetters taken off and received by Industry, sitting on a bale of goods with her attributes, the distaff, bee-hive, pick axe, and spade, pointing to oxen ploughing, the rising habitations, and a church on a hill at a distance, with a fort for their defence. Motto: *Sic fortis etruria crevit*; with this inscription round the circumference, *Sigillum Nov. Camb. Aust.*

“*On the reverse*:—His Majesty’s arms in a shield, with the supporters; garter and imperial crown, with the motto; and round the circumference his Majesty’s titles.”

This seal was received by Governor Phillip *per* H.M.S. *Gorgon* on the 22nd of September, 1791. Prior to that date, Phillip had used a small private seal on his official papers. The territorial seal was in continuous use from the year 1791 until the new seal was brought out in the ship *Almorah*, which arrived in Port Jackson on the 31st of August, 1817. The new territorial seal was rendered necessary by the alterations in the royal arms by an order-in-council, dated 6th June, 1816 (*see* page 160). The changes on the seal were confined to the reverse side. The first territorial seal was returned to England *per* the ship *Harriet*, which sailed on the 22nd of December, 1817.

Note 98, page 388.

Despatch No. 93.

This despatch and its enclosures are preserved in the record office, London, but there is no record of its transmission to, or receipt by Governor Macquarie. A second despatch (*see* page 413) was written by Earl Bathurst, relating to the affairs of Jonathan Burke Hugo. This despatch was dated twenty-nine days after the first despatch, and was numbered 96. On the 11th of December, 1817, Governor Macquarie acknowledged the receipt of despatch No. 96, but made no reference to despatch No. 93, and it is probable, therefore, that he did not receive it.

Note 99, page 391.

Your Recommendation.

The reference is probably to the fourth paragraph (*see* page 4) of the despatch dated 20th February, 1816.

Note 100, page 393.

The terms of the Colonial Patents.

The reference was to the commissions issued to the governors. In these, it was provided that, in the event of the death or absence of the governor, and of there being no person commissioned or appointed as lieutenant-governor, the officer highest in rank on service in the territory should take upon him the administration of the government (*see* page 189, volume VII).

Note 101, pages 397 and 417.

Garnham Blaxcell.

Garnham Blaxcell arrived in the colony on the 16th of October, 1802, *per* H.M.S. *Buffalo*. To this ship he had been appointed acting purser by Sir Roger Curtis at the Cape of Good Hope. When he was superseded in this office in 1803, he was made a deputy commissary by Governor King on the 9th of May. About the same time, he acted as secretary to the governor during the suspension of W. N. Chapman. On the death of Thomas Smyth, in December, 1804, he succeeded as acting provost-marshal; and, when W. N. Chapman left for England in the same year, he again became secretary to the governor, which office he held until the departure of King in 1806. At this date, his official career may be said to terminate. In the meantime, Blaxcell had entered largely into commercial ventures; he was the owner of the sloop *Hope*, part-owner with John Macarthur in the brig *Elizabeth*, and Macarthur's partner in speculations in sandal-wood and other goods. He took an active share in the usurpation of captain Bligh's government; and, after the actual arrest, he was a member of the committee of four to examine Bligh's papers. He was one of the eight magistrates appointed by major Johnston on the 27th of January, 1808, and on the 10th of February Johnston made him sole auctioneer for the colony. He continued to extend his commercial and shipping activities, and acquired successively a whole or part interest in the vessels *Governor Macquarie*, *Cyclops*, and *Favourite*. In 1810 he entered into the contract, associated with A. Riley and D. Wentworth, for the erection of the general hospital at Sydney. His trading ventures, however, were not a success. In 1810 he was largely indebted to his partner, John Macarthur; he was an importing merchant, but in 1812 he admitted he was unable to meet his liabilities for import duty, and offered grain in settlement, which was refused; in 1813 a bill of his, drawn on London and negotiated by Riley, was dishonoured. His financial instability became recognised; but, owing to the suspension of the sittings of any civil court after July, 1814, no action could be taken against him. When he absconded in April, 1817, his liabilities were stated to be £6,373 and his assets £5,255. His death took place during the voyage to England.

Note 102, page 398.

The 10th and 13th Articles of the Port Regulations.

These articles will be found on page 658, volume VII.

Note 103, page 402.

A Separate Dispatch.

This despatch will be found on page 397 *et seq.*

Note 104, page 411.

Westmoreland.

Governor Macquarie proposed West-more-land as a name for the new country in his despatch dated 28th April, 1814 (*see* page 150, volume VIII). The name is now retained for the county which is bounded by the Guinecor creek, the Wollondilly and Cox's rivers, Solitary creek, and the Fish and Campbell's rivers.

Note 105, page 411.

List of important Points.

These "points" were referred to in despatches bearing the following dates:—*1st*, 28th June, 1813 (*see* page 777, volume VII); *2nd*, 28th June, 1813 (*see* pages 722 and 723, volume VII); *3d*, 7th October, 1814 (*see* page 340, volume VIII); *4th*, 28th April, 1814 (*see* page 154, volume VIII); *5th*, 7th October, 1814 (*see* page 312, volume VIII); *6th*, 30th April, 1814 (*see* page 211, volume VIII); *7th*, 7th October, 1814 (*see* page 299, volume VIII); *8th*, 28th June, 1815 (*see* page 716, volume VII); *9th*, 17th November, 1812 (*see* page 611, volume VII); *10*, 28th April, 1814 (*see* page 151, volume VIII); *11*, 24th June, 1815 (*see* page 560, volume VIII); *12*, 24th June, 1815 (*see* page 558, volume VIII).

Note 106, page 414.

Your Dispatch.

The extract was the seventh paragraph of the despatch, dated 18th March, 1816 (*see* page 57).

Note 107, page 417.

The very long interval.

The last sittings of the court of civil jurisdiction were held on the 2nd of August, 1814. The first sittings of the supreme court for the trial of causes did not take place until May, 1817.

Note 108, page 423.

Paid by Messrs. Riley and Wentworth $\frac{2}{3}$ of the within Mentioned Sum.

Alexander Riley, D'Arcy Wentworth, and Garnham Blaxcell were equal partners in the contract for the erection of the general hospital at Sydney (*see* page 401 *et seq.*, volume VII). All spirits imported under this contract belonged as to two-thirds to Riley and Wentworth, and as to one-third to Blaxcell. The import duties on such spirits were apportioned in like manner.

Note 109, page 428.

My Dispatch, No. 20.

This despatch was dated the 15th of May, 1817 (*see* page 397 *et seq.*).

Note 110, page 433.

A Copy of a Letter.

This letter was dated the 5th of December, 1816 (*see* page 194).

Note 111, page 439.

Mr. Thomas M. Moore to Earl Bathurst.

The contradictory statements made by W. H. and T. M. Moore with regard to the signature of the latter to the memorial to the House of Commons are worthy of special note as indicative of the means to an end that an educated

man considered himself justified in adopting. In a letter, dated 18th September, 1816 (*see* page 331), to Governor Macquarie, W. H. Moore made a confession which was tantamount to one of forging his brother's (T. M. Moore) signature. In the letter, dated 10th November, to Earl Bathurst, T. M. Moore justified the signing of his name to the petition; and in a letter, dated 16th November, W. H. Moore repudiated his letter to Macquarie, and stated that it was written "in order to induce him (Macquarie) to believe that I had put my brother's name to the petition without his sanction; and the words, I made use of upon that occasion, were these, 'that I took upon myself to attach his name to such petition, that he never saw it, And that every thing relating to it was transacted during his absence from Sydney'; Words in themselves strictly true, for I had his authority to use my own discretion as to signing it for him, tho' calculated to make him (Macquarie) believe the contrary."

Note 112, page 443.

The Very few.

Governor Macquarie referred to the Reverend Henry Fulton, who had been transported for supposed complicity in the Irish rebellion in 1798, and had been pardoned conditionally in November, 1800, and absolutely in December, 1805, by Governor King; to William Redfern, assistant surgeon, who had been transported for participation in the mutiny at the Nore, and had been pardoned absolutely on the 4th of June, 1803; to James Meehan, deputy surveyor, pardoned conditionally in June, 1805, and absolutely in June, 1806; and to Simeon Lord, who had been appointed a magistrate.

Note 113, page 448.

Mr. William Wentworth.

William Charles Wentworth was born in Norfolk island in October, 1793. In the year 1800 he was sent to England for his education. He returned to the colony in 1810, and accompanied Gregory Blaxland and William Lawson in their successful expedition across the Blue Mountains in 1813. He sailed for England again on H.M. brig *Emu* in 1816 in order to study for the bar.

Note 114, page 452.

Sanctioned by the House of Commons.

The select committee of the House of Commons on transportation (*see* note 150, volume VII), which sat in 1812, endorsed the policy which Governor Macquarie had adopted with regard to the treatment of emancipists and expirees. On the 10th of July, 1812, the committee's report was ordered to be printed by parliament. Governor Macquarie referred probably to this "sanction."

Note 115, page 479.

My proceedings up to the 30th April.

John Oxley had transmitted a report of his proceedings (*see* volume in series V) two days after leaving the depôt near the junction of the Lachlan and Belubula rivers. He had stated that the boats built by Hubbard were likely to answer every expectation; that the Lachlan river exceeded his expectations, and that there was no likelihood of the occurrence of any steep or continuous falls to impede navigation, as, from observations made at the depôt, he found the position was only 650 feet above sea-level (*see* also note 85).

Note 116, page 484.

A Series of Cruelty and Oppression.

The treatment of the convicts on the convict ship *Chapman* were fully detailed in the enclosures to the despatch dated 12th December, 1817 (*see* page 563 *et seq.*), and to the despatch dated 20th December, 1817 (*see* page 741 *et seq.*).

Note 117, page 491.

Your Lordship's Dispatch No. 86.

This despatch was dated 6th February, 1817 (*see* pages 206 and 207).

Note 118, page 494.

Some of them have since acknowledged.

Two "acknowledgments" by Samuel Terry and Gustavus Low (*see* pages 333 and 334) respectively were forwarded by Governor Macquarie with his despatch dated 3rd April, 1817, and numbered 14.

Note 119, page 495.

My Public Letter.

This letter will be found on pages 501 and 502.

Note 120, page 497.

A change in the Chief Magistrate of this Colony.

The governor was the chief magistrate of the colony. It is an undoubted fact that private reports, which were received by the various secretaries of state, had considerable influence in the removal of governors Hunter, King, and Bligh. Dr. John Dunmore Lang (*Historical and Statistical Account of New South Wales*, 4th ed., vol. I, p. 49) wrote that "in the year 1824, the late John Macarthur, Esq. . . . stated in my hearing, with evident feelings of self satisfaction, that he had been the means of sending home every governor of the colony but the last (meaning Governor Macquarie)." If Governor Phillip was excepted, this statement was probably correct, as Macarthur was the active leader of the parties in opposition to Hunter, King, and Bligh.

Note 121, page 499.

His representations.

Governor Macquarie was not correct in his assumption that these representations were made by the Reverend Samuel Marsden, as Nicholas Bayly was the author (*see* note 44) of the letter which contained them.

