
HISTORICAL RECORDS
OF
AUSTRALIA.

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HISTORICAL RECORDS

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OF

AUSTRALIA.

SERIES I.

GOVERNORS' DESPATCHES TO AND
FROM ENGLAND.

VOLUME XV.

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INTRODUCTION.

GOVERNOR DARLING.

DURING the administration of Governor Darling, great changes were introduced in the legislative and judicial systems of the colony.

The first legislative council had been established under section twenty-four of the statute 4 Geo. IV, c. xcvi, which enacted that it should consist of "such Persons resident in the said Colony, not exceeding Seven nor less than Five, as His Majesty, His Heirs and Successors, shall be pleased to appoint." By a warrant* dated 1st December, 1823, the lieut.-governor, the chief justice, the colonial secretary, the principal surgeon and the surveyor-general were nominated as the members of the council; but, by a second warrant* dated 16th November, 1824, the archdeacon T. H. Scott was nominated in place of the surveyor-general with the reversion to the surveyor-general in the absence or on the death of Scott.

The governor with the advice of this council "or the major Part of them" was empowered to make laws and ordinances for the good government of the colony, provided such laws or ordinances were not repugnant to the laws of England, "but consistent with such Laws so far as the Circumstances of the said Colony will admit." To safeguard this provision, the Governor was required, before submitting any law or ordinance to the council, to obtain the certificate of the chief justice to that effect.

The meetings of the council were convened by a written summons under the hand of the governor served on each individual member. All proposed laws were laid before the council by the governor, and members of the council had no power to initiate legislation. In the event of all or a majority of the members dissenting from a proposed law, the members were required to enter on the minutes of council the reasons for such dissent, and the proposed law was thereby vetoed subject to the following qualification. In case the governor considered that such proposed law was essential to the peace and safety of the colony, and if one or more of the members of the council assented, such law should

* See pages 195 and 424, volume XI.

have full force and effect in the colony until reference could be made to England. In case of actual or apprehended rebellion or insurrection, the governor was empowered to make laws or ordinances notwithstanding the dissent of every member of the council. It was further provided that the King-in-council could make and establish any law even against the dissent of the whole council. Powers of taxation were limited to taxes for local purposes. All laws passed by the council were required to be submitted for royal approval within six months of passing; and, unless notice of disapprobation or disallowance was given within three years, all such laws were valid and effectual. A striking provision was the oath of secrecy ordered to be taken by all the members of the council. The governor, in case of the death, absence or permanent incapacity of any member, was empowered to appoint "some fit and proper person" to fill the vacancy until an appointment could be made by His Majesty.

The first meeting of this council was held on the 25th of August, 1824, and the first act was passed on the 28th of September following, entitled "An Act to make Promissory Notes and Bills of Exchange, payable in Spanish Dollars, available as if such Notes and Bills had been made payable in Sterling Money of the Realm."

Prior to the appointment of this council laws and ordinances for the government of the colony had been enacted by the governor entirely on his own discretion and initiative by means of proclamations and government orders. The legality of this practise was frequently called in question, and the illegality was tacitly admitted by the passing of acts of indemnity for the governor by the English parliament. By the appointment of the council, the enactment of new laws and ordinances was first placed on a constitutional basis, and at the same time the governor was relieved of a large part of his personal responsibility.

The council with a constitution of nominee government officials only was not long maintained. On his departure from England, Governor Darling was given a warrant* dated 17th July, 1825, whereby the former nominations were revoked, and the lieutenant-governor, the chief justice, archdeacon Scott, the colonial secretary, John Macarthur, Robert Campbell, sr., and Charles Throsby were appointed the new members. By this warrant, most important changes were made. The number of members was

* See page 22, volume XII.

increased from five to seven, and these members included three government officials, the head of the church, and two landowners and one merchant of long residence in the colony. The powers and procedure of this council remained the same, and all proposed acts were initiated by the governor.

In the royal instructions,* Governor Darling was given general directions for the exercise of the power of initiation of legislation. These were "that each different matter be provided for by a different Law, without intermixing in one and the same Act such things as have no proper relation to each other"; "that no clause or Clauses be inserted in or annexed to any Act, which shall be foreign to what the Title of such respective Act imports"; "that no perpetual Clause be part of any temporary Law"; "that no Act whatever be suspended, altered, continued, revived or repealed by general words"; "that the Title and Date of such Act, so suspended, altered, continued, revived or repealed, be particularly mentioned and expressed in the enacting part"; that no law be re-enacted after disallowance without express leave for that purpose; that no law be proposed, repealing any law passed by the council, without the insertion of a clause "suspending and deferring the execution thereof until Our pleasure shall be known concerning the same"; that no law be made to continue for less than two years, unless in some unforeseen emergency "for a service in its nature temporary and contingent"; that no law be passed whereby the revenue might be lessened or impaired by grant, deed, conveyance or otherwise; that no law be passed for the naturalization of aliens, for divorce, or "for establishing a Title in any persons to Lands, Tenements and Real Estates . . . originally granted to or purchased by Aliens, antecedent to Naturalization"; that all laws be prohibited "of an unusual and extraordinary nature and importance, whereby Our Prerogative or the property of Our Subjects" might be prejudiced or "whereby the Trade or Shipping of this Kingdom" should be affected, unless the royal approval was first obtained or a clause inserted suspending and deferring the execution of the act until the royal pleasure was known; that, in the passing of any private law or ordinance affecting the property of any private person, the rights of the crown, of bodies politic and corporate and of all others be protected, a clause be inserted suspending its execution pending the royal approval, and, prior to its passing, a public notification of its purport be made in certain churches on three consecutive Sundays;

*.See page 111 *et seq.*, volume XII.

and that, in any law for levying money or imposing fines and penalties, a statement should be made of the specific purposes to which money so raised should be appropriated.

The powers of legislation were thus confined within certain definite limits. With these instructions and the warrant for appointing the new council, Governor Darling landed at Sydney on the 20th of December, 1825. A few weeks later in an address of welcome,* he was informed of the objections of the colonists to a nominee council, and of their desire for an elective legislature or the power of nomination of the non-official members of the new council. In January, 1827, a petition was sent to the King, soliciting the introduction of trial by jury and taxation by representation in the form of a legislative assembly.

In the meantime, Governor Darling and chief justice Forbes transmitted to the colonial office suggestions for reforms for inclusion in the new statute, which it was necessary to pass on the expiration of the statute 4 Geo. IV, c. xcvi.

In December, 1826, Governor Darling proposed† that the council should consist of six official members, three landholders and three merchants. In doing so, he stated that he foresaw no difficulties in the equality of official and non-official members because, although it was not his practise to participate in the deliberations, he had always the power to do so and thereby assist the government members, and because no act would be brought forward unless all the government members were present. He anticipated possible difficulties in the selection of the unofficial members because persons eligible at time of nomination might prove highly objectionable in the state of colonial society twelve months later.

In February, 1827, Governor Darling criticised‡ the petition for taxation by representation in a legislative assembly. He stated that he did not consider the colony sufficiently advanced for such an institution, and that almost all settlers would be averse to the loss entailed by attendance as members of a house of assembly. He expressed the opinion that there would be no objections to a council of fifteen or twenty members including seven official members, six landholders and two merchants, or eight official members, nine landholders and three merchants. He suggested six official

* See page 147, volume XII.

† See page 804, volume XII. ‡ See page 100, volume XIII.

members, four landholders and two merchants for the constitution of a council of twelve. He further stated that the initiation of measures by members would be unobjectionable, that the election of the unofficial members would be practical, and that there were objections to the inclusion of the chief justice and archdeacon as members.

Chief justice Forbes proposed that power should be granted to the King-in-council to establish legislative assemblies, when the time was opportune, and that the power should be withdrawn from the governor of making laws with the assent of one or a minority of the members of council in cases of emergency.

Apart from the suggestions received from the colony, James Stephen, jr., counsel to the colonial office, stated* strong objections to the chief justice and the colonial secretary as members of the council. By statute, the chief justice was required to give a certificate that any proposed act was not repugnant to the law of England; and, "exercising this degree of superintendence," Stephen considered that he should not act as a member of council. Further, "the danger of rendering him too powerful a member of society, the interruption of his arduous and many engagements, and the increased risk of collision between him and the Governor would all seem strong, concurrent arguments in favor of his exclusion." The objections to the colonial secretary were "the incongruity of rendering him in some sense the colleague of his official superior, and of enabling him in his legislative character to counteract the very resolutions, which in his official character he is bound to carry into effect, might not improbably prove the germ of discord."

In March, 1828, Governor Darling protested† against the oath of secrecy imposed on members of council. As it was the practice of the governor to withdraw from the deliberations of the council after submitting any proposed act, he and any absent member were informed only of the result "without knowing the views of the members or the ground of their refusal, if the council declined assenting."

The provisions for the establishment of this council had been incorporated in haste‡ in the statute 4 Geo. IV, c. xcvi, and many

* See page 598, volume I, series IV. † See page 9, volume XIV.

‡ See page 746, volume I, series IV.

alterations were necessary when that statute expired and the council was reconstituted under 9 Geo. IV, c. lxxxiii. By section 20 of the latter statute, the membership was increased to not less than ten and not exceeding fifteen. The statutory provision for the method of convening the council was abolished in order to obviate the necessity of proving the due observance of the forms, when any local act was to be enforced by a judgment of the court; but the method was maintained by instructions to the governor.

By section 21, the procedure of the council was regulated, and five rules were established, viz. (1) that a quorum should be two-thirds of the members, exclusive of the president; (2) that the acts of the majority of members present should be taken to be the acts of the whole council; (3) that the dissent of the majority of the members present should prevent the enactment of any law; (4) that, if the governor should refuse to lay before the council any law proposed by a member, he should, if required, lay a copy of the proposal before the council and of his refusal, and any member or members might enter a written protest against such refusal in the minutes; and (5) that members protesting should enter upon the minutes the grounds of their protest.

An important change was made by the abolition of the certificate required from the chief justice that any proposed act was not repugnant to the laws of England before such proposed act was submitted to council. In order to ensure harmony between the legislature and judiciary, it was provided by section 22 that all acts passed by council should within seven days be transmitted to the supreme court for enrolment. The judges were then granted a further period of seven days, in which to make any representations they might wish against the enactment of such law. Such representations were then to be considered by the governor-in-council, when, if the council should adhere to the proposed law, such law was to be of full force and effect "until the royal pleasure be known."

The oath of secrecy imposed on members was abolished. In order to derive "the benefit of the reaction of public opinion upon the legislative body pending the enactment of laws," it was provided that the governor should transmit "for insertion in the colonial newspapers eight days before the enactment of every law a notice of its general objects," except in cases of emergency.

By section 23, it was provided that the governor should preside at all meetings of the council "except when prevented by illness or some other adequate cause," and that, in his absence, a member appointed by the King should preside. The governor or presiding member was entitled to vote on all questions in addition to a casting vote when the votes were equally divided.

The powers of the council over legislation were unaltered; but an important change was made in the abolition of the right of the governor or King-in-council to legislate in certain cases in opposition to the advice of the members of council.

It will be noted that, by these changes, a very important advance was made towards the attainment of an independent local government. By the increased membership, the colonists were granted increased representation in all deliberations for their own government. The council was given greater freedom of action by the abolition of the right of the governor or King-in-council to legislate against the wish of the council, by the abolition of the virtual veto held by the chief justice in certifying to each law, and by the right of private members to initiate measures. Public opinion was admitted to a power of influence over legislation by the abolition of the oath of secrecy imposed on members, and by the publication of the general objects of any proposed act eight days before its submission to council.

The new council was appointed by warrant* dated 30th January, 1829. The official members nominated were the governor, the chief justice, the archdeacon, the colonial secretary, the attorney-general, the collector of customs, and the auditor-general *ex officio*. The private members were five landholders and two merchants, and the fifteenth member was lieut.-colonel Lindesay, the officer commanding the military. In addition, nine persons were named to succeed in rotation to any vacancies amongst the members who did not hold their seats *ex officio*. These nine persons were principally landholders. As lieut.-colonel Lindesay did not hold his seat *ex officio*, it will be noted that the official members were in a minority of one.

Prior to the passing of the statute 4 Geo. IV, c. xcvi, the government of the colony was unconstitutional. During the last fifteen months of Sir Thomas Brisbane's and the early years of Governor

* See page 623, volume XIV.

Darling's administration, the legislative functions were ill-regulated. As the result of the passing of the statute 9 Geo. IV, c. lxxxiii, a limited form of self-government was inaugurated on a sound basis.

In the judicial system, many changes were made during the administration of Governor Darling and consequent on the passing of the statute 9 Geo. IV, c. lxxxiii. Many of these changes were true reforms whilst many were due to the hasty alteration of the statute 4 Geo. IV, c. xcvi, prior to its presentation to parliament. As stated* by chief justice Forbes, this was due to "the fact that the first New South Wales act did contain many specific provisions, without its being known that the draft of that act contained a whole code of laws, which were deemed so complex and unfit for discussion in Parliament that it was suddenly determined to weave a legislative power into the body of the act. . . . In consequence of the resolution thus suddenly adopted, many clauses were retained which should have been expunged, such for example as the clauses relating to Courts of Sessions and Requests, the declaring of insolvencies, foreign attachments and other matters of purely local moment."

The constitution under the act of 1828 was limited to "one or more judge or judges not exceeding three," but otherwise the general constitution remained the same as formerly. Two important changes were made in the form of trial by jury. Under the first N.S.W. bill, trial by jury in civil cases could take place only when both parties to a suit concurred in the application for such trial. This in practise had proved prohibitive, for, when one litigant applied for such trial, his opponent objected. Under the second bill, trial by jury could be granted by the court at its own discretion on the application by either party to a suit. Power was also given for the governor with the advice of the legislative council to extend trial by jury in pursuance of an order from the King-in-council. Formerly the extension of trial by jury was delegated to the King-in-council only. The reasons for this change were that it was considered that the governor and the council would be more conversant with local conditions and requirements.

Minor alterations only were made in the jurisdiction of the supreme court. A common-law jurisdiction was extended to it similar to that which was possessed by the Lord Chancellor in England.

* See page 746, volume I, series IV.

Important changes were made in the form of prosecutions in the criminal court. Under the first bill, "the power of prosecuting by criminal information was vested exclusively in the attorney-general or other officer to be appointed for that purpose." Under the second bill, power was given to any person by leave of the courts to exhibit a criminal information against any other person.

Power was granted to the governor, acting under a royal warrant, to convene courts of quarter sessions at any place, such courts to be courts of record, with all the powers and authorities incident and belonging to a court of record, and to consist of a judge appointed by royal commission and not fewer than three nor more than five persons appointed by the governor. These courts were to possess similar powers and to proceed in similar manner to the supreme court.

Power also was granted to the King-in-council to institute circuit courts.

An important change was made in the abolition of appeals to the governor sitting in court of appeal, and thereafter all appeals from decisions of the supreme court were made direct to the privy council. It had been one of the anomalies of the previous jurisdiction that the governor, who was a naval or military officer, should sit in a court to hear appeals from the decisions of trained lawyers.

All enactments respecting foreign attachments and insolvency, which were included in the act of 1823, were omitted from the act of 1828.

The provisions of the statute 9 Geo. IV, c. lxxxiii, were made effective by the passing of certain acts of council. These were: "An Act for instituting Courts of Civil Jurisdiction to be called '*Courts of Requests*' in different parts of New South Wales," passed on the 9th of September, 1829; "An Act for instituting and regulating Courts of General and Quarter Sessions," passed on the 29th of September, 1829; and "An Act for the further regulation of the Courts of Requests in New South Wales," passed on the 5th of February, 1830. The last act was passed to include attorneys within the jurisdiction of the court, and to authorise prosecutions for perjury committed by persons before the court.

The second act quoted above was amended by an act passed on the 20th of May, 1830, to grant the courts of sessions summary jurisdiction over convicted felons, and to regulate the powers of justices of the peace therein.

In addition to these acts, an act and an amending act "for regulating the constitution of Juries for the Trial of Civil Issues in the Supreme Court of New South Wales" were passed on the 9th of October, 1829, and on the 3rd of February, 1830. The number of members of a jury, when granted for the trial of all civil issues before the supreme court, was fixed at twelve. The qualifications for a juror were (1) age between twenty-one and sixty years of age; (2) residence in the town of Sydney, or within twenty-two miles of the obelisk in Macquarie-place; (3) an income of £30 *per annum* derived from real estate, or a personal estate of the value of at least £300. Judges, ministerial officers of the law courts, members of the legislative council, government officials, clergy, all barristers, attorneys and solicitors in actual practice, coroners, gaolers, all physicians, surgeons and apothecaries in actual practise, military and naval officers on full pay, pilots and masters of vessels employed by the crown, sheriff's officers, police, schoolmasters and parish clerks were exempted from service on juries. Aliens, persons attainted by treason or felony or convicted of infamous crime (unless holding a pardon), and transports convicted in the colony were disqualified from service. Regulations were enacted for the preparation and custody of the lists, for summoning jurors in alphabetical order, for penalties for non-attendance, and for allowances to jurors. Similar regulations were also made for special juries, and persons eligible to serve on such juries were esquires or persons of higher degree, bank directors, justices of the peace or wholesale merchants. By the amending act, the original act was elaborated.

The disqualification of a person convicted of infamous crime, unless he had received a pardon, excluded a large number of the emancipists who were expeirees. This caused much ill-feeling in the colony.

During Governor Darling's administration, the first principles of the modern legislative and judicial systems were thus established.

FREDK. WATSON.

September, 1922.

DESPATCHES.

HISTORICAL RECORDS

OF

AUSTRALIA.

SERIES I.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 116. per ship Guilford.)

1829.
1 June.

Sir, Downing Street, 1st June, 1829.

I have received your despatch No. 88 of the 28th of July last, with a report from the Colonial Auditor, in explanation of the delay which has arisen in making up the Accounts of the Colony under your Government, and, having referred this despatch to the Lords Commissioners of the Treasury, I have the honor to transmit to you the copy of a letter, which has been received from their Lordships in answer.

Despatch
acknowledged.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 19 May, 1829.

I am commanded by the Lords Commissioners of H.M. Treasury to acquaint you, for the information of Secretary Sir G. Murray, that My Lords have had under their consideration your letter of the 9th Ultimo transmitting the Copy of a Despatch from the Governor of N. S. Wales, with a Report from the Auditor in explanation of the causes of the delay, which has arisen in making up the Accounts of that Colony, and that my Lords are of opinion that the Explanation is satisfactory; but, having referred these Papers to the Commissioners of Colonial Audit, I am commanded to transmit herewith a Copy of their Report, and to request that the Lieutenant Governor of V. D. Land may be directed to transmit immediately the Statements referred to by the Colonial Auditors.

Delay in
transmission
of accounts.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

AUDIT COMMISSIONERS TO COMMISSIONERS OF TREASURY.

My Lords, Colonial Audit Office, 6 May, 1829.

In compliance with your Lordships' desire, signified to us in Mr. Stewart's Letter of 22d Ult., we have the honor to return Mr. Twiss' Letter of 9th Ult., with the Despatch from the Governor of N. S. Wales and its Enclosures, explaining the circumstances which have delayed the transmission of the Accounts of that Colony to this Country for Audit. With reference to these Documents, We beg to observe that your Lordship's Minute of 18 March, 1825, directed that, from the period of the receipt of the Communication then made to the Colony, the Governor should cause Duplicates of

1829,
1 June.
—
Instructions
given to
governor.

all Vouchers for Disbursements from the Colonial Funds to be taken, and should, in future, transmit regular Accounts of the Receipt and application of the Revenue of N. S. Wales and its Dependencies to this Country for final Audit. He was also required to cause Copies of the previous Accounts of the Receipt and Expenditure of the Revenue of N. S. Wales from the last Quarter of the year 1821 inclusive, and of the Revenue of V. D. Land from the commencement of the year 1820, to be prepared and forwarded to your Lordships.

The receipt of your Lordships' Orders was acknowledged by the late Governor Sir Thos. Brisbane in a Letter to Mr. Harrison of 10 October, 1825, which enclosed a Copy of Instructions, he had issued for the guidance of the Treasurer and other Financial Officers at N. S. Wales and at V. D. Land, under date 26 Sept., 1825.

Financial
abstracts from
N.S.W.

The Present Governor Lieut. Genl. Darling was also furnished with Copies of the Communications to Sir Thos. Brisbane, in consequence of which, on the 6th Novr., 1827, he forwarded to your Lordships Abstracts of Receipt and Expenditure of the Colonial Fund at N. S. Wales from 1st Decr., 1821, to 31 Decr., 1825; but, although he stated that he had lost no time in furnishing the Lieutenant Governor of V. D. Land with Copies of your Lordships' orders for his guidance, the Auditors reported on the 5th Novr., 1827, that no Accounts had been received at the seat of Government from that Settlement, subsequently to the year 1819, as they had been examined previously to the year 1826 by a Committee on the Spot.

From the beginning of the year 1826, We apprehend that the Accounts of V. D. Land will have been submitted for examination to the Auditor at N. S. Wales, and will accompany those of that Government; with respect to which we observe that, adverting to the irregularity and want of system, which appears to have pervaded all Matters relating to the Colonial Expenditure previously to the arrival of the present Governor and the appointment of the local Auditor, we cannot but consider that the Explanation, submitted by the latter Officer, of the causes that have retarded the transmission of the Accounts for the years 1826 and 1827, is sufficiently satisfactory; and we have little doubts but that Governor Darling and the Auditor will use every exertion to prevent any unavoidable delay in rendering these and the future Accounts.

Necessity for
financial
statements
from Tasmania.

It is, however, necessary that we should be furnished with the detailed statements already called for of the Receipts and disbursements of the Colonial Treasurer at V. D. Land from 1820 less to the period when the regular Accounts to be rendered from that Settlement may commence; both that we may be enabled to state the amount of the Revenue and the services to which it has been applied, and also, as frequent reference to previous transactions will be unavoidably required in Examining any Accounts we may receive for Audit, and as the Accounts for the Treasury at V. D. Land are in many instances connected with those of the Commissariat on the Station and of the Treasurer of N. S. Wales. We therefore beg to suggest that your Lordships' Orders for the transmission of these Statements should be reiterated to the Lieut. Govr. of V. D. Land, with particular injunctions to an immediate Compliance with them.

We have, &c.,

EDWARD BYNG.
JOHN CONROY.
J. KINGSTON.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 69, per ship *Vesper*.)

1829.
1 June.

Sir, Government House, 1st June, 1829.

I do myself the honor to transmit the following general Estimates of the Stores and other Supplies, which will be required during the ensuing Year for the Military and Convict Departments of this Government, Vizt.:

Transmission
of requisitions ;

No. 1. Tools, Clothing and Stores required for the use of the Military Departments.

No. 2. Do. Do. Convict Departments.

No. 3. Stationary for the use of the Military Departments.

No. 4. Do. Do. Convict Do.