Note 122, page 500.

List of the Names.

The Reverend Samuel Marsden was the second chaplain appointed on the colonial establishment. He arrived at Sydney on the 10th of March, 1794, on the store-ship *William*. He succeeded to the office of principal chaplain when the Reverend Richard Johnson returned to England in October, 1800. In 1801 he had been involved in the dispute between Governor King and John Macarthur, owing to the latter's disclosure of public and private correspondence to himself. He was a supporter of Governor King, and was made the subject of an anonymous attack by the military party in 1803 (*see* page 168, volume IV). He became largely interested in farming and pastoral pursuits, and, associated with John Macarthur, he was selected by

Governor King to initiate the inquiry into the pastoral industry in 1805 (*see* page 558, volume V). He was absent from the colony during the usurpation of Governor Bligh's administration. He came into open conflict with Governor Macquarie over a refusal to read a general order in church (*see* page 255, volume VIII), and over attempted innovations in the church service (*see* page 336, volume VIII).

Nicholas Bayly had been an ensign in the New South Wales Corps, but had retired as a lieutenant in 1803, and become a settler. He was deeply involved in the usurpation of Governor Bligh's administration. He was the author of the attack on Macquarie's government, to which Macquarie was ordered to reply (*see* note 44).

Robert Townson, LL.D., had arrived in the ship *Duke of Portland* on the 27th of July, 1807, carrying with him a private promise from Sir George Shee of a land grant of two thousand acres (*see* page 190, volume VI). Governor Bligh refused to make him a land grant without instructions from the secretary of state. In consequence, Townson joined the military party, who deposed Governor Bligh. He obtained land grants from lieutenant-colonel Foveaux in 1808. He came into conflict with Governor Macquarie over the conditions embodied in the renewal of these grants (*see* page 493 *et seq.* and 551 *et seq.*, volume VII).

John and Gregory Blaxland had arrived in the colony in April, 1807, and in April, 1806, as free settlers under an agreement with the government (*see* pages 490 and 491, volume V). The fulfilment of the terms of their agreements was the source of a lengthy dispute with governors Bligh and Macquarie. They associated themselves with the military party in the arrest of Governor Bligh, but soon after they were involved in a fresh dispute with major Johnston in connection with the ship *Brothers*. They were typical examples of the discontented colonists.

Charles Throsby had arrived in the colony as surgeon on the transport *Coromandel* on the 13th of June, 1802. In the month of September following, he had been appointed to the colonial medical staff, and, whilst on duty at Newcastle in 1805, he had succeeded as commandant of that settlement. He took no part in the usurpation of Governor Bligh's administration, and in 1809 retired and became a settler. There are no papers available showing any open discontent on his part against Governor Macquarie's administration.

John Horsey and *Sir John Jamison* had arrived in the ship *Broxborough* on the 1st of August, 1814, and Governor Macquarie had made them promises of liberal land grants (*see* page 296, volume VIII). There is no evidence of any open discontent shown by John Horsey. Sir John Jamison, however, appears to have sympathised, at least, with the military officers in their dispute with Governor Macquarie in 1817, for it was at his house that ensign Bullivant was induced to make a false declaration (*see* page 475).

David Allan had arrived in the colony on the 11th of June, 1813, to take charge of the commissariat department. He came into active conflict with Governor Macquarie in connection with the issue of promissory notes by himself (*see* page 542 *et seq.*, volume VIII).

It is difficult to explain the reason for the inclusion of *John Oxley* in this list.

W. H. and *T. M. Moore* had arrived in the colony on the 27th of January, 1815, in the ship *Marquess of Wellington*. *W. H. Moore* came into open conflict with Governor Macquarie in February, 1816, over the seizure of the American schooner *Traveller* (*see* page 42 *et seq.*), and, a few months later, over the preparation of a petition of grievances to the House of Commons (*see* page 329 *et seq.*). Owing to the refusal of a land grant, on account of his name being attached to the above mentioned petition, *T. M. Moore* made a complaint to Earl Bathurst in November, 1816 (*see* page 439 *et seq.*).

Note 123, page 505.

One of My Dispatches.

The despatch was dated 17th November, 1812. The reference was to paragraph fifty-two (*see* page 614, volume VII).

Note 124, page 508.

The Government Orders.

These orders will be found on page 515 *et seq.*

Note 125, page 512.

Lunatic Asylum at Castle Hill.

At the commencement of Governor Macquarie's administration, all persons who were mentally afflicted and under restraint were confined in the gaol at Parramatta. In May, 1811, a lunatic asylum was established at Castle Hill, to which all the patients were removed from the gaol. Persons were committed to the asylum by order of a magistrate. On the 12th of September, 1814, Governor Macquarie issued special instructions to George Suttor as resident superintendent of the asylum.

Note 126, page 516.

Also page 528.

Established Regulations of the Colony.

Since the early days of the colony, it had been the practice of the governors to fix the hours, wages, and tasks for labourers, whether convicts in government employ or assigned servants. In 1795 and 1796, Hunter fixed the hours for public labour (*see* pages 679, 682, and 696, volume I). In March, 1797, Hunter established a fixed rate of wages for specific work performed (*see* pages 75 and 78, volume II). In 1800, difficulty arose owing to the demand of labourers for higher wages, which the settlers were compelled to give. These wages were paid in the produce of the land; and, as the price of the produce was fixed by the rate at which it was taken into the public stores, the increased wages demanded were oppressive to the settlers (*see* page 621, volume II). In 1798, Hunter abolished in part the fixed hours for labour, and established a daily or weekly task. This gave rise to certain impositions, and the fixed hours of labour were again imposed (*see* pages 214, 218, 359, and 585, volume II). In October, 1800, and January, 1804, King fixed the weekly task work, wages, and hours of labour of government and private servants (*see* page 37, volume III, and page 75, volume V). King modified the hours of labour on several occasions (*see* pages 252, 462, and 472, volume III, and pages 323 and 326, volume IV).

Note 127, page 537.

When I first read in the Sydney Gazette.

It was the practice in the court of criminal jurisdiction to deliver on the same day all sentences passed on prisoners found guilty during the previous days of the sittings. The sentences on Michael Hoare and others were delivered in court on the 5th of February, and reported in the issue of the *Sydney Gazette* for the 10th of February, 1816.

Note 128, page 543.

Your Lordship's Dispatch.

This despatch was dated 11th May, 1816 (*see* page 120).

Note 129, page 544.

The Mermaid Cutter.

The *Mermaid* cutter, under the command of — Scholley, had arrived in Port Jackson from Calcutta on the 30th of September, 1817.

Note 130, page 554.

Similar Commissions.

The commissions to Thomas Jamison, as surgeon, to Edward Abbott, as deputy judge-advocate, and to Martin Tims, as provost-marshal, may be taken as examples (*see* page 427, volume V, and page 267, volume VIII). Each commission expressly stated that the officer was subject to the "rules and discipline of war."

Note 131, page 562.

Also pages 649, 655, 656, 657, 658, 659, 662, 663, 665, 668, 694, 695, 703.

List.

This list and the documents on the pages above quoted are copied from the series of governors' despatches (mostly the duplicate copies) which were presented to the government of New South Wales by the imperial government, and are preserved in the Mitchell library at Sydney.

Note 132, page 563.

Queries and Remarks.

The author of these queries has not been elucidated.

Note 133, page 564.

Despatches from Irish Government.

Copies of these despatches are not available.

Note 134, page 592.

The Instructions.

These were the instructions issued by the commissioners for transport, which will be found on page 600 *et seq.*

Note 135, pages 597 and 641.

Effectual steps.—A correspondence.

The reference was to the letters marked H and I (*see* page 606 *et seq.*).

Note 136, page 611.

See Answer.

The answer was forwarded as letter numbered 24 in enclosure No. 6 to this despatch (*see* page 662).

Note 137, page 630.

The statements made by Collins and Ryan.

The examination of Michael Collins will be found on page 604 *et seq.*

Note 138, page 662.

The enclosed Letter.

This letter will be found on page 610.

Note 139, page 663.

Charges preferred by Mr. Secy. Campbell as far back as the 2d of August last.

The charges were contained in J. T. Campbell's letter to Governor Macquarie, dated 1st August, 1817 (*see* page 650 *et seq.*). A copy of this letter was forwarded to John Drake by J. T. Campbell on the 2nd of August (*see* page 655).

Note 140, page 672.

Mr. Justice Field has declined meeting or joining the Committee.

Mr. Justice Field's refusal to join the committee will be found in the letter numbered 4 on page 700, and his reasons for so doing in the letter numbered 5 on page 701.

Note 141, pages 674 and 678.

Letters.

These three letters will be found on page 695 *et seq.*

Note 142, pages 700 and 701.

His Excellency's Letter.—Your Excellency's Letter.

This was the letter numbered 34 in enclosure No. 6 (*see* pages 668 and 669).

Note 143, page 702.

The Judge Advocate's two letters of advice.

These letters were numbered 40 and 42 in enclosure No. 6 (*see* page 674 *et seq.* and page 678 *et seq.*).

Note 144, page 708.

The Subject of a Separate Dispatch.

The separate despatch was numbered 39 (*see* page 560 *et seq.*). The despatches numbered 29 (*see* page 484 *et seq.*) and 46 (*see* page 741 *et seq.*) were also confined to particulars relating to the proceedings on the voyage of the ship *Chapman*.

Note 145, page 710.

Mr. John McArthur.

John Macarthur, after taking one of the leading parts in the deposition of Governor Bligh, had sailed for England in the ship *Admiral Gambier* in the company of lieutenant-colonel Johnston at the end of March, 1809. He arrived in England during the month of October following. In the meantime, Governor Macquarie had sailed for the colony to assume the government, and carried instructions for the arrest of Macarthur and for his trial before the criminal court in the settlement, "if Examinations be sworn against him charging him with criminal Acts against the Governor and his Authority" (*see* page 81, volume VII). In 1811 Johnston was tried by court martial in England for his arrest of Bligh, was convicted of mutiny, and cashiered; but, notwithstanding this conviction, in 1812 he received permission to return to the colony, and in March, 1813, arrived at Sydney *per* the brig *James Hay*. On the other hand, Macarthur was forced virtually to remain in England. He made frequent applications to the secretary of state for permission to return, and for the revocation of the instructions given to Macquarie. This double request was as frequently refused, until the 2nd of August, 1816, when under secretary Goulburn wrote stating that an amnesty

would be granted to him as "you are fully sensible of the impropriety of conduct, which led to your departure from the Colony." Macarthur objected to making this admission, and in consequence permission for his return was again withheld. Finally in February, 1817, Macarthur gained his point, and received an unqualified permit to embark for the colony on the ship *Lord Eldon*.

Note 146, page 710.

Also page 799.

A Roman Catholic Priest named O'Flynn.

Governor Macquarie was correct in his conjectures as to the unauthorised character of the mission of the Reverend Jeremiah O'Flynn or Flynn. The deportation of O'Flynn (*see* page 799 *et seq.*) received Earl Bathurst's full approval (*see* page 833). Prior to his departure from England, O'Flynn had petitioned Earl Bathurst for permission to visit the colony, and his request had been refused. The petition was as follows:—

"To the Right Honourable the Earl Bathurst His Majesty's Principal Secretary of State for the Colony and War Department.

The Humble Petition of the Reverend Mr. Flynn, The Reverend Mr. Devine, and the Reverend Mr. O'Donaghoe, Roman-catholic Priests.

"Sheweth,

"That it is the wish of your Petitioners to proceed immediately to New Holland, for the purpose of instructing their poor and unhappy brethren in faith, in that Country, in their religious and moral duties, and encouraging them in their observance of them.

"That it will be the earnest and constant endeavour of your Petitioners to impress on the minds of these suffering members of their Communion, the duties which they owe to God and their neighbour, and their obligation of conforming to the laws of their country and atoning, in patience and resignation, for the infractions of them of which they may have been guilty. It will also be the earnest and constant endeavour of Your Petitioners, to procure for the poor children of the objects of their care, a virtuous education, and to see that habits of religion, decency and regularity are impressed on them.

"That your petitioners trust their endeavours to promote these desirable ends will be materially beneficial to the Colony.

"That they respectfully represent to your Lordship that their Voyage and its immediate arrangements will be attended with more expence than the circumstances of Your Petitioners enable them to bear.

"Your Petitioners therefore, most humbly pray Your Lordship, that his Majesty's Government will take the circumstances of their Case into their benign consideration, and sanction them in their good intention, and assist in defraying the necessary expences of their Outfit, Voyage and first arrangements.

"JEREMIAH FLYNN for himself.

"REVD. MR. DEVINE.

"MR. O'DONOUGH."

Note 147, page 710.

Insurrection similar to what took place here.

An open insurrection of convicts occurred in March, 1804, which caused loss of life, both in the encounter between the rebels and military and by the subsequent executions which were considered necessary (*see* page 563 *et seq.*, volume IV); the influence of the priests in this revolt was not apparent. In September, 1800, a conspiracy was discovered amongst the Irish convicts (*see* page 575 *et seq.* and page 637 *et seq.*, volume II); this conspiracy caused no loss of life, but the influence of the priests was well marked.

Note 148, page 712.

Reports to the Contrary.

In a letter to Earl Bathurst, dated 13th April, 1816 (*see* a volume in series III), lieutenant-governor Davey reported that, "in consequence of His Excellency Governor Macquarie having imported a large quantity of Grain by *Contract from India*, the Settlers on this Island will this Year be deprived of the Market, which they would otherwise have found in that Settlement for a surplus of at least Fifty thousand Bushels of wheat, the Growth of this Season, and which Your Lordship will see must greatly damp the Agricultural exertions of this Island."

Note 149, pages 715 and 716.

A General Court Martial.

The particulars of this court martial were detailed by Governor Macquarie in his despatch numbered 36 of 1817 (*see* page 550 *et seq.*).

Note 150, page 717.

Your Lordship's Query.

Earl Bathurst made the query in his despatch numbered 84 (*see* page 201).

Note 151, page 718.

Your Lordship should have disapproved.

Earl Bathurst's disapproval was contained in the penultimate paragraph of his despatch numbered 85 (*see* pages 204 and 205).

Note 152, page 719.

The Military Barracks.

The barracks and the parade ground were situated on the western side of George-street, and the site is now practically bounded by Margaret-street on the north and Barrack-street on the south.

Note 153, page 720.

A new very large Commodious Barrack.

This is the large building that is still standing on the eastern side of Queen's-square, and is occupied by different branches of the department of justice of the state of New South Wales.

Note 154, page 726.

1st.

The first, second, and fourth of these enclosures were published in John Oxley's *Journal of Two Expeditions into the interior of New South Wales* (*see* note 160). The third enclosure will be found in a volume in series VI.

Note 155, page 728.

Description of the Toongabbe Farm.

On the back of the original of this despatch, which is preserved in the record office, London, there is the endorsement "Put by." Many years later, the land was granted in small areas. The farm had been reserved originally by Governor Phillip for public purposes.

Note 156, page 729.

Also page 730.

These Drawings.

Of these drawings, the sketches of an aboriginal grave by G. W. Evans and of a native chief of Bathurst by J. W. Lewin were published in John Oxley's *Journals of Two Expeditions*, facing pages 139 and 302.

Note 157, page 729.

A New Description of Doves and Cockatoos.

These were probably the first descriptions of the magnificent Leadbeater's cockatoo, *Cacatua Leadbeateri*, and the barred shouldered ground dove, *Geopelia Humeralis*.

Note 158, page 730.

An Artist.

John William Lewin had arrived in the colony per H.M.S. *Buffalo* on the 3rd of May, 1799. He was a most industrious artist, and many of his paintings are extant. A good collection of them is preserved in the Mitchell library at Sydney. In 1805 he had published in London *The Lepidopterous Insects of New South Wales*, containing coloured engravings from copper plates, prepared by himself in the colony in 1803; these are the earliest specimens known of engraving in Australia. In 1808 he published, also in London, the *Birds of New Holland*, containing eighteen plates and twenty-two pages of letterpress; the letterpress was printed in London, but the plates were prepared by the author in the colony. This book was re-issued at Sydney in 1813.

Note 159, page 730.

Also page 808.

The Instructions.

These instructions were contained in Earl Bathurst's despatch numbered 77 (see page 188).

Note 160, page 731.

Permission to Publish his Journal.

This journal was published in 1820 by John Murray as part of a quarto volume, entitled *Journals of Two Expeditions into the interior of New South Wales, undertaken by order of the British government in the years 1817-18 by John Oxley*. It was printed on the first two hundred and three pages of the text.

Note 161, page 732.

A Copy.

A copy of the petition prepared by W. H. Moore is not available, nor any record of its transmission with comments by Governor Macquarie to Earl Bathurst. In a confidential letter to under secretary Goulburn, dated 17th May, 1817, Macquarie requested to be supplied with an attested copy of the petition (see page 411), and in a despatch to Earl Bathurst dated 24th November, 1817 (see page 494), he made no reference to the transmission of a copy with comments.

Note 162, page 734.

The Punishments inflicted.

In a semi-official letter, dated 12th June, 1816, judge J. H. Bent transmitted to Earl Bathurst three depositions, taken by himself presumably in

an unofficial character, relating to these punishments. They illustrate in striking manner the arbitrary conduct of Governor Macquarie. The depositions were as follow:—

“DEPOSITION OF WILLIAM HENSHALL.

“New South Wales, To Wit.

“William Henshall of Sydney in the Territory aforesaid, Silver Smith, being duly sworn saith; That on Friday, the Nineteenth April, One thousand Eight hundred and sixteen, about half past seven in the Morning, I went across the Wall that is broken down on the side of Hyde Park below the General Hospital; I had no sooner got in, I had not walked above three or four paces, before some Constables in Ambush jumped up and told me that I was their prisoner; I asked them what and for why, and they answered me It was an Order from the Governor to take me or any other person, High or Low, into Custody, Officers were not exempt; I argued with them on the business, and told them there was no General Order that ever I saw for persons walking or being in the Park; and upon that I asked him, must I go before Mr. Wentworth, and he said No; The Constable's name is Wilbow. I asked him if he would take me before the Governor. He said he could not do that; I asked him where I must go to, and he said you must go to the Gaol. I told him I had been in the Colony Eight or Ten Years, and had never been there, and should be loath to go there; He said you must go and it is no use to make arguments upon the business. I was taken to the Gaol and there to favour me, not to treat me as a common vagabond, they let me be in the lodge; no person was with me when I went over the Wall; I remained there in Gaol till betwixt twelve and one o'clock; about that time Mr. Cubitt, the Gaoler, Mr. Redman, the Chief Constable, and the Deputy Gaoler Green came in; I told them, they seemed to be very mute; I asked them what was the matter; The Gaoler said He was sorry to inform us That he had got a Warrant to inflict Corporal punishment upon us; There were two others also there. He said he had a Warrant to inflict Twenty five lashes upon each of us. With that I told him I thought that was impossible; He pulls it out of his pocket and reads it. I told him he might as well tell me that I was to have twelve Months solitary confinement as that, for I would not believe it. When he read the Warrant he said look at the back, It is written, On Government Service. I said the Governor certainly must be mistaken He don't know me; But he said, I explained thoroughly that you were the Person that cut the Dollars for Government. With that the Triangles were ordered to be brought forward and he ordered Daniel Read to strip; After he was punished I was the next that was ordered to strip, and I received Twenty five lashes by the common Hangman. I made no resistance but told them I would not be flogged, but they said I must; and seeing so many Constables about I saw it was no use to resist, and I received Twenty five lashes; after that Mr. Cubitt said pay your Fees and go about your Business; I asked him what he meant by the fees. He said that the fees of the Gaol for a free Person was three shillings sterling or five shillings Currency; I paid it and came my ways; I was never taken before a Magistrate, neither the Governor nor any body else, never had a hearing by any one whatever. All this is fact. I never saw any body besides the Turnkeys; I had been sentenced for seven years, part I served in England, and the remainder about five Years in this Colony. I arrived here in the Alexander, Captain Brooks, in One thousand, eight hundred and six, and was free by the Expiration of my Sentence in One thousand Eight hundred and twelve; All the Colony can speak to my Character and I was trusted by Government from time to time with near 40,000 Dollars, and both made the tools to cut them and had about 1,000 Dollars in my possession at a time. I might have had more at a time, but did not think myself safe in taking

more than a day's work or I might have had a Box at a time. I have no knowledge of what I was punished for than I have said, than that It was the Governor's will; I do not know that the Warrant expressed any thing about what I was punished for, only that the Warrant was that three of us, naming our names, were to be punished.

“WILLM. HENSHALL.

“Taken and sworn before me at Sydney in New South Wales this
Twenty Second day of April, one thousand Eight hundred and
Sixteen.

“JEFFERY HART BENT,

“Judge of the Supreme Court.”

“DEPOSITION OF DANIEL READ.

“New South Wales To Wit.