In order to give effect to the Instructions conveyed to me in Lord Goderich's Dispatch, No. 4 of the 13th May, 1827, I assembled a Board of Officers for the purpose of examining and revising the Estimates furnished by the several Departments, and it will be seen by their Report, herewith transmitted, that the subject has received their fullest consideration and that the Board accord in the opinions, contained in my Despatch No. 7 of the 12th of January, 1828, as to the impracticability of detailing the precise Service to which the Stores may ultimately be applied.

and of report
by board.

The Requisitions for Colonial purposes have been forwarded by the present opportunity to the Colonial Agent.

I have, &c.,

[Enclosure No. 1.]

RA. DARLING.

[Copies of the requisitions have been omitted.]

[Enclosure No. 2.]

REPORT of a Board, appointed by the Colonial Secretary's letter of 6th March, 1829, for the purpose of examining and revising the abstracts of requisitions for supplies, prepared by the Deputy Commissary General for transmission to England.

Report by
board on
requisitions.

1st. The board have the honor to report that they have entered into a careful and detailed examination of the Requisitions from the several departments, which, in conformity with the instructions from the Secretary of State, have been comprised in separate Abstracts under the Heads, Military, Convict, and Colonial, according as the articles required are intended for the use of these respective branches of the Public Service.

2nd. No estimates having been received from several of the public departments and outstations, the Board, after comparing the Estimates for the Supply during the previous year with the issues actually made to them within that period, have formed a supplementary Estimate, which is included in the abstracts with the view of supplying this deficiency.

The total quantities having then been compared with the Stores on hand on 24th December, 1828, such articles and stores only have been recommended to be procured as seemed actually necessary to make good the supplies for the service of one year. The Board considering that the supplies, estimated for and included in the

1829.
1 June.

Report by
board on
requisitions.

abstracts transmitted to England last year, may shortly be expected to arrive in the Colony, and that the adoption of the system of transmitting regular annual requisitions for supplies renders it less necessary for them to provide for contingent events. They have not hesitated, however, to exercise a discretion on this point, whenever circumstances within their knowledge appeared to make a larger provision necessary than the Estimates included. And subsequently to the preparation of the abstracts, they have either incorporated in the Columns shewing the actual quantity recommended to be ordered from England or provided in the Colony, or have added at the end of the Abstract the remainder of the estimate by the Surveyor of Roads and Bridges, which was not received in time to be included in a separate column.

3rd. The Board have distinguished the articles, which it appeared to them more advisable to procure on the spot than to order from England by entering the quantities in Red Ink.

4th. The Tools for the use of Mechanics and artizans are chiefly required by the Master attendant and the superintendant of Carters' Barracks in the Convict abstract, and by the Director of public Works and Surveyor of Roads and Bridges in the Colonial Abstract.

5th. Referring to their report of last year for a more full detail of the "number of persons employed in the several trades for whose use the Tools are required, upon what works they are employed, and how the produce of their labor is disposed of," the Board confine themselves to the remark that the number of Mechanics and Artizans employed in the Convict Establishments, as compared with the number returned for the previous year, seems nearly stationary, and that the Mechanics and artizans appear to be employed rather in works necessary for carrying on the business of the establishments already existing than engaged in any new undertaking sufficiently extensive to merit particular notice.

6th. The supply of Tools and Stores, demanded for their use, appears not to be greater than what is necessary to supply the deficiency occasioned by the wear and tear of such articles.

7th. The number of articles of an indistructable or imperishable nature, included in these Abstracts, appears so inconsiderable as to make any remarks respecting them unnecessary in this report.

8th. The estimate of the principal superintendant of Convicts for Clothing, being intended to include the supply for all the convicts employed by the Government throughout the Colony, The requisitions of other departments have not been included in the aggregate quantities.

9th. As it is desirable to provide employment for the Females in the penitentiary at Parramatta, the Board have recommended that a sufficient quantity of materials for the shirts and summer clothing of the Convicts should be sent from England to be made up here, instead of the ready made clothing as formerly. The winter clothing being entirely composed of Factory Cloth, the quantity of wool (the raw Material) used for its manufacture has been estimated for in the Abstract.

10th. Of the 8,925 Jackets or Frocks, 4,622 pair of Trowsers remaining in Store on 24th December last, 653 Jackets and 2,400 pair of Trowsers are made from yellow cloth and are stated to the Board to have been in Store since 1822, and to have been the remains of clothing collected on breaking up the hulk prison Ships

at the close of the last war. The Jackets, as well as 68 Waistcoats of the same material, are of the proper size, and might be appropriated to the use of the convicts at penal settlements. The Trowsers are only large enough to be suitable for boys, and, it is submitted, might be used for Winter clothing for the Boys of the Carters' Barracks. The remainder of the Clothing in Store is made from cloth manufactured at the Female Factory with the exception of some trifling remains landed from Prison ships.

11th. In last year's report, it was recommended that the materials for making the shoes should be sent out from England, and that the materials for each pair should be separately put up to prevent frauds in their appropriation.

The Board, however, having had occasion to notice that the leather manufactured in the Colony is more durable than that imported from England, which seems to suffer from the climate, were induced to compare the English with the Colonial prices of that Commodity; when they found that, by the purchase of Colonial leather, a very considerable saving would be effected. The rates at which it is now supplied to the commissariat being for sole leather 8d. and for Kip leather 1s. 6d. per pound, while the prices in Leadenhall mt., as appear in the "prices current" of the 14th November last, were for sole leather 16d. to 2s. 1d., and for calf skins (in lieu of which Kip leather is used in this Colony) 1s. 7d. to 2s. 6d. per pound. The advantage of preventing frauds by having the materials for each pair of shoes separately put up, previously to their transmission from England, is not worthy of being put in competition with the saving of expenditure, which would result from this arrangement.

12th. The principal superintendent of Convicts states that, as he proposes to increase the number of shoemakers employed in Hyde Park Barracks to thirty, that establishment will be able to furnish 7,000 out of the 11,110 pair of shoes required. And the Board conceive that the remaining 4,110 can be advantageously purchased in the Colony as the last contract price was only 4s. 4d. per pair.

13th. Before concluding their report, the Board beg to state that they have endeavoured as far as circumstances would permit to prepare the General abstracts of requisitions conformably with the instructions of the Secretary of State; but, while the materials before them are insufficient to enable them to enter into a detailed explanation of the uses to which the Tools and materials are applied, they are also persuaded that any such statement, founded on more extensive information, would, from the nature of the circumstances alluded to in last year's report, either be exceedingly unsatisfactory and fallacious, or would comprise a series of details which it would be quite impracticable for the Board, in justice to their other avocations to enter into.

They trust nevertheless that the General Requisitions will be found sufficiently correct and explanatory to answer every useful purpose, more especially as supplies, on arrival in the Colony, are still retained in the General stores till issued for specific objects on requisitions bearing the approval of His Excellency the Governor.

Sydney, New South Wales, 17th May, 1829.

JAMES LAIDLEY, D.C.G.

JAMES BUSBY, Collr. Inl. Rev.

A true Copy:—JAMES LAIDLEY, D.C.G.

1829.
1 June.

Report by
board on
requisitions.

1829.
2 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING,
(Despatch No. 117, per ship Guilford; acknowledged by
Governor Darling, 13th January, 1830.)

Sir, Downing Street, 2nd June, 1829.

Suspension of
instructions *re*
weights and
measures.

With reference to my despatch of the 27th August, 1826, relative to the introduction into the Colony of New South Wales of the scale of Weights and Measures, established by the Acts 5 Geo. 4, Cap. 74, and 6 Geo. 4, Cap. 12, I have the honor to acquaint you that, as greater difficulties have been found to exist than were at first anticipated in the adoption of that measure, His Majesty's Government have deemed it expedient to postpone for the present the execution of it. It will not, therefore, be necessary that you should now take any further steps for carrying into effect the arrangement in question in the Colony under your Government.

Issue of spirits
to troops.

A question having arisen in the Island of Ceylon, "whether the benefit of the increased measure is to be accorded to the Troops in the Rations of Spirits or Wine," or whether the "quantity so issued is to be nominally reduced so as to accord with that now issued," I have the honor to transmit to you for your information, the copy of a letter from the Secretary to the Treasury, with a Minute of their Lordships upon that subject. I am, &c.,

G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 30 March, 1829.

Regulation of
issue of spirits
to troops.

I have laid before the Lords Commissioners of H.M. Treasury your letter of the 14th Instant, and I am commanded to acquaint you for the information of Secretary Sir Geo. Murray that my Lords will have under their consideration the expediency of introducing into the Colonies the weights and Measures, established by the Acts 5 Geo. 4, Cap. 74, and 6 Geo. 4, Cap. 12; with reference however to Sir Ed. Barne's Letter, dated 12 October, 1827, a Duplicate of which is enclosed in the Letter from the Under Secretary of State of the 7th May last, from which it appears that doubts have arisen at Ceylon whether the alteration of the Wine Gallon Measure has led to an increased issue of Wine or Spirits to the troops at other Colonies, I am commanded by their Lordships to transmit for Sir G. Murray's information the enclosed Copy of the Minute of this Board of the 11th April, 1826, from which he will observe that no increase of the ration has taken place.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

COPY OF TREASURY MINUTE OF 11TH APRIL, 1826.

My Lords advert to the Acts of Parliament of the 5 Geo. 4, C. 74, and 6 Geo. 4, C. 12, for ascertaining and establishing uniformity of weights and Measures, and have under their consideration the directions it may be proper to give to the officers of the Commissariat upon Foreign Stations in regard thereto.

With respect to Weights. The difference between the old and new Standard, Avoirdupois, is so exceedingly small that My Lords do not think it necessary to direct the new Imperial weights to be transmitted. By this weight the following Articles are usually received into the Stores under the charge of the Commissariat and issued therefrom to the Troops:—

1829.
2 June.
No change required in weights.

Meat; Bread; Hay; Straw; Candles; Fire Wood.

Measures.—The English Wine Gallon.

By this Measure the following Articles are usually received into the Magazines and issued therefrom to the Troops:—

Regulation of issue of spirits.

Wine; Spirits; Oil.

A very important alteration has been made in this measure. The imperial Gallon, by which in future all Articles will be purchased in Great Britain and consigned to the Officers in charge of the Commissariat, contains $46\frac{27}{100}$ Cubic Inches (or about one-fifth) more than the old Gallon; and, as it is desirable that uniformity should be established in the mode of bringing the Stores, received and issued, to account, my Lords desire that, upon the receipt of this Instruction, all Articles which may be in store of the above description, or any others heretofore usually received and issued by the "Wine Measure," may, in the Accounts and Books in which the Quantities on hand are recorded, be converted into the Imperial measure, which may be correctly done by deducting $\frac{1}{5}$ from the number of "Wine Gallons," when the result will be Gallons of the Imperial Standard.

It is not their Lordship's intention that this increase of the Standard Measure should cause any addition to be made in the quantity of any of the Articles to be issued to the Troops. My Lords, therefore, desire that all issues to the Troops of any of the Articles before described may be made by the Measures of capacity at present in use, until the new Imperial Measure shall be forwarded; and that those Measures may be marked as indicating the number of Rations they contain, rather than be described as Gallons or proportions of the Gallon.

Thus the old measure of	To be marked as containing	
$\frac{1}{3}$ Pint	1 Ration	Spirits.
1 Pint	3 Rat.	Do or 1 Rat. Wine.
1 Quart	6 Do	Do or 2 Do Do.
4 Quarts or the Wine Gallon	24 Do	Do or 8 Do Do.