“Daniel Read of Sydney, Stone Mason, maketh Oath and saith, That on the Eighteenth April, on Thursday about Nine o'Clock in the Morning going to work, I happened to get over the Wall into the Government Domain; did not know that I was doing any harm at all; up jumped a Constable from behind a Bush, came up towards me and asked me where I was going; I told him I was going to get a Stone for the use of Mr. Howe's Printing Office. He told me I must not go that way; which way must I go says I to him; says he you must go this way with me; which way are you taking me, says I; he said you must go before Mr. Redman; my reply was, what have I done; he said you are to go to Gaol for coming over the Wall; whose Orders are those I said; his reply was to me, The Governor's Orders, Rich or Poor Free or Bond, they was ordered to take all people to Gaol by his Orders; my reply was That was a very hard case that a Man was to be taken to Gaol without having any hearing; For these Nine Years past I says I always thought myself a Free Man and a British subject, but to be sent to Gaol in this manner I don't understand it; he said it was a hard case, but they must do their duty, but I wish I could catch Fifty coming over in a day. We both went along to Mr. Redman's, found him Mr. Redman in the street opposite his own house, set down upon a form; The Constable said to Mr. Redman here is a Man for getting over the Wall; he pointed his hand towards the Gaol, says he there is the Gaol for him; I said Mr. Redman, you are not going to put me in the Gaol without a hearing; says he I can't help it, It is the Governor's Orders you must go in; some time after I had been in Mr. Wentworth came to visit a sick patient and I informed him on the business; he is a Magistrate and Superintendent of Police; says I, Mr. Wentworth can't you do something in this case, he said what have you been at Read? I told him for getting over the Wall of Government Domain; says he I know nothing about it who put you here. Cubitt the Gaoler made answer and told him it was the Governor's Orders; Mr. Wentworth turned round to me and said if the Governor has put in he must take you out again, he could do nothing in it: All things rested with that until the Nineteenth, the day following, about twelve or One o'Clock, Mr. Cubitt and Mr. Redman came into the room where I was sat, knowing that Mr. Cubitt had been up with the Governor with his Morning report, we wanted to know our dooms; I asked him what was to be done with me; after some little hesitations he told us we were to receive Twenty five lashes each upon the bare back and then to be discharged; I could not believe him; I told him so, and that he might as well tell me he was to take me up to hang me; he said he was very sorry to say it, but said I will convince you to the contrary; he took out the Warrant and held it open that we might read it; he read it himself, I can not just tell the tenor of the words. But it expressed that we were each to have Twenty five lashes. They called the Hangman to get down the Triangles and he fixed them up in the Yard, they ordered me to strip and I received Twenty five lashes; I had no hearing at all no further than what I have said. I came into the Country in March, One thousand Eight hundred and

three in the Glatton. I was sentenced to Seven Years and served till the expiration of my sentence, and received my Certificate from Governor Bligh in August, One thousand Eight hundred and seven. I am a Married Man and live with my Wife in charge of Mr. Marsden's Cottage in York Street.

"DANIEL READ.

"Taken and Sworn before me at Sydney in the Territory aforesaid this Twenty Second day of April One thousand Eight hundred and sixteen.

"JEFFERY HART BENT,

"Judge of the Supreme Court of N. S. Wales."

"DEPOSITION OF WILLIAM BLAKE, OF SYDNEY, BLACKSMITH.

"New South Wales To Wit.

"On Thursday, the Eighteenth April, One thousand Eight hundred and sixteen, about Ten o'Clock I walked down the road towards Mr. Allan's; I live near the new Hospital; as I was going along there was a Woman or two and I wanted to do my business; and for decency's sake, I got through the Wall of the Government Domain, seeing the Wall was down, and no sooner than I was over I was taken by the Constables; they said my friend, I am sorry to inform you that it is the Governor's Orders to take every one that comes here to the Gaol; I was much alarmed for seeing every one passing there I thought it no harm; I was taken to the Gaol; this was about Ten o'Clock in the Morning, and I remained in Gaol from that time till the next day; I was not taken before a Magistrate nor the Governor; on Friday Morning about Eleven o'Clock as I believe Mr. Cubitt came with a Warrant, which I read, and it said that I and two others were to have Twenty five lashes each for getting over the Wall of the Government Domain; I was in such a fright that I did not mind exactly what was in the Warrant; I was very much alarmed and trembled very much to think of such a thing; Mr. Cubitt took back the Warrant and ordered this Execution to take place almost immediately; they ordered the Flogger to get the Triangles directly; when the Triangles were came, the other Man was flogged first, Henshall next, and I was flogged the last, We then paid the Gaol Fees and out we came.

"I came into this Country in the Ship Northampton, Captain Tween in July One thousand eight hundred and fifteen; I am a Blacksmith by Trade; I came out a Free Man; My Wife had been sent a prisoner in the Ship; I was never taken before a Magistrate and had no hearing at all.

"WM. BLAKE.

"Taken and Sworn before me at Sydney in the Territory aforesaid this Twenty second April One thousand Eight hundred and sixteen.

"JEFFERY HART BENT,

"Judge of the Supreme Court."

Note 163, page 736.

As far as these Complaints and accusations relate to me Personally.

Although Governor Macquarie derived no *personal* profit, many of his administrative acts gave to a carping critic a certain amount of colourable justification for making the charges, even if the acts themselves, although in some cases arbitrary, might be justified under the circumstances.

The granting of pardons for the use of horses and carts in the construction of the road to Bathurst was tantamount to the "*Selling of Pardons.*"

The refusal of a marriage license to lieutenant Philip Connor (*see* page xiv), and the orders given for his departure, before the publication of banns could be perfected, may have prompted the charge of "*Prohibiting Banns of Marriage.*"

The action he was compelled to take with regard to the lease of John Palmer (*see* page 338 *et seq.*, volume VIII) may have appeared to the ill-informed to justify the charges of "*Pulling down Houses*" and "*Seizing upon Lands.*"

The support he gave to the application of George Crossley and others for admission to practice as attorneys in the supreme court (*see* page 490, volume VIII) fully justified the charge of "*influencing Courts of Justice.*"

Note 164, page 741.

A Copy.

The instructions to Captain Gill were as follows:—

"By His Excellency Lachlan Macquarie, Esqre., Captain General and Governor in Chief in and over His Majesty's Territory of New South Wales and its Dependencies.

"INSTRUCTIONS for Captain John Gill of H.M. 46th Regt. to be observed during the Voyage of the Ship Harriet to England, and until the Pleasure of His Majesty's Principal Secretary of State for the Colonies shall be made known to him.

"Sir,

"In addition to the duty you will have to perform as the Officer in Command of the Military Detachment of Invalids and Soldiers embarked for England in the Ship Harriet, you will have also charge of the several persons Civil, Naval and Military, who are to proceed in the Harriet, either as Prisoners in close confinement, as Officers in close arrest, or as Evidences in the Affairs of the Ship Chapman.

"In your Conduct therefore towards these several persons you are therefore to be guided by the following Instructions Vizt.

"*First.*—You are to consider yourself in Charge of Surgeon Dewar and Lieut. Busted, who are embarked under *close Military arrest*, and you are not to suffer or allow either of those persons to land from or leave the Ship Harriet at any time during the Passage, unless their Health should seem to you to require such Indulgence; and in that case, you are either to keep them within your own view, or to put them under charge of an Orderly, who must be responsible for their personal Return to the Ship.

"*Secondly.*—The Soldiers, who are embarked as Prisoners under Criminal Charges, Vizt. James Clements, John Hogan and John Jordan, are to be kept in close confinement during the Passage, exercising your discretion towards them as to the Indulgence of being occasionally permitted to come on Deck as their Health may seem to require.

"*Thirdly.*—The Convict Witnesses, whose names are in the Margin,* in number fourteen, are not to be permitted to land or leave the ship, until finally delivered over to the Order of the Rt. Honble. the Secretary of State for the Colonies after arrival in England. These Persons are not to be treated otherwise than as Passengers during the Voyage, unless you should deem it necessary to punish any of them by Confinement in case of improper or suspicious Conduct.

"*Fourthly.*—The Soldiers, who proceed on board the Harriet as Witnesses, also named in the Margin,† are to be continued on board after arrival in England, in like manner as the Officers under arrest and the Convict Witnesses, until such time as an Order shall reach you from the Secretary of State's Office, by which you are to be guided.

* Patrick Smith, John Fagan, Terence Keeran alias Kiernan, Francis Murphy, Peter Allen, Michael Woods or Collins, John Ryan, Michael Collins or Hurley, Thos. Kelly, William Leo, John Sullivan, Nicholas Savage, John Doyle, Thomas Kelly or Kenner.

† Alex. Wardrope, John Brown, Thos. Turner, William Hawkins, John Young, George Cook, William Hutchins, Richd. Vickery, John Hooper, Michael Desmond.

"*Fifthly*.—Immediately on the Ship Harriet's arriving in an English Port, you are to address a letter to the Rt. Honble. The Secretary of State for the Colonies, notifying the number and Description of persons whom you have thus had given in charge to you, and requesting to receive his Lordship's Directions respecting those several Persons; by which directions you are to be implicitly governed. And you are at the same time that you make a Communication to the Secretary of State in pursuance of these Instructions to transmit his Lordship a Copy of the same. "I am, &c.,

"L. MACQUARIE.

"Government House, Sydney, 18th December, 1817."

Note 165, page 761.

Your dispatch No. 14.

This despatch was dated 3rd April, 1817 (*see* page 329 *et seq.*).

Note 166, page 788.

A copy of the memorial will be found in the commentary.

The memorial was as follows:—

"To the Right Honorable The Earl Bathurst, His Majesty's Principal Secretary of State For the Colonies, &c., &c., &c.

"THE Humble Memorial of D'Arcy Wentworth, Esquire, Principal Surgeon of His Majesty's Settlements in the Territory of New South Wales, and its Dependencies, Superintendent Magistrate of Police and Treasurer of the Police Fund,

"Sheweth,

"That your Memorialist has served his Majesty for the period of Twenty Eight Years in this Colony, as Assistant Surgeon and Surgeon; during which period he has been employed at all the outquarters of the Territory (with the exception of Van Diemen's Land) and by his long Services has obtained the Rank he has now the Honor to hold of Senior Officer of the Medical Department, which Rank he has attained for the space of nine years. That your Memorialist has Served as Superintendent Magistrate of Police Since the first of January, 1811, at a Salary of Two Hundred Pounds per annum, a Sum totally inadequate to the very important duties and high Respectability of the Office, and to the great and unremitting attention which your Memorialist has unceasingly paid to them. Your Memorialist has also held the Office of Treasurer of the Police Fund, since the 31st March, 1810; in the Performance of the Duties of which, a Sum Exceeding one Hundred Thousand Pounds has passed through your Memorialist's hands, having been paid by him on the Public service; the great trouble and attention, which the due execution of this Office requires, will fully appear to your Lordship by reference to the Police accounts for the Period alluded to, independent of the responsibility, the weight of which Your Lordship will at once appreciate, and which Office your Memorialist has so long filled without Salary, Remuneration, Advantage, or Emolument of any Sort whatever; Your Memorialist is further enabled to state to your Lordship that his Conduct and Services have obtained the entire approbation of His Excellency Governor Macquarie and others of His Majesty's Governors in Chief of this Territory.

"Your Memorialist being now very considerably advanced in Years, His Health materially impaired and in a very precarious State owing to his close application to His Public duties, and being desirous of retiring from Public Life to pass the remainder of his Days in the bosom of his Family, is induced most respectfully to Submit his long and faithful Services to Your

Lordship, in order that your Lordship, if your Lordship should be pleased so to do, may lay the Same before His Royal Highness the Prince Regent, humbly Soliciting that His Royal Highness will be pleased to take the Same into His gracious consideration, and permit your Memorialist to retire from active Service. And that His Royal Highness will be pleased to grant to your Memorialist Such half Pay or Pension, as to His Royal Highness may Seem proper, and as may enable your Memorialist to Support with becoming respectability the High and important Rank he now possesses, and which he has held in this Territory for So many years, he trusts with honor to himself and advantage to the public Service.

“And your Memorialist, &c., &c., &c.,

“D. WENTWORTH.”