It is, however, their Lordships' intention that the use of the new Measure should be hereafter introduced, and, upon the receipt of the several Measures made in conformity with the Imperial Standard, that they should be used in the following manner:—

Wine.	Spirits.	
1 Ration, $\frac{3}{4}$ Quart	$\frac{1}{4}$ Quart	} Imperial Measure.
7 Rations, 3 Quarts	1 Quart	
28 Rations, 3 Gallons	1 Gallon	

These being the nearest convenient fractions into which the present Rations of Wine or Spirits can be respectively reduced.

Coal Measure.

1829.
2 June.
Instructions to
be transmitted.

The new Imperial Standard is so nearly the same as the measure formerly in use that My Lords do not think it necessary to make any alteration therein. Let a circular Letter be written to the several Officers of the Commissariat, directing them to carry this arrangement into effect.

Transmit Copy of this Minute to the Comptrollers of Army Accounts for their information.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 70, per ship *Vesper*.)

Despatch
acknowledged.

Sir, Government House, 2nd June, 1829.

I have the honor to acknowledge the receipt of your Despatch dated the 30th of September last, No. 35, transmitting Copy of a representation dated the 10th of April, 1828, received from an Individual, who signs it as "Elizh. Edwards."

In reply to which, I beg leave to refer you to my Despatch No. 72, of the 11th of May, 1828, forwarding three Letters from the same Individual, written as appears at the same period (in April, 1828), as that which you have now referred to me, which is in fact a Copy or Duplicate of one of the former.

Identity of
A. Lockaye.

I can only repeat, Sir, that the representations of this unfortunate Woman are totally destitute of truth, and that, of her Husband's identity as "Lockaye," there was not the slightest doubt, as will be seen by the facts stated in my Despatches of last year No. 72, above referred to, and No. 12 of the year 1826.

I have, &c.,
RA. DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship *Guilford*.)

3 June.
Recommendation of
T. Forster for
land grant.

Sir, Downing Street, 3rd June, 1829.

I am directed by Secretary Sir George Murray to transmit to you the copy of a letter, which has been received at this Department from Mr. Thomas Forster, a reduced Surgeon on the half pay of the Army, who is about to proceed as a Settler to New South Wales. I also enclose a copy of a communication from the Director General of the Army Medical Board, stating the services of that Officer; and I am to request that you will make to him a Grant of Land, in proportion to his means of bringing it into cultivation, and that you will afford him any facilities, which it may be in your power, consistently with established Regulations, to render.

I am, &c.,
H. TWISS.

[Enclosure No. 1.]

MR. T. FORSTER TO UNDER SECRETARY HAY.

1829,
3 June.

Sir, London, 30th May, 1829.

In explanation of the letter of Sir James McGregor, which I have the honor of forwarding, I beg leave to observe that my object in going to New South Wales is to reside there with my family. I have many connections in that country, having married into the family of Mr. Gregory Blaxland and served there for four years as Surgeon of the 46th Regiment.

Application by
T. Forster for
land grant.

I also served four years in the Peninsular war as Surgeon of the 9th Foot, and seven years in India, from whence I was removed at my own request to the 14th Light Dragoons, from which Corps I was permitted to retire in November last in consequence of ill health.

I have taken a passage in the Ship Harriet for myself and family, consisting of my wife, a son and three daughters, and also a Nephew and niece of mine.

I now respectfully solicit a grant of Land at Sydney, and I trust my long services and large family will be taken into favorable consideration.

Should it be thought necessary to ascertain that I possess the property alluded to in the letter of Sir James McGregor, I beg leave to refer to Mr. Charles Downs, my Agent, No. 8 Regent Street.

I have, &c.,

T. FORSTER,

Surgeon, H. pay, late Surgeon 14th Drs.

[Enclosure No. 2.]

SIR JAMES MCGREGOR TO UNDER SECRETARY HAY.

Sir, Army Medical Department, 29th May, 1829.

At the request of Surgeon Thomas Foster, a reduced Medical Officer of the Army, I have the honor to submit, for the Information of Sir George Murray, that this Gentleman is desirous of Emigrating to New South Wales. Mr. Foster has been known to me many years, he having served in the Army on Full Pay Twenty-five years. He proceeds as a Settler to New South Wales, taking with him his Family, and he wishes to be noted a Candidate for a Grant of Land on the usual conditions awarded to old servants of the Public.

Testimony in
favour of
T. Forster.

Mr. Foster can command a property of seven Thousands.

I have, &c.,

J. MCGREGOR, Director General.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Guilford.)

Sir, Downing Street, 4th June, 1829.

4 June.

I have the honor to transmit to you herewith the Copy of a Letter* from the Secretary to the Treasury, with its enclosures, on the subject of certain requisitions for Medicines for the Service of the Colony of Van Diemen's Land, which do not

Requisitions
for medicines.

1829.
4 June.

appear to have been accompanied by the particular information, which, upon a former occasion, the Secretary at War and the Army Medical Board requested might always be sent home with such requisitions.

Lord Bathurst's Dispatch to Sir Thomas Brisbane of the 13th of March, 1824, alluded to this subject; and I am now directed by Secretary Sir George Murray to call your attention to those Instructions, lest, by a non-compliance with them, any similar difficulty to that, which has been experienced in the present case, should hereafter occur with respect to requisitions for Medicines which may be transmitted from the Colony under your Government.

I have, &c.,
HORACE TWISS.

Instructions to
be fulfilled.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 118, per ship Guilford.)

5 June.

Sir,

Downing Street, 5th June, 1829.

I have received your despatch, dated the 1st of September last No. 112, reporting the arrangements which you had made for the distribution of the Public business between the Attorney and Solicitor General of New South Wales.

I think it better to decline making any peremptory definition of the respective duties of these Officers. They should be jointly employed in all the legal business of the Crown, and should be left to make such arrangements between themselves for the distribution of their common duties, as the Public interest and their own personal convenience may suggest. In the event of any disagreement between them on this subject, the Attorney General should have the right of dictating to his Colleague. If the Solicitor General should complain that an undue proportion of labour had been thrown upon him, you should depute the Colonial Secretary, or some other proper Officer, to examine and adjust the dispute. I apprehend, however, that the necessity of making such an appeal would have a strong tendency to check any disputes of this nature in their commencement.

My motive for preferring this arrangement is that it will make both the Crown Lawyers responsible for the due discharge of the whole legal business of the Colony. This joint responsibility will operate as an important security against rivalry and dissension and as a constant check upon precipitate measures.

I observe that, in your arrangements, it is proposed to require of the Attorney General to answer all questions referred to him by the Magistrates. But no Magistrate should be at liberty to propose any question officially except through yourself or the

Despatch
acknowledged.

Duties of
attorney and
solicitor-
general.

Legal opinions
for magistrates.

Colonial Secretary. The necessity of obtaining your previous sanction to every such enquiry will prevent the multiplication of unnecessary and frivolous applications, by which the Magistrates might otherwise seek to relieve themselves from responsibility, and increase, to an indefinite extent, the labour of the Attorney General's Office.

I am, &c.,
G. MURRAY.

1829.
5 June.
Legal opinions
for magistrates.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 119. per ship Guilford.)

Sir, Downing Street, 6th June, 1829. 6 June.

Since I addressed to you my Despatch No. 94 of the 13th of April last, I have had the honor of receiving your communication of the 1st of November, No. 123. As I have not felt it my duty to authorise the augmentation of Salary, which you had recommended to be given to Mr. Hely on account of the duty which he has to perform with respect to the Grants of Tickets of Leave, and as I do not see in the observations conveyed by you in your present despatch any reason to alter the opinion, which I have before expressed upon this subject, it has been satisfactory to me to find that you have not issued to that gentleman any portion of the additional Salary which you had proposed to assign to his Office.

Refusal of
extra salary
for F. A. Hely.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

Dear Sir, Downing Street, 8th June, 1829. 8 June.

I beg to transmit to you the copy of a letter, which I have received from Mr. Downie in favor of Mr. George Galbraith, whose object is to obtain an additional Grant of Land at New South Wales. At Mr. Downie's request, I have much pleasure in recommending Mr. Galbraith's claim to your best consideration, consistently with the course and conditions which I am aware you are obliged to impose in pursuance of the established Regulations.

Application for
extra land
grant for
G. Galbraith.

I am, &c.,
H. TWISS.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Vesper.)

Sir, 8th June, 1829.

Having been urged to write to the Secretary of State in favor of the Widow and Family of the late Major Bate of the

* Note 2.

1829.
8 June.

Testimony in
favour of
pension for
widow of officer.

Royal Artillery, who died a few months since at the Mauritius, I feel it impossible to decline complying with so reasonable a request or to withhold any testimony, which might be useful to Major Bate's Widow, who I understand has nothing to depend on but her Pension. Major Bate had served the long period of twenty six years uninterruptedly in the Islands of Ceylon and Mauritius, and has died without having saved any thing, and thus in fact left a family of Six children destitute. He had charge of the Kandyan Prisoners, who were sent from Ceylon to the Mauritius, when I held the command in that Colony, and his attention to this important trust recommended him to my notice. The object of the application, which I have been so earnestly entreated to second, is to obtain a Pension for Mrs. Bates from the Government of Ceylon, in consequence of her husband's long services in that Colony, and the highest allowance from the War Office which is given to the Orphans of Officers. Feeling that I have no right to intrude myself on this occasion, I do so with extreme reluctance; but I cannot, from any consideration of etiquette, decline in such a case to bear testimony to the merits of an old and deserving Officer, when there is a Chance of its being useful to his Family. On this ground alone, I have ventured to attend to the appeal made to my assistance, and I request you will be pleased to bring the case accordingly under Sir George Murray's Notice.

I have, &c.,

RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Lucy Davidson.)

19 June.

My dear Sir,

Downing Street, 19th June, 1829.

Despatch
acknowledged.

I have to acknowledge the receipt of your letter of the 30th of August last respecting the two Crown Solicitors Messrs. Moore and Garling.

These Gentlemen have certainly advanced a most preposterous claim, and I enclose, according to your desire, a copy of the letter with which Mr. Garling was furnished on his departure for Sydney in 1814, which will easily explain to you the little anxiety shewn by Mr. Garling in keeping his promise to lay before you the letter in question. The contents do not certainly warrant what he gave you to understand, when he represented them as fully countenancing his Colleague's and his own claim for a continuance of their respective Salaries of £300 a year after the abolishment of their Offices.

Yours, &c.,

R. W. HAY.

Refusal of
claims of
W. H. Moore
and F. Garling.

[Enclosure.]

UNDER SECRETARY GOULBURN TO MR. F. GARLING.

1829.
19 June.

Sir, Downing Street, 2d June, 1814.

I have not failed to bring under Lord Bathurst's consideration at the earliest moment, which the variety of other business rendered practicable, the various points to which your letter of the 19th ultimo referred. I am directed to acquaint you that his Lordship will not fail to make known to Governor Macquarrie the nature of the situation to which you have been appointed, and will give him such instructions as may secure to you all those advantages, which are conferred upon the most respectable Settlers upon their first arrival in the Colony. But his Lordship is under the necessity of declining to accede to those requests, which relate to particular advantages not given to other official Servants, and he trusts that you will admit the impossibility of a compliance with them without giving rise to similar demands on the part of all other Colonial Officers, which it would be altogether out of his power to satisfy. For these reasons, it is impossible to hold out to your family any expectation of a provision in case of your death at an early period, nor can his Lordship grant you the other less important indulgence, which you have solicited of a collection of Statutes and Legal Reports. His Lordship however trusts that the Colony will not suffer any inconvenience from the want of them, as a Set of the Statutes have been lately sent from this Country for the use of the Settlement.

Terms of
engagement of
F. Garling.

I am, &c.

HENRY GOULBURN.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 120, per ship Lucy Davidson; acknowledged by Governor Darling, 11th January, 1830.)

Sir, Downing Street, 20th June, 1829.

20 June.

In a despatch, which I had the honor of addressing to you on the 26th ultimo, I intimated to you my intention of abolishing the Situation, held by Major Lockyer, of Principal Surveyor of Roads and Bridges, the duties of which are hereafter to be executed by two Assistants of the Surveyor General. In pursuance of that arrangement, I have nominated Mr. Felton Mathew and Mr. John Edwards to the situations of Assistant Surveyors to replace those Officers, whose services may be thus transferred; and you will issue to them Salaries at the rate of £200 a year each, with such other advantages as the same description of Officers are usually permitted to receive.

Abolition of
office of
principal
surveyor of
roads and
bridges.Nomination of
assistant
surveyors.

I take this opportunity of explaining to you that it is not my intention, by the arrangement in question, to withdraw permanently from the Surveyor General's Department the persons whom you may transfer to the Department of the Roads and Bridges, or to take those Officers from under the control of the Surveyor General, whose authority, it will be proper, should be

Control of
department of
roads and
bridges.

1829.
20 June.

exercised over both Establishments. You will also understand that they are not to receive any additional allowance, unless their new duties should be attended by expenses which they would not be exposed to under other circumstances.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 73. per ship Alfred; acknowledged by Sir George Murray, 17th December, 1829.)

Sir, Government House, 20th June, 1829.

Conceiving that the arrangement, I had made for the employment of Lieut. Col. Morriset as Principal Superintendent of Police, would have been confirmed, in which case it was his intention to have retired from the Military Service, I authorised his receiving a Grant of Land the same as other Officers of the Civil Government, and he was permitted to make a Selection accordingly.

During the progress of this business, I received information from your Office that circumstances did not permit of Lieut. Colonel Morriset's being confirmed in the Police, and was directed to employ him according to his original appointment as Commandant of Norfolk Island.

This Situation being a Military one, it appeared to me that Lieut. Colonel Morriset was not eligible to receive Land under the present Regulations, and the Authority to select was consequently cancelled. Having explained the case, I beg leave, Sir, to transmit for your consideration the accompanying Copy of a Letter, which Lieut. Colonel Morriset addressed to the Colonial Secretary on the subject of the Land in question, previous to his proceeding to Norfolk Island, where he now fills the Situation of Commandant.

I have, &c.,
RA. DARLING.

[Enclosure.]

LIEUT.-COLONEL MORISSET TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 13th May, 1829.

As the result of my Application for permission to make a fresh Selection of Land, in lieu of that for which I hold His Excellency the Governor's Authority to possess, has been unfortunate, inasmuch as doubts have arisen as to the propriety of my being allowed any, I beg you will submit to His Excellency that, under such circumstances, I wish to retain the Land, tho' bad, to which he has already given me a Title; and in hopes that His Excellency will recognise the validity of that authority in my case, as in all others, whatever may have been the subsequent construction put on any exclusive Regulations.

Grant of
land to
J. T. Morriset.

Withdrawal
of promise of
land grant.

Request by
J. T. Morriset
for permission
to retain land
selected.

I beg to observe that no other surrender than a Conditional one was made on my part, and that, therefore, whatever may be the decision of His Majesty's Government on the question, to whom I beg it may be submitted, will be, I should think as it affects me, the necessity of my being satisfied with the Land I already have.

I confidently hope that the Governor will remember that I have been brought to this dilemma by attention to my public duty as a Civil Officer, since abundance of time was allowed me to make a good selection in the first instance.

I have therefore to request that the Surveyor General may be directed to preserve my name on the Chart according to the selection approved by your Letter, dated 23rd August, 1828.

I have, &c.,

J. T. MORISSET,

1829,
20 June.

Request by
J. T. Morisset
for permission
to retain land
selected.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Alfred.)

Sir, Government House, 20th June, 1829.

I have not been able to obtain any satisfactory information on the subject of your Letter of the 18th of August last, until lately.

I now do myself the honor to transmit the Copy of a Letter from Mr. Moore, one of the Executors to the Estate of the late Mr. Galway Mills, which shews the embarrassed state of his affairs at the time of his Death.

Report *re*
estate of
G. G. Mills.

As to the Land alluded to, it is my intention to direct the confirmation of the Grant, as I conclude it will be the wish of Government that the loss, sustained by the Individuals who have suffered by his Death, should be rendered as light as possible. As, however, it has not been improved to any extent, it will make but an insignificant addition to the property of the deceased.

Land grant to
be confirmed.

I shall immediately direct a Communication to be made to the Executors, requesting that such of the private Papers of the late Mr. Mills as can be given up may be forwarded to Mr. Appleyard.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. W. H. MOORE TO SOLICITOR-GENERAL SAMPSON.

Sir, George Street, 15th June, 1829.

In answer to your Letter of the 3rd inst. respecting the Property of two Individuals, named Magrave and Kennedy, who died intestate (said to have been collected by the late Registrar of the Supreme Court, Colonel Mills, under an Order of the Court). I have the honor of informing you that I have ascertained that certain Sums of Money, belonging to the Estates of each of those Individuals, were paid into the hands of the late Colonel Mills, but, by whom or for what purpose, I cannot ascertain as there does not appear to have been any Orders of Court authorising him to receive them.

Moneys
received by
G. G. Mills
from intestate
estates.

1829.
20 June.

Insolvency
of estate of
G. G. Mills.

The Estate of the late Colonel is only capable of paying five Shillings in the Pound, which Amount I have no objection to hand over to you, on your indemnifying the Estate from being called upon by the legal representatives of those persons.

I see no prospect of the Estate making any further Dividend until the Executors are enabled to dispose of the Land, the deceased was possessed of, which I fear will be at some distant period.

I have, &c.,
W. H. MOORE.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 121, per ship Lucy Davidson.)

21 June.

Instructions re
transmission of
acts of council.

Sir,

Downing Street, 21st June, 1829.

I have to request that you will in future take care that every Legislative Act of your Government be transmitted in Manuscript,* under the Public Seal of the Colony, duly authenticated by your Signature and attested by the Signature of the Colonial Secretary. It will be useful at the same time to send two or three printed copies of each such Act.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 122, per ship Lucy Davidson.)

22 June.

Approval of
expenditure
on ship for
Moreton bay.

Sir,

Downing Street, 22d June, 1829.

With reference to your despatch of the 13th of December last, stating the necessity which you have felt yourself under of freighting a Ship the "City of Edinburgh" at an expense of £250 to take Prisoners and supplies to Moreton Bay, all the other Ships in the service of the Colonial Government being employed, I have the honor to acquaint you that the expenditure which you have incurred on that account is approved.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 74, per ship Alfred.)

Sir,

Government House, 22nd June, 1829.

I have the honor to acquaint you that I have authorised the employment of a Storekeeper and a Clerk in the Establishment of the Department of Roads and Bridges, the former at a Salary of One hundred and ten pounds and the latter at a Salary of Seventy three pounds.

These Individuals were Non Commissioned Officers in the Company of the Royal Staff Corps stationed in this Command, and have held these appointments for some time past, receiving a

Storekeeper
and clerk in
department of
roads and
bridges.

* Note 3.

Moderate allowance in addition to their Military Pay; but, being now disbanded and without Pension, their present Salary is much less than they formerly received, so that a saving to the Colony is effected by this arrangement.

I have, &c.,
R.A. DARLING.

1829.
22 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 123, per ship Lucy Davidson.)

Sir, Downing Street, 23rd June, 1829. 23 June.

I have the honor to acknowledge the receipt of your despatch, dated the 15th of November last, recommending that a Pension at the rate of £200 per annum may be granted to Mrs. Oxley, Widow of the late Surveyor General, and that the Land consisting of 5,000 acres, which Mr. Oxley obtained permission during Sir Thomas Brisbane's administration to purchase at the rate of 5s. per acre, should be made over as a free gift to his children, as an acknowledgment of their father's services.

Despatch acknowledged.

I assure you, if I do not feel myself at liberty to acquiesce in your recommendation in favor of a Pension to Mrs. Oxley, it is not because I am insensible to the services of her late husband, of whose merits the correspondence in my Office affords ample testimony; but, considering the difficulty of finding funds for such purposes, I cannot view the granting of pensions to the Widows of Public Servants as a measure which I should be justified in recommending to His Majesty.

Refusal of pension for widow of J. Oxley.

With respect to the land alluded to in the concluding paragraph of your despatch, I have no objection, under the special circumstances of the case, to the arrangement which you have proposed; but you will take care that such a share in the benefit, thus granted to the family, be reserved to the Widow, as would in law have belonged to her, if this had been personal property left behind by an intestate husband.

Land given to widow and children.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 75, per ship Alfred; acknowledged by Sir George Murray, 21st August, 1830.)

Sir, Government House, 23rd June, 1829.

Understanding that a Numerous body of the Inhabitants of Sydney had for some time past felt much anxiety, in consequence of their not possessing any legal Title* to the Ground on which they had erected Houses for their residence and other purposes, and having in some cases gone to considerable Expense, I

Land titles in town of Sydney.

1829.
23 June.

Reference of
subject to
executive
council.

was induced to bring the subject under the consideration of the Executive Council, with a view that such arrangement might be made as would secure the Government from further encroachment and satisfy the present occupiers that there was no intention to resume or interfere with the Ground, which they already possessed, further than was necessary to subject it to the conditions, which were observed by those who had obtained Grants in a regular and formal manner.

I am not aware, Sir, that I can put you more fully in possession of the view taken of this matter than by submitting a Copy of the Minute, which I laid before the Council on this occasion, which being unanimously approved, a Proclamation was issued agreeably to the accompanying Copy.

I trust, Sir, that the Step which has been taken and the reason which induced it, will meet with your approbation.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MINUTE FOR THE CONSIDERATION OF THE EXECUTIVE COUNCIL.

Government House, 1st May, 1829.

It appearing desirable in order to set at rest any uneasiness which may be felt by Individuals possessing Town allotments in Sydney, who have no defined claim thereto, to determine as to the course which it may be necessary to pursue in these cases, I am induced to submit the following view of the matter, so that the Council may judge of its expediency, or whether any more practicable or convenient arrangement can be adopted.

The several occupants of Allotments in the Town of Sydney may be divided into three Classes, Vizt.:

- 1st. Grantees, or their Heirs or Assigns.
- 2nd. Lessees, or their Heirs or Assigns.
- 3rd. Persons who hold, by the mere right of occupancy, Land which has never been alienated from the Crown.

The 3rd is understood to be a numerous Class, many of the Individuals, whom it includes, having purchased the Allotments they occupy, and expended considerable Sums in improvements.

The points necessary to be considered and determined appear to be as follows:—

- 1st. To which of the above Classes should perfect Titles be granted.
- 2ly. Upon what Conditions.
- 3dly. What arrears of Quit Rent should be demanded.
- 4thly. The Manner of giving effect to the intentions of Government.

Upon each of the foregoing points, I would suggest for the consideration of the Council as follows, "Vizt.":—

1st. That Grants should be given to all Classes; the 1st are already in possession of them; to the

2nd. Whether the Leases have expired or not; and to the

Minute re land
titles in town
of Sydney.

3rd. Provided the Claimants possessed, or are the Heirs or assigns of Persons who possessed their respective Allotments, previous to the 30th June, 1823; and that the ground had not been specifically reserved, or Notice at any time been given that it would be required for public purposes.

1829.
23 June.

Minute *re* land titles in town of Sydney.

2nd. That the conditions of the Grants to be given should be the same as those proposed in the Minute* of Council, dated the 23rd March, 1829.