Note 167, page 795.

Some Grants.

Five grants of land had been made in the Illawarra district by Governor Macquarie by deeds dated 24th January, 1817. These were the first land grants in the district. They were 2,200 acres to David Allan, lying on the south side of Tom Thumb's lagoon, to be known as Illawarra farm; 1,000 acres to Robert Jenkins; 1,300 acres to Richard Brooks; 1,500 acres to George Johnston, senior; and 700 acres to Andrew Allan. The first three grants had frontages to the Illawarra lake, and the last two to the Macquarie rivulet.

Note 168, page 798.

Also pages 826 and 827.

The Expedition of Discovery.

John Oxley set out on his expedition on the 6th of June, 1818, from a depôt which had been formed in the Wellington valley. He was accompanied by boats, as on his former expedition, and had nineteen horses. Twelve days later he discovered the cataract of the Macquarie river, and on the 23rd of June, when in the neighbourhood of the site of Warren, he sent two men back to Bathurst with his report to Governor Macquarie. On the 27th of June he discovered and named mounts Forster and Harris. Four days later, when fifteen miles lower down the river, he, with a small party, proceeded in the large boat to attempt to trace the Macquarie river. He discovered the Macquarie marshes, and, on the 3rd of July, was compelled to turn back, thinking at the time that he was on the fringe of the inland sea. On the 7th of July the whole expedition had returned to mount Harris, where the main party camped for a fortnight prior to setting out for the coast. During this time, a small party under the leadership of G. W. Evans explored the country to the north-east, and discovered the Castlereagh river. After Evans' return, the whole party set out for the coast. On the 21st of July the Marthaguy creek was discovered and named Wallis' ponds. Four days later, the Castlereagh river was reached near the site of Gulargambone. The river being in flood, a week was spent in crossing it. On the 9th of August the expedition was in the ranges lying west of Coonabarabran. On the 2nd of September the Peel river was discovered and named, below the site of Tamworth. This river was ascended for two days, when the Cockburn river was discovered and named. The latter river was followed to its source, the dividing range was crossed, and on the 8th of September the Apsley river, a tributary of the Macleay river, was discovered and named, near the site of Walcha. Little progress was then made for a week, as difficulty was experienced in finding a route. On the 23rd of September, from the summit of a mountain a view of the ocean was first obtained. This mountain was named Seaview, and lies at the head of the Hastings river, which was reached

and named on the following day. The Hastings river was followed, and, on the 8th of October, the inlet, by which it flowed into the sea, was discovered and named Port Macquarie. After this, the expedition followed the coast and G. W. Evans, who was detached at Port Stephens, arrived at Newcastle on the 5th of November with a report from John Oxley to Governor Macquarie.

Note 169, page 806.

Four Sydney Gazettes which contain the Accounts.

An extraordinary number of the *Sydney Gazette* was issued on Thursday, the 2nd of April, 1818, containing government and general orders of the same date. These orders published a copy of the announcement of the death of H.R.H. Princess Charlotte, which had appeared in a *London Gazette Extraordinary* dated 6th November, 1817, and which had been received by the ship *Guildford*. Directions were given that—

1. Twenty-two guns, at intervals of one minute, were to be fired from Dawes point, commencing at 2.30 p.m. on that day, each gun representing one year of Princess Charlotte's life;

2. At the same time, the Royal Standard was to be hoisted at half-mast at Fort Phillip, and the union flag half-mast at Dawes point, and to remain flying until sunset;

3. These flags were to be flown daily at half-mast from sunrise to sunset until the following Monday, and the bells at St. Phillip's church were to be tolled daily for one hour at sunrise and one hour at sunset;

4. All shipping in the harbour were to fly their flags at half-mast;

5. All bells were to commence tolling at 2.30 p.m., and to continue for one hour, and were likewise to toll for one hour at sunset;

6. All places of amusement and all shopkeepers, except butchers and bakers, were to close;

7. All courts of justice and public offices were to close, all public labour to cease, and all business, both public and private, was not to be resumed for a week;

8. All civil and military officers and all other persons, "whose Circumstances and Situation in Life will enable them," were to wear mourning, commencing on Sunday and continuing as long as they would do so in private life.

9. All civil and military officers wearing mourning were to assemble at government house at 10 a.m. on the following Sunday, and thence proceed to a memorial service at St. Phillip's church.

These general orders were repeated in the ordinary issue of the *Sydney Gazette* dated 4th April, 1818, and this issue also contained full details of the death.

In the issue dated 9th May, 1818, there appeared a requisition to Governor Macquarie for a public meeting to consider the preparation of addresses to H.R.H. the Prince Regent and H.S.H. Prince Leopold. This requisition was signed by John Wyld, Barron Field, Wm. Cowper, John Jamison, D. Wentworth, and J. Oxley.

In the issue dated 16th May, 1818, copies of the addresses (*see* pages 790 and 791) were published by the request of the meeting.

Note 170, page 807.

My General Dispatch No. 8.

This despatch was dated 16th May, 1818 (*see* page 792 *et seq.*).

Note 171, page 822.

Your Dispatch No. 14 and No. 31.

My Dispatch No. 91.

These despatches will be found on page 329 *et seq.*, on page 493 *et seq.*, and on page 385.

Note 172, page 826.

Lieut. King's own Letter.

Lieutenant King's letters giving full accounts of his voyage will be found in a volume in series V. He reported that he had anchored in King George's Sound on the 20th of January, 1818, where he wooded and watered in Oyster harbour, prepared the cutter for the survey, and obtained sights for the watches. This occupied him until the 1st of February, when he commenced the survey. Ten days later he entered Exmouth gulf and devoted a week to its examination. He continued the examination of the coast as far as Depuch island, which he reached on the 6th of March, when he was blown off the land in thick weather. He was then becalmed for a week, and subsequently heavy rains fell for eight or nine days, which tried the health of the crew severely. Whilst off the coast, he examined and named Rowley reefs. He then sailed as far to the eastward as possible, in order to obtain the benefit of the easterly monsoon, which sets in during the month of March. On the 27th of March he commenced a survey from Point Braithwaite. Shortly afterwards he wooded and watered at a well-sheltered bay in Goulburn islands off the coast of the northern territory, where he had considerable trouble with the natives. On the 10th of April, after failing to complete an examination of the islands, he continued the survey of the coast to the westward. He continued the survey until the 31st of May, when he was about forty miles north of Peron's island off the mouth of the Daly river. This survey included the examination of the coasts of Melville island and of Van Diemen gulf, and the discovery of the two Alligator and the Mary rivers. On the 31st of May, finding his water running short, he bore up for Koepang in Timor, where he arrived on the 4th of June. From this port he returned to Port Jackson around Cape Leeuwin and through Bass strait.

Note 173, page 828.

Those Dispatches.

The principal despatch, which reported the details of the expedition under John Oxley, was dated 5th September, 1817 (*see page 477 et seq.*).

Note 174, page 834.

Dispatch No. 40.—Dispatch No. 13.

The reference in the despatch numbered 40 was to paragraph 14 (*see page 716*). Despatch number 13 will be found on page 323 *et seq.*

Note 175, page 836.

Two Trials.

J. T. Campbell was tried by the court of criminal jurisdiction on the 21st of October, 1817, for a criminal libel on the Reverend Samuel Marsden. The action arose out of the following letter, which was published in the issue of the *Sydney Gazette*, dated 4th January, 1817:—

“To The Editor of The *Sydney Gazette*.

“Mr. Editor,

“Early in the last century the famous South Seas scheme was projected, and ran through its short-lived but disastrous career, all its dreams of golden showers having proved a mere illusion, by the bursting of that

never-to-be-forgotten bubble, which involved in its explosion a great mass of the English Nation, and induced much public distress; leaving all, but the few artful and designing projectors themselves, to deplore too late their credulity and national gullability. In our days, a 'New South Wales Philanthropic Society' has been formed, and liberal subscriptions entered into for the laudable purpose of extending 'protection and civilization to such of the Natives of the South Sea Islands as may arrive at Port Jackson.' Now, Sir, although the circumstances will not perhaps warrant its being *also termed a bubble*, yet there are some features in the two schemes so much alike that I think an able hand could make no bad parallel between them—'*si fas est magnis componere parva.*' Thus, the South Sea scheme held out the bait or lure of such extravagant profits in the way of trade, that the sordid and mercenary were dazzled at the prospect, and shares originally purchased at £100, were frequently transferred at eight times that amount.

The illusion however lasted but a few months, and all the fabrick went to ruin, leaving not a wreck behind. The South Sea Islands Philanthropists in 1813, without the temptation of the gilded pill of wealth uncountable having been held out to them, cheerfully subscribed their money under the assurance that they should have the spiritual consolation at least of having performed charitable acts, and rendered human services to the Natives of the South Sea islands! These were the profits that the subscribers in general had in view;—how they have been realized we now in 1817, all know too well; for, to this day, we have never been favoured even with a single report of the application of the funds; and thus, like the bubbletonian of 1720, after having come *down with our dumps*, we have had no return, either to our purse, or to the stock of our benevolence, and, 'for aught that I can learn or read,' we are not likely to be gratified with such a result.

"In former times the active and enterprising spirit of the Jesuits led them for religion's sake ostensibly to visit the remote regions of the known world; their zeal for the Church of Rome never slumbered, but they soon superadded thereto the lust of wealth, power, and dominion; and that fraternity commencing in holy and religious zeal, degenerated into temporal factions, which at length wrought their own dowfall, and relieved Europe from their domineering and tyrannical usurpation of the exclusive trade of those Settlements where they had established themselves. *Now* a missionary spirit of a somewhat more humble class has pervaded the Islands in the South Seas, introducing with it the art of distillation, and that tiny race of animals, which on being boiled, do not prove to be lobsters! An ardent thirst for the influence of *this spirit*, at this time pervades the inhabitants of all the Islands of the Pacific, with which we have any intercourse; and pigs, and pine trees, New-Zealand flax, &c., are the return made in full tale for the comforts of the spirit instilled into them, and by which we are inspired. The active exertions of him who is the worthy head of these sectarian visionaries or missionaries (whichever you please, Mr. Editor), in propagating the Gospel by such means, and the transmission from time to time of muskets and cutlasses, will, no doubt, redound much and highly to the honour of the Christian Mahomet and of the church so planted, whilst the pecuniary advantage of the chosen few will not be altogether overlooked. But what availeth all this Mr. Editor, to you and me, in the common class of the subscribers? Those, who bolt the pork and the profits, should in my opinion un-bolt their coffers and bear also the expences of their Gospel venders and bacon curers; and for myself I shall be well content to see them possessed equally of the exclusive honour of evangelizing, by such means, the New Zealanders, the Otaheitans, the Gimeoans, &c., &c. But to be very candid with you I do not wish to see men in any garb, or under any mask or pretence whatever, arrogate to themselves such consequential airs

of importance for acts of public beneficence, which they have never exhibited in their private lives; and still less, if possible, in their public characters towards the abject Natives of New South Wales. True it is, that these people are not yet qualified or enabled to make other returns than those of humble gratitude and peaceful demeanour; and these, perhaps are not worthy of being recorded, in the faithful pages of an Eclectic Review, with the exalted deeds of the evangelizing heroes whose never dying fames are there trumpeted forth.