3dly. That the arrears of Quit Rent now due should not be demanded beyond the *30th June, 1823*, the date of *all* Sir Thomas Brisbane's Leases; and, with a view to the convenience of Individuals, these Arrears might be Discharged by the Parties being required to pay double Quit Rent for the same period as the arrears had run due. It appears necessary that the payment of Quit Rent from the date proposed should be enforced, as, if no Quit Rent should be required for the past period, it would be an inducement to Individuals to take possession of Land without Authority, seeing that they would not be required to pay Quit Rent for the period of their illegal occupancy.

4thly. In order to give effect to the intention of Government, it is proposed that a Proclamation be immediately published, announcing such intentions, detailing the various conditions of the Grants, the several reservations to be made, and the Fees to be paid, so that all Persons might be fully informed of the terms proposed, and further signifying that Persons, who neglect to take out their Grants for Six Months after the expiration of the time to be notified in a Government Order for the issue of such Grants, shall be considered to have forfeited all right and Title to any Land, held by Lease, which has expired, or been occupied without Authority; and, to secure this important end, it is also proposed to introduce the same condition into the Body of the Deed of Grant, or that a declaratory Clause to this effect be introduced into the Act of Council, which will be necessary to enforce the conditions, recommended by the Council in the Minute above referred to, in the cases of Persons who already hold Grants of Town Allotments.

It is further proposed that the Town Surveyor should furnish, under the Instructions of the Surveyor General, accurate descriptions of each and every Allotment; and that, when the descriptions of any Street shall have been completed, a General Order be published notifying that, three Months after the date thereof, the Deeds of Grant of all the Allotments in such Street will be issued to their respective Claimants as enumerated, unless Caveats shall in the mean time be entered against the issue of the same.

RA. DARLING.

[Enclosure No. 2.]

PROCLAMATION.

By His Excellency Lieut. Genl. Ralph Darling, Commanding His Majesty's Forces, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies and Vice Admiral of the same.

Proclamation
re land titles
in town of
Sydney.

WHEREAS much inconvenience hath been occasioned by the want of sufficient Titles for Allotments of Land in the Town of Sydney; and whereas such Titles have not been issued by the Government, except in a few instances, since the 30th day of June, 1823; Now, therefore, in order to remedy this inconvenience and give the

* Note 5.

1829.
23 June.

Proclamation
re land titles
in town of
Sydney.

necessary security to private Property, I, the Governor, by virtue of the Authority in me vested, do hereby ordain and proclaim that, on application being made, a Grant in Fee simple shall be issued under the Conditions hereinafter specified to every Person (or his lawful representative), who, on or before the said 30th of June, 1823, was *bonâ fide* in possession by Lease from the Government, whether such Lease be now expired or not, or by mere right of occupancy of any Allotment of Land in the said Town of Sydney, not hitherto alienated by the Crown, and not specified in a certain Order* of the Government, bearing even date herewith, number thirty or otherwise, notified heretofore as being required for Public purposes; reserving, however, and keeping harmless all Rights of other Private Individuals, which may be lawfully established at any time thereafter.

And, in order that all Parties interested may have an opportunity of proving such their respective rights, a description of each Allotment, with notice of the intention to complete a Grant thereof, shall be published three Months previously for general information.

And whereas considerable Sums of Money are due to the Crown as Quit Rents upon the said Allotments, the immediate exaction of which, as hath been represented to me, would be exceedingly oppressive to the Parties concerned, but the total remission of which would be equally unjust to such other Parties as have regularly paid the same; Now, therefore, in order to render the payment of the said sums as little burthensome as possible, I do further proclaim that the Grants herein intended shall be issued under the following Conditions, namely, that no arrears of Quit Rent shall be demanded for the said Allotments beyond the aforesaid date of the 30th of June, 1823; and that such arrears, as have accrued since that date, shall be calculated at the rate of Six Pence Sterling per Square Rod per Annum, instead of Nine pence as heretofore. And also, that they shall be liquidated by Instalments, payable Annually, in addition, and equal to the regular Yearly Quit Rent, until the whole be satisfied.

And I do further order that, in all other respects, the Grants, to be made out in pursuance of this my Proclamation, shall be in the same form and subject to the same quit Rent and other Conditions of every kind, as are laid down for general adoption in the order* of the Government, Number twenty nine, dated the 29th day of May in the present Year, or such modifications of the same, as may be in force at the time of issuing each of the said Grants respectively.

Given under my Hand and Seal, at Government House, Sydney, this eighth day of June, One thousand eight hundred and twenty Nine.

RALPH DARLING (L.S.).

By His Excellency's Command,

ALEXR. MCLEAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 124, per ship Lucy Davidson.)

Sir,

Downing Street, 24th June, 1829.

I have had the honor to receive your despatch No. 125 of the 10th Novr. last, reporting the death by his own hand of Lockaye, otherwise Edwards, a prisoner at Norfolk Island.

24 June.
Despatch
acknowledged.

* Note 6.

Although there were strong grounds for supposing that this prisoner's real name was Lockaye, I regret that his death should have prevented the further enquiry as to his identity, which was directed by my despatch of the 1st of May last.

1829.
24 June.

I have to approve, under the circumstances of the case, of your having provided the Widow with the means of returning with her children to the Cape of Good Hope, of which place she appears to have been a Native.

Approval of passage provided for widow of A. Lockaye.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 76, per ship Alfred.)

Sir, Government House, 24th June, 1829.

1st. I beg to draw your attention to my Despatch, dated the 26th of September, 1827, No. 92, requesting Authority to discontinue the Penal Settlement at Port Macquarie and to throw it open to Settlers.

Proposed abolition of penal settlement at Port Macquarie.

The Number of Prisoners at present at Port Macquarie is 265, and these I shall propose sending to the other Penal Settlements.

2nd. I beg to observe that the want of fresh Water at the Penal Settlement, established at Moreton Bay, has obliged me to suspend forwarding any more Prisoners at present to that place; and I have, in consequence, instructed the Commandant to ascertain whether any more eligible Situation can be found in that neighbourhood with a view to the Settlement being removed. The Sickness at Moreton Bay was very great during the last Summer, and is considered to have been occasioned by the scarcity of water and the bad quality of that which the People were obliged to make use of. It may not be unimportant to observe that the flowing of the Tide renders the water of the River Brisbane unfit for use for some considerable distance above the present Settlement; and that the removal of the Settlement higher up the River would render the Communication exceedingly troublesome and be attended with much inconvenience. My intention therefore is to place the Settlement as near as circumstances will permit, to the Island of "Stradbroke."

Disadvantages of settlement at Moreton bay.

I have, &c.,

RA. DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Lucy Davidson; acknowledged by Governor Darling, 2nd December, 1829.)

Sir, Downing Street, 25th June, 1829.

25 June.

I am directed by Secretary Sir Geo. Murray to transmit to you the enclosed copy of a communication, which has been received at this Department from Mr. Francis Boulton, requesting

Request for report re J. T. Campbell.

1829.
25 June.
Request for
report re
J. T. Campbell.

information with regard to the existence of Mr. John Thomas Campbell, who formerly acted in the capacity of Collector of the Customs at New South Wales; and I am to request that you will transmit the desired information with as little delay as may be convenient.

I am, &c.,

HORACE TWISS.

[Enclosure.]

[*This letter, dated 1st June, 1829, has been omitted as it was a mere repetition of the subject-matter of the despatch.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 77. per ship Alfred; acknowledged by Sir George Murray. 4th January, 1830.)

Sir, Government House, 25th June, 1829.

I do myself the honor to transmit the accompanying Copy of a Letter from the Clerk of the Council, pointing out the necessity of his receiving the Assistance of a Copying Clerk.

Copying clerk
appointed to
assist clerk
of councils.

Being quite satisfied that a Clerk of that description was necessary, I laid Mr. Thompson's application before the Executive Council, and the Council agreeing in the expediency of the appointment to prevent the arrear of business which would otherwise accrue, I have the honor to report that I have authorised the appointment of a Clerk at a Salary of One hundred and fifty Pounds per annum, until I receive your Commands on the Subject.

I take the opportunity, Sir, of further stating my opinion that, when the Warrant for the appointment of a Legislative Council arrives, one Copying Clerk will not be sufficient for the business of both Councils.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. E. D. THOMSON TO COLONIAL SECRETARY MACLEAY.

Sir, Council Chamber. 12th June, 1829.

Request for
clerk by
E. D. Thomson.

I have to request that you will be pleased to represent to His Excellency The Governor that, in consequence of the great increase in the business of the Executive Council, and the numerous copies which it is necessary to make of every Document laid before them. I trust His Excellency will see the necessity there exists of allowing me a copying Clerk, without which I fear my endeavours to prevent arrear will prove unavailing.

In bringing this matter under the consideration of His Excellency, it may not be superfluous to advert to the circumstance that the Duties of the Clerk of the Executive Council have not been performed for the last three years by the Clerk of the Council, but by His Excellency's Private Secretary, who of course had at all times the assistance of the Clerks in his office to make copies of

such Documents, as were not of a confidential or secret nature, which it has been the practice to insert in the Appendix, and which have formed the most voluminous part of the Proceedings of Council.

I may mention that the cause of such numerous copies being required arises from the necessity of sending a copy in Duplicate to the Right Honorable The Secretary of State at the close of each half year; a copy in Duplicate is likewise in some instances previously required to accompany His Excellency's despatches; a copy of the Minutes must first be inserted in the "*rough-book*;" and, when approved at the next meeting, copied again into the "*fair-book*," making in some cases six copies, and in all at least four copies; independently of which, His Excellency occasionally requires a copy for his private information.

When these circumstances and the great increase in the business of the Executive Council (which I am informed is likely still further to augment), as well as the accumulation of Bills to be brought before the Legislative Council on arrival of His Majesty's warrant for its appointment, are taken into account, I trust His Excellency will consider that I have made out a reasonable case, and that he will grant me the assistance I now respectfully request; to the necessity of which he as well as the other members of Council will, I have no doubt, be disposed to accede. I have, &c.,

E. DEAS THOMSON.

[Enclosure No. 2.]

EXTRACT from Minute No. 21, of the 16th June, 1829, of the Proceedings of the Executive Council, when there were present:— His Excellency The Governor; The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Col. Patk. Lindesay.

Appointment of clerk recommended by executive council.

HIS EXCELLENCY the Governor laid before the Council a Letter addressed to the Honble. The Colonial Secretary by the Clerk of the Councils pointing out the necessity of some assistance being afforded to him by the appointment of a copying Clerk, in consequence of the great and increasing business of the Executive Council, and requesting that his representation might be submitted for the consideration of His Excellency The Governor.

The Council unanimously concurred in the necessity of the case, and recommended that a Copying Clerk should be appointed accordingly.

A true Extract:—E. DEAS THOMSON, Clerk of the Councils.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 78, per ship Alfred; acknowledged by Sir George Murray, 5th January, 1830.)

Sir,

Government House, 26th June, 1829.

26 June.

I do myself the honor to acquaint you that, with the concurrence of the Executive Council, I have authorised the employment of a Clerk at a Salary of One hundred and Fifty Pounds per Annum in the Office of the Commissioner of Lands, until I receive your Orders on the Subject.

Clerk appointed to office of commissioners of lands.

1829,
26 June.

I beg to enclose the Copy of a Letter from the Surveyor General pointing out the necessity of this Appointment, which was fully considered in Council and deemed indispensable to the efficiency of the office of the Commissioners for apportioning the Territory.

I have, &c.,

RA. DARLING.

[Enclosure.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, Sydney, 23rd May, 1829.

The duties in the writing Branch of this Office have increased so much of late that I find it difficult to proceed without leaving much in arrear. I have hitherto disregarded this prospect in the expectation of being absent myself, when I hoped the Arrears in the entry of Letters, etc., might be made up. I find however a more serious inconvenience than this in the backward state of some books, in which I wished to enter the descriptions according to the Governor's approval of all Lands requiring measurement, according to Districts, in order that a Surveyor, when sent to measure Lands, could be provided with these in detail according to the Returns. But the correspondence with your Office and the Returns occupy the Clerks now so entirely that this cannot be done. It must be obvious to His Excellency that, unless I can instruct the Assistants to measure, according to the approved Selections, the particulars as to frontage and measurement, I cannot order them to measure at all, and that this inability to prepare Lists of descriptions must retard the actual measurement. I am still, however, unwilling to ask His Excellency for a Clerk additional to this Office. I would take leave rather to suggest that a Clerk might be attached to the Office of Commissioners for the Valuation of Lands, who might, when not required in that Office, be employed in mine.

I have therefore to request that His Excellency will be pleased to allow a Clerk to be attached to the Commissioners for Valuation and Survey, who may also assist in the writing Branch of the duty of this Office; and I beg leave to recommend Mr. Eager, a Young Man in the Commissariat Department, to His Excellency's notice.

I have, &c.,

T. L. MITCHELL, Surveyor General.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 79, per ship Alfred; acknowledged by Sir George Murray, 18th December, 1829.)

27 June.

Sir, Government House, 27th June, 1829.

I have the honor to transmit to you the accompanying Copy of a Letter from Dr. Reid, a Magistrate of the County of Argyle, requesting that the Sum of £156 10s. 8d. might be charged against the Public. The circumstances of the case are as follows:—Dr. Reid authorised the Clerk of the Bench, a Man of the name of Taylor, on coming to Sydney, to receive the Salaries of the Constables and other Persons employed in the Police of

Request by
D. Reid for
reimbursement
of moneys
embezzled
by clerk.

the District. Taylor made away with the above Sum, and also forged Drafts on Dr. Reid, which he has been obliged to pay out of his private Funds.

1829.
27 June.

The Executive Council under whose consideration I brought the case, were of opinion that, as the Services of the Magistrates are gratuitous, and as Dr. Reid has already suffered a heavy loss, it would not be just or proper to make him amenable for the Money in question. The Sum of £156 10s. 8d. has in consequence been admitted as a charge against the Public, subject to your determination.

Opinion of
executive
council.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

DR. REID TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 18th May, 1829.

In answer to your Letter of the 26th March last, enclosing a Copy of a Letter from the Colonial Auditor, and requesting me to account for the Money advanced by the Colonial Treasurer without delay.

Request by
D. Reid for
reimbursement
of moneys
embezzled by
clerk.

I beg leave to inform you that Robert Taylor, late Clerk to the Bench of Magistrates in Argyle, received the Sum of £150 from the Colonial Treasurer in advance for the Quarter ending 31st March, 1827, for the Salaries of the Police, and that he also received £40 from the Colonial Treasurer in advance of the next Quarter to enable me to give the Constables Money on account of their Salaries, and that it appears that he only paid out of the whole of that Money £33 9s. 4d., leaving a loss on the whole account of £156 10s. 8d., to the correctness of which account I am ready to make Affidavit. I cannot help saying that it would be very hard on the Magistrates to be personally responsible for the Public Money, until it actually comes into their own hands. The Custom then was to send either the Clerk or the Constable for the whole of the Police Money, and that, in addition to all this loss, the said Taylor forged on me personally to a considerable amount, all which money I was obliged to guarantee to the person to whom he presented the forged order, before I could make use of his Evidence in the Supreme Court, where the said Taylor was convicted of the Forgery and sent to Norfolk Island for Life.

I have, therefore, to request that His Excellency the Governor will take the whole case into his consideration, and allow the said loss to be considered as a Public loss, and not that of a Private Individual, who derived no Emolument from performing at that time duties of a Public nature, which every Month took him away from his own Concerns for five days, he having to travel 48 Miles there and the same home.

I have, therefore, to request that His Excellency will give directions that the said Sum of £156 10s. 8d. should be repaid to me to enable me to liquidate the Debt incurred by Taylor's defalcation.

I have, &c.,

DAVID REID, J.P.

[Enclosure No. 2.]

1829,
27 June.Reimbursement
recommended
by executive
council.

EXTRACT from Minute No. 22 of the Proceedings of the Executive Council on the 18th of June, 1829, when there were present:—
His Excellency The Governor; The Venerable The Archdeacon;
The Honble. The Colonial Secretary; The Honble. Col. Patrick
Lindesay.

“ HIS EXCELLENCY the Governor then brought under the consideration of the Council a Letter from David Reid, Esquire, Justice of the Peace, requesting that the Sum of £156 10s. 8d. should be allowed to him, being the amount for which, as Magistrate for the County of Argyle, he had become responsible in consequence of a fraud committed by Robert Taylor, the Clerk of the Bench, who was subsequently convicted of Forgery and transported to Norfolk Island for Life.

“ The Council, considering the extreme difficulty of procuring competent Clerks in so remote a district, the small remuneration allowed to them, the gratuitous services rendered to the Government by the Magistrates, as well as the severe private loss sustained by Dr. Reid through a forgery committed upon him by the same individual, recommend that the said sum of One hundred and Fifty six pounds, ten shillings and eight pence (£156 10s. 8d.) be allowed to him, that being the actual amount of loss sustained by him on the public account.”

A true Extract:—E. DEAS THOMSON, Clerk of the Council.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

28 June.

Recommendation in favour
of H. Darch.

My dear Sir,

Downing Street, 28 June, 1829.

Mr. Henry Darch, who will be the bearer of this letter, is about to accompany Sir Edward Parry† to Port Stephen under the Australian Company's appointment. I have given Mr. Darch this recommendation to you at his father's request, who has seen some service at the Admiralty, and is now one of the Senior Clerks in that Department.

Yours very truly,

R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 80, per ship Alfred; acknowledged by
Sir George Murray, 22nd December, 1829.)

Sir,

Government House, 28th June, 1829.

Request by
R. Jones for
reserve of land.

I do myself the honor to transmit to you the accompanying Copy of a Letter from Mr. Jones, enclosing a Letter addressed to you, which was forwarded with my Despatch‡ No. 60/1829.

The object of the Enclosure was to obtain a *Reserve* of such Land as the local Government might consider he had a claim to until your decision could be received on his application for a Grant.

* Note 7.

† Note 8.

‡ Note 9.

Having in my former Despatch communicated my sentiments with respect to Mr. Jones's claims to the attention of Government, both as a Possessor of the most valuable description of Live Stock imported by him at considerable Expense into the Colony, and as one of the first Merchants, it will I presume be sufficient to state that I referred his application to the Executive Council, and to transmit for your information the accompanying Copy of a Minute of the Proceedings on the Subject. In consequence of which, Mr. Jones has been authorised to select Ten Thousand Acres of Land as a Reserve, until I shall be honored with your Commands.

1829.
28 June.

Reference of
request to
executive
council.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. R. JONES TO GOVERNOR DARLING.

Sir,

Sydney, 25th May, 1829.

I do myself the honor to enclose Your Excellency a letter I have addressed to the Right Honble. The Secretary of State for the Colonies, setting forth my claim to an Additional Grant of Land, which, after perusal, I request you will do me the favor to forward in due course with whatever observations your Excellency may deem the subject deserving of; it is one of considerable moment to me, and, having fully detailed in my Application the grounds of my Claim for this Indulgence, it will not be necessary for me to repeat it here. Some of the facts stated must be personally known to Your Excellency, and the others are matters of general notoriety in the Colony. Under these circumstances, I trust my Application will receive from Your Excellency the most favorable representation to the Home Government, whom it would appear is anxious to introduce Capital into this Country, and, to encourage which, have given and are still giving to Individuals large Tracts of Land for this purpose. My outlay of Capital has perhaps been greater than that of any other persons, who have received extensive Grants of Land from His Majesty's Government, and am quite sure of much more solid advantages to the Colonists in general.

Transmission
of application
for land.

It is matter of regret that the Local Government of this Colony is not intrusted with the power of making additional Grants, when cases like mine are brought before it, and, therefore, that a reference to the Home Government is necessary. But I trust Your Excellency, entering into the enlarged views of the Ministry on this subject, will, pending my Application, allow me to select such portion of Land, as Your Excellency may deem me entitled to from the large outlay of Capital I expended in the pursuits of Colonial Industry, upon the Condition imposed by the Home Government, should it accede to my wishes; and on the contrary, should my application be refused, I will again restore possession of the Land so held, at any time when called upon to do so.

Request for
reserve of land.

I have, &c.,

RICHARD JONES.

[Enclosure No. 2.]

1829.
28 June.Opinion of
council in
favour of
reserve of land
for R. Jones.

EXTRACT from Minute No. 23 of the Proceedings of the Executive Council on the 23rd June, 1829, when there were present:—His Excellency The Governor; The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Col. Patk. Lindsay.

HIS EXCELLENCY The Governor laid before the Council a Letter from Richard Jones, Esq., transmitting a Memorial addressed by him to the Right Honorable The Secretary of State, setting forth his claim for an additional Grant of Land, in consequence of his being the first and most extensive importer of fine-woolled Saxon Sheep, and the original person who established the local Sperm-whale Fishery.

Mr. Jones, in the Letter to His Excellency, requests that, pending the receipt of an Answer to His application to the Secretary of State, he might be allowed a Reserve of Land; and His Excellency requested the opinion of the Council whether this Reserve should be made, and to what extent.

The Council, in consideration of the numerous important services rendered by Mr. Jones to the advancement of the best interests of the Colony, recommended that he should be allowed a reserve of at least 16 sections or Ten Thousand Acres.

A true Extract:—E. DEAS THOMSON, Clerk of the Council.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 81, per ship Alfred.)

29 June.

Sir,

Government House, 29th June, 1829.

Report on
conduct of
J. Stephen, jr.

I feel it an indispensable duty on my part to bring under your notice the conduct of Mr. John Stephen, junior, one of the Commissioners for apportioning the Territory and a Magistrate, but lately Registrar of the Supreme Court.

Certificates of
freedom
given by
J. Stephen, jr.

It appears by the documents, which I have the honor to enclose herewith, and to which I shall refer in detail, that Mr. Stephen has been guilty of a flagrant dereliction of duty, both as a Magistrate and Registrar of the Supreme Court, in granting Certificates of the freedom of a Female Convict, which he knew to be contrary to the fact, and which Certificates it was not within his province in either capacity to grant, the Convict, moreover, having absconded from Government and being absent at the time when the certificates were granted.

The Individual alluded to is "Jane New," whose case, as far as it was at that time necessary to report it, is detailed in the Despatch, which I had the honor to address to you on the 20th of last Month, No. 61. In saying, as I have in the preceding Paragraph, that Mr. Stephen *knew* that the Certificate he had granted of this Woman's freedom was contrary to the fact, it will be

sufficient in proof of this assertion to refer you to the accompanying Copy of a Letter, which was forwarded to me by Lieut. Governor Arthur, and arrived here on the 27th inst. four days after the Council had closed its proceedings, and which Letter is in the handwriting of Mr. Stephen. I beg to point out that the object of the Letter, which is dated the *5th of May* last and was sent to a person of the Name of "Officer," a Settler at Van Diemen's Land, with whom "Jane New" had formerly lived as a Servant, was to induce him to intercede with Lieut. Governor Arthur for a remission of the Woman's Sentence of Transportation, which would not expire until the 27th of April, 1831, he having only four days previous to the date of that Letter given her a Certificate written in his own hand to the following effect, "Vizt.":—

Sydney, 1st May, 1829.