“Although this may be the case, I am notwithstanding one of those who wish to introduce civilization, and the pure doctrines of the Christian religion, among the sable sons of Australia, maugre all the objections started by vulgar prejudice, or sordid views of personal aggrandizement; and I do not hesitate to say, that I feel it an imperious duty, owing to those among whom I live and have my subsistence, to make the effort to reclaim these children of Nature, even if that effort were to be rendered nugatory by any circumstances whatever. This leads me to inform you, and by that means the Public also, that in a conversation lately with some other members of the New South Wales Bubble (the trading concerns thereof being duly excepted from that appellation), it appeared to be the general wish that the subscriptions should be restored and appropriated to the establishment of schools for the children of the poor within the Colony, and the diffusion of Christian Knowledge among the heathen Natives. A Bible and general Book Society is I understand in contemplation, to be connected with the school institutions; and by these means (if even the advantage of the library originally destined for the poor, by its humane donors, should continue unavailable), the great and glorious object of dispelling the dark and gloomy clouds of ignorance under which it has pleased Providence to permit the Aborigines of this Colony to remain unto the present time, the nineteenth century of the Christian era, and the twenty-ninth year of the British settlement on its shore, may be happily effected.

“I can assure you, Mr. Editor, that many of the wisest and best men among us are most zealously anxious for such establishments being commenced upon; and I have the vanity to think, that even the desultory remarks made in this hastily drawn up letter, written in my cabin, without the aid of books (for my little collection went a pilgrimage, I have been told, to the Friendly and Society Islands), will tend to remove some ill-founded prejudices, to confirm liberal and generous dispositions, and to open the eyes of all to a sense of duty and Christian charity towards our adopted country, and its harmless though uncivilized natives.

“PHILO FREE,

“4th January, 1817.”

“a Settler at Bradley’s Head.

On the third day of the trial, the court found that Campbell was “Guilty of having permitted a public letter to be printed in the *Sydney Gazette*, which tended to vilify the public conduct of Mr. Marsden, the prosecutor, as the agent of the Missionary Societies for propagating the gospel to the South Seas, which it was in the power of the defendant, in his official capacity of secretary to his excellency the governor of the territory, to have prevented the publication of.”

The trial was criticised fully by J. T. Bigge in his *Report on the Judicial Establishment of New South Wales*, page 22 *et seq.*

A remarkable account of the trial was published in the issue of the *Sydney Gazette* dated 1st November, 1817. In a despatch, numbered 12 and dated 14th July, 1820 (*see* volume X), Governor Macquarie was called on by Earl Bathurst to report on its publication. The account was as follows:—

“The Trial for a Libel, which in our last *Gazette* we pledged ourselves to present our Readers with an account of, occupied the Court the whole of

Tuesday the 21st, Wednesday the 22d, and Thursday the 23d ultimo. The information was filed at the instance of the Reverend Samuel Marsden against J. T. Campbell, Esq., Secretary to this Government, charging the defendant with having written and published in the *Sydney Gazette* of the 4th of January last, a letter with the signature of *Philo Free*, and which the Reverend Prosecutor contended contained libellous matter against him, in his clerical and magisterial capacities, and as the agent and representative here of certain Religious Societies in England. It is unnecessary to detail the testimony of several witnesses brought forward on this occasion, particularly as they failed in establishing any of the points at issue, or in meeting the allegations set forth in the information; and the prosecution was at length left to rest on a letter written by the defendant to the Honorable the Judge Advocate, in the blush of this business, in which letter the defendant is seen to ascribe the insertion of *Philo Free's* letter to the unusual pressure of public business, which so wholly engrossed his attention on the day the manuscript of that letter was laid before him, that on a hasty review of it his observation was principally directed to the opening and concluding passages; and which, as they embrace a subject he was desirous to see revived, namely, the appropriation of the sums paid about four years since by the subscribers to the Philanthropic Society of New South Wales, he did not discriminate so closely the intermediate passages, as under other circumstances he might have done.

"The construction of Courts of Justice in cases of libel, and the authorities by which they are guided in their proceedings, are so generally indefinite, that it is a point of extreme difficulty to determine what is, or what is not admissible evidence; and it would be the height of presumption in us to attempt to set up our humble opinion against the superior wisdom which decided the point in this case; but if we were to venture to hazard an enquiry, it would be whether this letter, addressed as it was by the defendant to a Law Officer in his official department, could allow of any other impression than that of *presumed* testimony as to the defendant's having had any part in the publication of *Philo Free's* letter—to say nothing of the authorship, which was abandoned in a very early stage of the trial. To this, we trust, we may be suffered to add, that there were but very few persons, who heard the defendant's letter read in Court, that could for a moment attach the imputed culpability to the defendant, or deduce from it one solitary circumstance that went to give a colour to the prosecution against him.

"The Court went through the whole of this complicated enquiry in all its various bearings and stages, with great patience, and the most solemn and cautious circumspection; and on the third day pronounced their verdict, finding the defendant guilty of having *permitted* a public letter to be *printed* in the *Sydney Gazette*, which tends to vilify the public character of the prosecutor, as the Agent of the Missionary Societies for propagating the Gospel in the South Seas. This was the Verdict; and judgment was deferred until the Tuesday following.

"In viewing this as a Special Verdict, subject from its peculiar construction to legal exceptions on a motion for Arrest of Judgment, we must necessarily be guided by the established Law of the Realm in cases of Libel; which we believe of late years has decided, that the Verdict of the Jury should be unqualified, and declare the defendant guilty or not guilty, generally. The Verdict in this instance pronounced the defendant guilty of having *permitted* the *printing* of a letter in the *Sydney Gazette*, tending to vilify the public conduct of the Prosecutor, not in his clerical or magisterial capacities, but as the Agent for the Missionary Societies for propagating the Gospel in the South Seas. The Verdict does not declare that it did vilify, but that it tended so to do. This did not meet any charge set forth in the Information, which was for writing and publishing the letter

in question, as a libel on the prosecutor in his various capacities. May we not fairly infer, from the general content, and qualified shape of the verdict, in what light and to what extent the Honourable Court estimated the injury complained of?

"It does not, however appear that the defendant had any desire to avail himself of any legal exceptions to the verdict, or to calculate upon any advantage that he might have taken on a motion for arrest of judgment; on the contrary, he attended the Court on the day fixed for judgment, and moved by his Solicitor, for judgment; but the prosecutor's Solicitor intercepted the motion, by stating, that he stood instructed by his client to say that it was not his wish to call for judgment. The defendant's Solicitor, however, persevered with his motion, and very earnestly prayed the Court to proceed to judgment *instanter*; whereupon the Court retired to deliberate, and resuming declared that they did not consider themselves warranted by the practice of the Courts in England to grant the defendant's motion for judgment, seeing that it was abandoned by the prosecutor; and therefore dismissed the matter before them, by granting the defendant permission to depart the Court, and ordering his recognizances to be discharged.

"Thus ended the first Trial for Libel in this Country; and if we may judge of the anxious manner in which the defendant sued for judgment, in order, as his Solicitor stated, that the opinion of the Court might go forth into the world, as to their sense of the offence complained of, and the share the defendant had in committing that offence, we think we may be at liberty to yield to the impression, that the defendant's feelings would have been more highly gratified had the Sentence of the Court been formally pronounced and recorded."

After the conclusion of the criminal trial, a civil action was taken by the Reverend Samuel Marsden. This was tried by the supreme court on the 1st of December, 1817, and resulted in a verdict for the plaintiff in the sum of £200. The two trials cost J. T. Campbell the sum of £476.

Further particulars relating to these two trials were forwarded by Governor Macquarie to Earl Bathurst as enclosures to despatches dated 31st March, 1819, and No. 8 of 20th March, 1821 (*see* volume X).

Note 176, page 836.

Your General Order of the 31st January.

The general orders were dated 15th January, and were as follows:—

"Government House, Parramatta,

"Wednesday, 15th January, 1817.

"THE Attention of His Excellency the Governor having been called by the Honorable the Judge Advocate to the Consideration of a public Letter inserted in the *Sydney Gazette* of the 4th Instant, signed 'Philo Free,' and of the several Communications which have since passed on the Subject between the Judge Advocate, Mr. Secretary Campbell and the Rev. Samuel Marsden; His Excellency deems it necessary, in Justice to his own Feelings, as also to the highly respectable and benevolent Persons and Societies engaged in Missionary Labors and Purposes, which have ever received his public Support and Sanction, thus publicly to express his Disapprobation of the Letter referred to, and his Regret that it should inadvertently, from the great Pressure of Government Business in the Secretary's Office have got Admission into the *Gazette*; from which His Excellency would thus publicly withdraw all of Government Sanction, Authority, or Concurrence, its Insertion might perhaps otherwise be considered to have bestowed.

"LACHLAN MACQUARIE.

"By Command of His Excellency,

"J. T. CAMPBELL, Secretary."

Note 177, page 841.

A letter from Mr. James Badgery.

A copy of this letter, which was written from Exeter farm, South creek, will be found in a volume in series II. In this letter, James Badgery detailed his arrival and settlement in the colony under the patronage of Sir Joseph Banks and colonel Paterson. He stated that, during his residence in the colony, five children were born to him. To each of these children lieutenant-governor Paterson made a land grant, when he was administering the government in 1809, after the arrest of Governor Bligh. After the arrival of Governor Macquarie, these land grants, as well as all others issued by the insurrectionary administrators, were called in, and the grant of two hundred acres, issued to James Badgery's son Andrew, was cancelled. Badgery, in consequence, petitioned Earl Bathurst for a confirmation of the grant.

Note 178, page 843.

— *December, 1818.*

The copy of this despatch, which is preserved in the record office, London, is dated 17th November, 1818. The copy at government house, Sydney, is dated — December, 1818.

SYNOPSIS.

SYNOPSIS OF DESPATCHES.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bambury, Sir H. E.	Macquarie, Governor	1816.	.....	Ship Atlas	1	Macquarie, Governor	1817.
Goulburn, Under Secretary	do	16 Jan.	.....	do	1	do	4 April
Macquarie, Governor	Bathurst, Earl	20 Jan.	No. 1	H.M. Brig Emu	3	Bathurst, Earl	30 Jan.
Goulburn, Under Secretary	Macquarie, Governor	24 Feb.	No. 2	Ship Surrey	30	Macquarie, Governor	4 April
Macquarie, Governor	Bathurst, Earl	24 Feb.	No. 3	H.M. brig Emu	31	Bathurst, Earl	30 Jan.
Do	do	28 Feb.	No. 4	do	39	do	24 Jan.
Goulburn, Under Secretary	Macquarie, Governor	2 Mar.	No. 5	Ship Willerby	42	Macquarie, Governor	4 April
Macquarie, Governor	Bathurst, Earl	8 Mar.	No. 6	H.M. brig Emu	42	Bathurst, Earl	6 Feb.
Do	do	12 Mar.	No. 7	do	48	do	30 Jan.
Do	do	13 Mar.	No. 8	do	49	do	30 Jan.
Do	do	18 Mar.	Private	do	52	do	30 Jan.
Do	do	21 Mar.	.....	do	97	do	30 Jan.
Do	York, H.R.H. Duke of	21 Mar.	.....	do	97	do .....	.....
Goulburn, Under Secretary	Macquarie, Governor	22 Mar.	.....	Ship Elizabeth	97	Macquarie, Governor	4 April
Macquarie, Governor	Goulburn, Under Secretary	22 Mar.	.....	H.M. brig Emu	98	.....	.....
Do	do	22 Mar.	.....	do	98	.....	.....
Do	Arbuthnot, Right Hon. Charles	22 Mar.	.....	do	99	.....	.....
Do	Bathurst, Earl	23 Mar.	No. 9	do	100	Bathurst, Earl	30 Jan.
Do	do	23 Mar.	.....	do	102	.....	.....
Do	Commissioners of Transport	— Mar.	.....	do	102	.....	.....
Bathurst, Earl	Macquarie, Governor	1 April	No. 62	Ship Elizabeth	102	Macquarie, Governor	1 April
Goulburn, Under Secretary	do	1 April	.....	do	105	do	4 April
Do	do	1 April	.....	do	105	do .....	.....
Bathurst, Earl	do	6 April	No. 63	Ship Surrey	106	Macquarie, Governor	4 April
Do	do	6 April	No. 64	do	106	do	16 May
Do	do	6 April	No. 65	Ship Harriet	106	do .....	.....
Do	do	18 April	No. 66	Ship Elizabeth	107	do	4 April
Do	do	18 April	No. 67	do	113	do	3 April
Do	do	18 April	No. 68	do	114	do	4 April
Do	do	25 April	No. 69	do	117	do	4 April
Goulburn, Under Secretary	do	25 April	.....	do	117	do	4 April
Do	do	25 April	.....	Ship Mariner	119	do	4 April
Do	do	25 April	.....	do	119	do	4 April
Do	do	25 April	.....	.....	120	do .....	.....

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Goulburn, Under Secretary	Macquarie, Governor	1816. 1 May	.....	.....	120	.....	1817.
Bathurst, Earl	do	11 May	No. 70.	Ship Surry	120	Macquarie, Governor	4 April
Goulburn, Under Secretary	do	18 May	Private .....	.....	121	.....	.....
Bathurst, Earl	do	20 May	No. 71.	Ship Surry	121	Macquarie, Governor	1 April
Goulburn, Under Secretary	do	20 May	.....	do	132	do	4 April
Bathurst, Earl	do	21 May	No. 72.	do	133	do	4 April
Do	do	21 May	Private	do	134	do	4 April
Goulburn, Under Secretary	do	23 May	.....	Ship Mariner	134	do	4 April
Bathurst, Earl	do	24 May	No. 73.	Ship Harriet	134	do	16 May
Goulburn, Under Secretary	do	24 May	.....	Ship Surry	134	do	1 April
Do	do	24 May	.....	Ship Elizabeth	135	do	4 April
Do	do	25 May	.....	do	135	do	1 April
Do	do	25 May	.....	do	139	do	4 April
Macquarie, Governor	Bathurst, Earl	8 June	No. 10.	Brig Alexander	139	.....	.....
Do	do	10 June	No. 11.	do	145	.....	.....
Goulburn, Under Secretary	Macquarie, Governor	23 June	.....	Ship Surry	146	Macquarie, Governor	4 April
Do	do	9 July	.....	Ship Lord Melville	146	do	4 April
Bathurst, Earl	do	20 July	.....	do	147	do	3 April
Goulburn, Under Secretary	do	22 July	.....	do	147	do	4 April
Do	do	22 July	.....	do	147	do	4 April
Do	do	22 July	.....	do	148	do	4 April
Bathurst, Earl	do	24 July	No. 74.	do	150	do	31 Mar.
Goulburn, Under Secretary	do	25 July	Private	do	158	do	8 April
Do	do	5 Aug.	.....	do	158	do	1 April
Do	do	16 Aug.	.....	do	159	do	4 April
Bathurst, Earl	do	19 Aug.	No. 75.	do	159	do	.....
Do	do	31 Aug.	Circular	Ship Sir William Bensley	160	Macquarie, Governor	4 April
Goulburn, Under Secretary	do	31 Aug.	.....	do	160	do	4 April
Macquarie, Governor	Bathurst, Earl	31 Aug.	No. 12.	Ship Atlas	160	.....	.....
Do	Goulburn, Under Secretary	31 Aug.	Private	do	186	.....	.....
Goulburn, Under Secretary	do	12 Sept.	.....	Ship Harriet	187	Macquarie, Governor	16 May
Bathurst, Earl	do	14 Sept.	No. 76.	Ship Sir William Bensley	187	do	4 April
Goulburn, Under Secretary	do	20 Sept.	.....	do	188	do	4 April
Bathurst, Earl	do	1 Oct.	No. 77.	do	188	do	4 April
Goulburn, Under Secretary	do	3 Oct.	.....	Ship Fane	189	do	4 April
Do	do	3 Oct.	.....	Ship Harriet	189	do	.....
Do	do	16 Oct.	.....	.....	189	.....	.....
Do	do	21 Oct.	.....	Ship Shipley	189	.....	.....
Do	do	23 Oct.	.....	.....	190	Macquarie, Governor	16 May

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Goulburn, Under Secretary	Macquarie, Governor	1816.	.....	Ship Shipley	196	Macquarie, Governor	1817.
Do	do	4 Nov.	.....	Ship Morley	190	do	16 May
Macquarie, Governor	Goulburn, Under Secretary	5 Nov.	Private	.....	190	.....	16 May
Goulburn, Under Secretary	Macquarie, Governor	20 Nov.	.....	Ship Morley	191	.....	.....
Do	do	22 Nov.	.....	do	191	Macquarie, Governor	16 May
Do	do	2 Dec.	.....	do	192	do	16 May
Bathurst, Earl	do	4 Dec.	No. 78	.....	192	do	15 May
Do	do	5 Dec.	No. 79	.....	194	do	16 May
Goulburn, Under Secretary	do	12 Dec.	.....	Ship Shipley	195	do	16 May
War Office	do	18 Dec.	.....	Ship Almorah	195	do	20 Sept.
Goulburn, Under Secretary	do	20 Dec.	.....	do	195	do	12 Dec.
Do	do	21 Dec.	.....	Ship Canada	196	do	12 Dec.
Bathurst, Earl	do	1817.	.....	Corvette L'Uranie	196	do	1820.
Do	do	17 Jan.	Separate	.....	196	do	28 Feb.
Do	do	24 Jan.	No. 80	.....	196	do	1817.
Do	do	24 Jan.	No. 81	Ship Almorah	197	do	12 Dec.
Do	do	24 Jan.	No. 82	do	197	do	12 Dec.
Do	do	24 Jan.	No. 83	do	197	do	4 Dec.
Do	do	24 Jan.	No. 84	do	200	do	12 Dec.
Do	do	24 Jan.	No. 85	do	201	do	12 Dec.
Goulburn, Under Secretary	do	30 Jan.	.....	do	201	do	12 Dec.
Do	do	30 Jan.	.....	Ship Canada	205	do	12 Dec.
Do	do	30 Jan.	.....	Ship Dick	205	do	.....
Do	do	31 Jan.	.....	.....	206	Macquarie, Governor	12 Dec.
Bathurst, Earl	do	4 Feb.	Private	.....	206	do	24 Sept.
Do	do	6 Feb.	No. 86	do	206	do	24 Nov.
Do	do	8 Feb.	No. 87	do	207	do	10 Dec.
Do	do	14 Feb.	No. 88	do	208	do	12 Dec.
Goulburn, Under Secretary	do	14 Feb.	.....	Ship Lord Eldon	209	do	12 Dec.
Do	do	14 Feb.	.....	do	209	do	12 Dec.
Macquarie, Governor	Bathurst, Earl	22 Mar.	No. 1	H.M. brig Kangaroo	209	Bathurst, Earl	1818.
Goulburn, Under Secretary	Macquarie, Governor	26 Mar.	.....	.....	214	.....	24 Aug.
Do	do	28 Mar.	.....	Ship Lord Eldon	215	Macquarie, Governor	1817.
Macquarie, Governor	Bathurst, Earl	29 Mar.	No. 2	H.M. brig Kangaroo	215	Bathurst, Earl	12 Dec.
Do	do	31 Mar.	No. 3	do	236	do	1818.
Do	do	1 April	No. 4	do	248	do	29 Oct.
Do	do	1 April	No. 5	do	257	do	24 Aug.
Do	do	.....	.....	do	257	do	3 July

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Macquarie, Governor	Bathurst, Earl	1817. 1 April	No. 6.	H.M. brig Kangaroo	264	Bathurst, Earl	1818. 21 July
Do	do	1 April	No. 7.	do	268	Goulburn, Under Secretary.	24 Aug.
Do	do	1 April	No. 8.	do	270	Bathurst, Earl	4 July
Do	Goulburn, Under Secretary	1 April	No. 9.	do	271	do	24 Aug.
Do	do	1 April	No. 10.	do	273	do	24 Aug.
Do	do	1 April	No. 11.	do	275	do	24 Aug.
Do	Bathurst, Earl	3 April	No. 12.	do	276	do	24 Aug.
Do	do	3 April	No. 13.	do	323	do	29 Aug.
Do	do	3 April	No. 14.	do	329	do	12 May.
Do	do	3 April	No. 15.	do	336	do	24 Aug.
Do	do	3 April	No. 16.	do	337	do	3 July.
Do	do	3 April	No. 17.	do	338	do	24 July.
Do	do	4 April	No. 18.	do	340	do	29 Sept.
Do	do	4 April	Private	do	378	do	.....
Do	do	5 April	Private	do	380	do	.....
Goulburn, Under Secretary	Macquarie, Governor	7 April	.....	.....	380	.....	.....
Do	do	8 April	.....	.....	381	.....	.....
Macquarie, Governor	Goulburn, Under Secretary	8 April	.....	H.M. brig Kangaroo	381	.....	.....
Goulburn, Under Secretary	Macquarie, Governor	9 April	.....	Ship Almorah	381	.....	.....
Do	do	10 April	.....	do	382	Macquarie, Governor	1817. 12 Dec.
Do	do	16 April	.....	Ship Lord Eldon	382	do	15 Dec.
Bathurst, Earl	do	21 April	No. 89	do	382	do	12 Dec.
Do	do	22 April	No. 90	Ship Almorah	383	do	12 Dec.
Do	do	22 April	No. 91	do	385	do	24 Nov.
Do	do	22 April	Circular	do	386	do	12 Dec.
Goulburn, Under Secretary	do	22 April	.....	do	387	do	12 Dec.
Bathurst, Earl	do	24 April	No. 92	Ship Matilda	387	do	15 Dec.
Goulburn, Under Secretary	do	24 April	.....	Ship Lord Eldon	387	do	12 Dec.
Do	do	24 April	.....	Ship Almorah	388	do	12 Dec.
Do	do	24 April	.....	Ship Lord Eldon	388	do	.....
Bathurst, Earl	do	25 April	No. 93	.....	388	.....	.....
Goulburn, Under Secretary	do	28 April	.....	Ship Friendship	391	.....	12 Dec.
Bathurst, Earl	do	29 April	No. 94	Ship Lord Eldon	391	Macquarie, Governor	.....
Goulburn, Under Secretary	do	7 May	.....	.....	392	.....	.....
Do	do	7 May	.....	.....	392	.....	.....
Macquarie, Governor	Bathurst, Earl	13 May	Confidential	Ship Sir William Bensley	392	.....	.....
Do	do	15 May	No. 19	do	395	Bathurst, Earl	1818. 24 Aug.
Do	do	15 May	No. 20	do	397	do	24 July.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Goulburn, Under Secretary	Macquarie, Governor	1817.	.....	.....	477	.....	1818.
Macquarie, Governor	Bathurst, Earl	5 Sept.	No. 28.	Ship Lloyds	477	Bathurst, Earl	19 Aug.
Do	do	20 Sept.	No. 29.	do	484	do	1819.
Do	Torrans, Sir Henry	24 Sept.	.....	do	486	.....	12 April
Do	Goulburn, Under Secretary	.....	.....	.....	488	.....	.....
Goulburn, Under Secretary	Macquarie, Governor	29 Sept.	.....	Ship Gullford	489	Macquarie, Governor	1818.
Do	do	18 Oct.	.....	do	489	do	16 May
Do	do	18 Oct.	.....	do	490	do	16 May
Do	do	20 Oct.	.....	Ship Batavia	491	do	16 May
Do	do	20 Oct.	.....	do	491	do	16 May
Bathurst, Earl	do	6 Nov.	No. 30.	do	491	do	16 May
Macquarie, Governor	Bathurst, Earl	24 Nov.	No. 30.	Ship Harriet	491	Bathurst, Earl	26 July
Do	do	24 Nov.	No. 31.	do	493	do	24 July
Do	do	28 Nov.	.....	do	495	.....	.....
Do	do	1 Dec.	Confidential	do	495	.....	.....
Do	do	1 Dec.	.....	do	501	.....	.....
Do	do	4 Dec.	No. 32.	do	502	Bathurst, Earl	24 Aug.
Do	do	1 Dec.	.....	do	543	do	24 Aug.
Do	do	9 Dec.	No. 33.	do	543	do	24 Aug.
Do	do	10 Dec.	No. 34.	do	545	do	24 Aug.
Do	do	11 Dec.	No. 35.	do	545	do	24 Aug.
Do	do	11 Dec.	No. 36.	do	549	do	24 Aug.
Do	do	11 Dec.	No. 37.	do	554	do	24 Aug.
Do	do	11 Dec.	.....	do	554	.....	1819.
Bathurst, Earl	Macquarie, Governor	12 Dec.	No. 101.	Ship Neptune	557	Macquarie, Governor	1 Mar.
Macquarie, Governor	Bathurst, Earl	12 Dec.	No. 38.	Ship Harriet	558	Bathurst, Earl	1818.
Do	do	12 Dec.	No. 39.	do	560	do	1819.
Do	do	12 Dec.	No. 40.	do	560	do	12 April
Do	do	13 Dec.	No. 41.	do	708	do	1818.
Do	do	13 Dec.	No. 42.	do	725	do	24 Aug.
Do	do	13 Dec.	.....	do	726	do	24 Aug.
Do	do	13 Dec.	.....	do	727	do	19 Aug.
Goulburn, Under Secretary	Macquarie, Governor	15 Dec.	No. 43.	Ship Neptune	729	Macquarie, Governor	16 May
Macquarie, Governor	Bathurst, Earl	15 Dec.	No. 44.	Ship Harriet	729	Bathurst, Earl	24 Aug.
Do	do	15 Dec.	.....	do	731	do	24 Aug.
Do	Goulburn, Under Secretary	15 Dec.	.....	do	732	.....	.....
Goulburn, Under Secretary	Macquarie, Governor	16 Dec.	.....	Ship Lady Castlereagh	738	Macquarie, Governor	16 May
Macquarie, Governor	Bathurst, Earl	16 Dec.	No. 45.	Ship Harriet	738	Bathurst, Earl	24 Aug.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Bathurst, Earl.....	Macquarie, Governor	1817.	No. 102.....	Ship Isabella.....	740	Macquarie, Governor	1819.
Macquarie, Governor	Goulburn, Under Secretary	17 Dec.	No. 46.....	Ship Harriet.....	741	Bathurst, Earl.....	24 Mar.
Do	Bathurst, Earl.....	18 Dec.	No. 1.....	do	742	do	12 April
Do	Goulburn, Under Secretary	20 Dec.	No. 1.....	do	747	do	24 Mar.
Goulburn, Under Secretary	Goulburn, Under Secretary	21 Dec.	No. 1.....	Ship Tottenham.....	748	Macquarie, Governor	24 Mar.
Do	Macquarie, Governor	22 Dec.	No. 1.....	do	748	do	24 Mar.
Do	do	1818.	No. 1.....	do	748	do	24 Mar.
Do	do	1 Jan.	No. 1.....	Ship Larkins.....	748	do	24 Mar.
Macquarie, Governor	Goulburn, Under Secretary	3 Jan.	No. 1.....	Schooner Jeune Ferdinand	749	do	24 Mar.
Do	Bathurst, Earl.....	3 Mar.	No. 1.....	Ship Isabella.....	760	Macquarie, Governor	31 Mar.
Goulburn, Under Secretary	Macquarie, Governor	4 Mar.	No. 1.....	do	760	do	24 Mar.
Do	do	24 Mar.	No. 1.....	do	761	do	24 Mar.
Do	do	2 April	No. 1.....	Ship Glory.....	761	do	24 Mar.
Do	do	7 May	No. 2.....	do	761	do	24 Mar.
Bathurst, Earl.....	do	12 May	No. 3.....	Ship David Shaw.....	762	do	1 Mar.
Macquarie, Governor	Bathurst, Earl.....	14 May	No. 3.....	do	762	do	1 Mar.
Goulburn, Under Secretary	Macquarie, Governor	15 May	No. 3.....	Ship David Shaw.....	772	Macquarie, Governor	24 Mar.
Macquarie, Governor	Bathurst, Earl.....	15 May	No. 3.....	do	772	do	24 Mar.
Do	do	15 May	No. 4.....	do	776	Bathurst, Earl.....	1818.
Do	do	15 May	No. 5.....	do	786	do	— Dec.
Do	do	16 May	No. 6.....	do	788	Goulburn, Under Secretary.	1819.
Do	do	16 May	No. 7.....	do	789	do	14 April
Do	do	16 May	No. 8.....	do	792	do	9 April
Do	do	18 May	No. 9.....	do	799	do	.....
Do	do	18 May	No. 10.....	do	805	do	.....
Do	Goulburn, Under Secretary	18 May	No. 10.....	do	806	Goulburn, Under Secretary.	.....
Do	do	18 May	No. 11.....	Ship Lady Castlereagh.....	807	do	31 Mar.
Do	Bathurst, Earl.....	30 May	No. 12.....	do	807	do	.....
Do	do	30 May	No. 13.....	Ship Neptune.....	808	do	.....
Do	do	6 June	No. 13.....	do	809	do	.....
Goulburn, Under Secretary	Macquarie, Governor	12 June	No. 2.....	Ship General Stewart.....	810	do	.....
Do	do	12 June	No. 3.....	Ship Hadlow.....	810	do	.....
Bathurst, Earl.....	do	3 July	No. 4.....	do	810	Macquarie, Governor	24 Mar.
Do	do	3 July	No. 4.....	do	810	do	24 Mar.
Do	do	4 July	No. 4.....	do	811	do	24 Mar.
Goulburn, Under Secretary	do	4 July	No. 5.....	do	812	do	24 Mar.
Bathurst, Earl.....	do	5 July	No. 5.....	do	814	do	22 Mar.

SYNOPSIS OF DESPATCHES.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Goulburn, Under Secretary	Macquarie, Governor	1818, 9 July	.....	Ship Hadlow	815	Macquarie, Governor	1819, 22 Mar.
Do	do	10 July	.....	do	815	do	24 Mar.
Do	do	13 July	.....	do	816	do	24 Mar.
Do	do	14 July	.....	Ship Shipley	816	do	24 Mar.
Do	do	14 July	.....	Ship Morley	816	do	24 Mar.
Do	do	14 July	.....	Ship General Stewart	816	do	24 Mar.
Bathurst, Earl	do	20 July	No. 6	Ship Hadlow	816	do	22 Mar.
Do	do	21 July	.....	do	818	do	24 Mar.
Do	do	22 July	No. 8	do	820	do	24 Mar.
Do	do	24 July	No. 9	do	821	do	24 Mar.
Do	do	24 July	No. 10	do	822	do	24 Mar.
Do	do	24 July	No. 11	do	822	do	24 Mar.
Do	do	24 July	No. 12	do	823	do	24 Mar.
Do	do	24 July	No. 13	do	823	do	24 Mar.
Do	do	26 July	No. 14	do	824	do	24 Mar.
Do	do	1 Aug.	.....	do	825	do	24 Mar.
Goulburn, Under Secretary	Goulburn, Under Secretary	16 Aug.	.....	Ship Mary	825	.....	.....
Macquarie, Governor	Macquarie, Governor	19 Aug.	No. 15	Ship Globe	828	Macquarie, Governor	24 Mar.
Bathurst, Earl	do	24 Aug.	No. 16	do	830	do	24 Mar.
Do	do	24 Aug.	.....	do	834	do	24 Mar.
Goulburn, Under Secretary	do	29 Aug.	No. 17	do	834	do	18 Mar.
Bathurst, Earl	do	29 Aug.	No. 18	do	835	do	24 Mar.
Do	do	29 Aug.	.....	do	836	do	24 Mar.
Goulburn, Under Secretary	do	15 Sept.	.....	Ship Lord Sidmouth	836	do	.....
Do	do	18 Sept.	No. 19	Ship Surrey	836	.....	.....
Bathurst, Earl	do	22 Sept.	.....	do	837	Macquarie, Governor	31 Mar.
Goulburn, Under Secretary	do	22 Sept.	No. 20	Ship Hibernia	837	do	24 Mar.
Bathurst, Earl	do	7 Oct.	No. 21	do	838	do	19 July
Do	do	18 Oct.	Private	do	838	do	20 July
Do	do	26 Oct.	.....	do	840	.....	.....
Goulburn, Under Secretary	do	29 Oct.	No. 22	Ship Hibernia	840	Macquarie, Governor	20 July
Bathurst, Earl	do	10 Nov.	.....	Ship Beaucoolen	841	do	1820, 28 Feb.
Do	do	10 Nov.	No. 23	Ship Hibernia	842	do	1819, 20 July
Do	do	10 Nov.	Circular	.....	842	do	20 July
Goulburn, Under Secretary	do	16 Dec.	Ship Baring	843	do	20 July
Do	do	do	843	do	20 July
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