"To certify that the Bearer hereof, Jane New, became free on the 27th ultimo, as appears by Affidavits filed in my office.

"JOHN STEPHEN, junr.,

"Registrar of Supreme Court."

I have shewn that Mr. Stephen granted that Certificate, knowing that "Jane New" was *not free*, and it will be seen by the Copy of the Chief Justice's Letter, which is enclosed, that no such affidavits, as Mr. Stephen states, were filed in his Office.

It may render the Narrative more clear by detailing the case of this Woman from the Commencement. She was originally convicted of Shoplifting at the assizes held at Chester on the 27th of April, 1824, and was transported to Van Dieman's Land. After being in that Colony for some time, she married a Man of the Name of *New* and received permission to accompany him to Sydney. In the month of December, 1827, she stole some goods from the Shop of a Madame Rous; but, from some extraordinary interposition, whenever an attempt was made to bring on the Trial, it was defeated, and did not take place until twelve months after the Robbery, namely, in the month of January, 1829. She had been Bailed and was at large during the whole of this period, and it is only necessary to refer to Mr. Stephen's Letter, whose zeal in the cause of this woman has led him into a series of misrepresentations, to perceive that she had in the mean time been guilty of several other Acts of Shoplifting, though he has omitted to state that she was actually sentenced by a Bench of Magistrates to have 12 months added to her original period of Transportation; when I believe, too, that he was on the Bench, though he never performed, as he states, the duties of Superintendent of Police.

1829.
29 June.

Previous
knowledge of
falsity of facts
certified.

Mis-statements
made by
J. Stephen, jr.

Details *re*
Jane New.

1829.
29 June.

It would be a waste of time to notice more particularly the Statements in this Letter, which, out of Charity, I would willingly suppose to be the effect of infatuation, and not a wilful determination to misrepresent facts.

Trial and
conviction of
Jane New.

My Despatch No. 61* communicated the result of Jane New's trial in the Supreme Court for the Robbery in Madame Rous's shop in December, 1827, which renders it unnecessary for me to enter into it in this place. She was sent after her Trial to the Female Factory at Parramatta to prevent her continuing her depredations; But was soon after brought up by a Writ of Habeas Corpus, on the motion of Mr. Sydney Stephen. She was remanded to the Custody of the Government, but made her escape from the Constables almost immediately on leaving the Court. She was retaken some time after and lodged in the Factory, from whence she also made her escape on the 5th of April, and has not since been taken. It was soon after her escape on this occasion that Mr. Stephen gave her the certificate already quoted, to the effect that she became free on the 27th of April last.

Her escape
from female
factory.

Her concealment had been so well contrived that she eluded the utmost vigilance of the Police until lately. Information was then received that she was residing about 27 miles from Sydney, and a Party of Constables was despatched to apprehend her. It being Midnight when they arrived and Jane New being an adept, she again managed to get off. The Constables then examined the Apartment, which she occupied, found the Bed, which she had just quitted, quite warm, and discovered a Certificate to the following effect in a small Box, "Vizt.":

Failure of
attempt to
apprehend
Jane New.

"I hereby certify that the Bearer hereof Mrs. Dickson is free.

"JOHN STEPHEN, junr., J.P."

Certificates by
J. Stephen, jr.,
found by
constables.

In another Box, which contained several articles of Woman's apparel, they found a small Pocket in which was the first certificate, of which I have given a Copy.

It thus appears, as only one woman occupied the Room in question, that Mr. Stephen had furnished this Woman with two Certificates, the more effectually to enable her to elude the exertions which were made to apprehend her.

Investigation
by executive
council.

On receiving the Report of the above occurrences, with the two Certificates copied in the preceding part of this communication, I felt it necessary to avail myself of the assistance of the Executive Council in the investigation of the matter, the breach of Duty, of which Mr. Stephen appeared to have been guilty, calling for immediate notice.

I now beg, Sir, to refer you to the enclosed Copy of the Minute of Proceedings of the Council, which render any comment unnecessary. It is proper however to observe that it was impossible to obtain a direct or satisfactory reply from Mr. Stephen, who gave the most evasive and equivocal answers to the questions put to him.

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29 June.

Investigation
by executive
council.

It is necessary to point out, with reference to Mr. Stephen's answers to questions No. 1, 2, 3, 4 and 5, that it is *not* the practise for Magistrates to grant such certificates as he gave to "Mrs. Dickson," to free persons born in the Colony. They are granted only to Individuals who, having been transported and known as Convicts, have become free; and these Certificates have been invariably signed by the Governor until the end of the last month, and since that date by the Colonial Secretary.

Practise *re*
issue of
certificates of
freedom.

It will be seen that, at this stage of the examination, Mr. Stephen refused answering any further questions respecting the reputed "Mrs. Dickson."

Refusal of
J. Stephen, jr.
to answer
questions.

The circumstance, alluded to in his answers to No. 6, relates to my having offered him the option of resigning his appointment without entering into the enquiry which has taken place, which I was induced to do out of consideration to the situation of his Father, one of the Judges of the Supreme Court.

Conditional
resignation
proposed.

Question No. 9 was put with a view of obtaining information from him, whether he had ever before granted certificates such as that given to "Jane New." But he evaded the question and entered into an explanation of the practice with respect to filing Affidavits in the Supreme Court, which had no reference to the question.

Evasion of
question.

The Answer to No. 10 is evidently a subterfuge, as, had any affidavits of "Jane New" having become free been actually filed in his Office, *and the Chief Justice has stated that none were*, as I have already shown, his bringing them forward could not have occasioned inconvenience to any one. The Affidavits, alluded to in No. 11, are stated to have been made by the Woman herself, her Husband, Dr. Carlisle who is gone to England, and a Man of the name of Hutten.

Statements *re*
affidavits.

The Council found it impossible to satisfy themselves with respect to the nature or Authenticity of these Affidavits, as, though Mr. Stephen stated that he then held them in his hand (which having, according to his Certificate to Jane New, been filed in the Supreme Court, ought not, it is presumed, have been in his possession; the more particularly, as he was no longer a Member of the Court), he refused to submit them for inspection. Mr. Stephen having refused to answer question No. 14, his examination consequently closed. It is almost unnecessary to

Inability of
council to
make decision.

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29 June.

Criticism
of action of
J. Stephen, jr.

observe that he must have been aware of the Character of the Proceedings in which he had been engaged, when he declined in his public capacity answering questions as to matters of fact on the ground of their having a tendency to criminate him. His observation, *comparing the Council to the Star Chamber*, in reply to a question put to him by that Body, was an insult of the grossest character, and more particularly when made in the situation he then stood, as a Servant of the Government; protesting also, as he did from the commencement of the Enquiry, against the right of the Council to interrogate him.

Room hired by
J. Stephen, jr.

It will be seen by the Examination of *Amos Crisp*, who is a Convict holding a Ticket of Leave, that, after Jane New was convicted (in the month of January last) of the Robbery in the Shop of Madame Rous, and sentence of Death was recorded against her, Mr. Stephen hired an Apartment, one small Room in Crisp's House, professedly as a Shooting Box, but, judging from subsequent events, as a place of concealment for this Woman.

Association
with Jane New.

It appears she was at length conveyed and left there during Crisp's absence from Home; and he states, that Mr. Stephen used to come down for two or three days at a time, on which occasions, she and Mr. Stephen Breakfasted and dined together.

It is not easily to be understood, if this Woman, whom Mr. Stephen calls "Mrs. Dickson," and states to be his Servant, was free and a Native of the Colony, why it should have been necessary for her to make her escape, as she appears to have done, as soon as the Constables entered the House; and what is equally extraordinary, that she should not since have returned or her retreat been discovered.

Evidence *re*
escape of
Jane New.

I am not aware, Sir, that I can add anything of importance in this case further than pointing out to your attention the Examination of "*Ellen Fraser*," on the occasion of Jane New's first escape on leaving the Supreme Court. It is evident from *Ellen Fraser's* situation, being closely confined to the Factory, that she could have obtained the particulars which she has stated only from Jane New; and, as Mr. Stephen was generally believed to have conveyed her away *after* her escape from the Constables, Jane New's Statement to *Ellen Fraser* appears to confirm the fact. That Mr. Stephen was busy and prominent throughout the proceedings of that day will be seen by the Sheriff's Letter of the 28th March last, annexed to the Minute of Council.

I cannot close my Letter without assuring you, Sir, that it is with extreme reluctance I have brought the case of Mr. John Stephen forward. It may be a merit to live on terms with those about you, but this must more or less depend on the character of the Individuals. It has been my lot unfortunately to encounter

some of the most exceptionable. However I may have suffered in consequence, this community has been materially benefitted by the changes which have taken place. So at least, I have the satisfaction to think that some good has been effected.

It may not be unimportant to add that Mr. Stephen, who has employed Mr. Wentworth from the commencement of this business, is now busily engaged in getting Affidavits to rebut the facts with which he has been charged. But these speak for themselves, and no affidavit, which he can make (though it is on record that he is not over scrupulous in these matters) or Mr. Wentworth can procure, can in any degree shake the conclusion which so inevitably results from the Chain of circumstances I have now laid before you.

I have, &c.,

RA. DARLING.

P.S.—Since closing my Despatch, I have received the accompanying Letter from Mr. John Stephen, which I transmit agreeably to his desire, together with a Minute of the Answers which I have desired to be returned to it.

R.D.

[Enclosure No. 1.]

MR. J. STEPHEN, JUNIOR, TO ——— OFFICER.

Sir, York Street, Sydney, 5th May, 1829.

Having sometime since been earnestly requested by an unfortunate and strangely persecuted Female to address a few lines to you in her behalf to accompany a Memorial to His Excellency Governor Arthur, I venture, with the plea of humanity, to intrude myself on your notice. The Female, to whom I allude, states herself to have resided for sometime in your Family, which she quitted a few years since with every sentiment of respect and gratitude on her marriage to a Man named New.

The Public Prints of this Colony may doubtless have informed you of the situation in which she has been placed subsequently to her arrival in this Colony; and my required object in this Letter is to communicate the particulars thereof, as far as the same have come under my knowledge, to remove any unfavorable impression which might be created.

I have made use of the epithet "persecuted," without the intention of casting any reflection on those, who are universally reported to be her persecutors, and I must leave you to judge of its propriety from the facts which I shall detail.

In August last Year, I was performing the duties of the Superintendent of Police, who was absent at Port Macquarie, when Mrs. New was brought before me on a charge of Shoplifting. She had a few days before been charged with a similar offence before a Bench of Magistrates, and discharged for want of any the slightest Evidence. Whilst the investigation was proceeding, a party specially employed were parading the streets to obtain other charges, and they contrived to procure two others to be preferred, which were equally without foundation, from which Mrs. New was accordingly acquitted. The case, which was submitted before me and two other Magistrates, to which I have alluded above, was a Felony said to

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Employment
of W. C.
Wentworth by
J. Stephen, jr.,
in defence.

Transmission of
letter from
J. Stephen, jr.

Letter written
in favour of
Jane New.

Alleged
persecution
of Jane New.

Magisterial
proceedings
re Jane New.

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29 June.

have been done in December preceding. The Evidence adduced was so extraordinary and contradictory that had the Woman not pressed her committal for Trial upon us, being conscious of her own innocence, I doubt not she would have been set at liberty by the Bench. The depositions were submitted to the Crown Officers, who immediately bailed her (although a Prisoner) before a Judge of the Supreme Court.

Trial and
conviction of
Jane New.

In January last, Mrs. New pressed on her Trial, notwithstanding the absence of a most important Witness. The Prosecutrix employed her own Counsel to conduct the case, and at his earnest request the cause was suspended for nearly two hours to enable fresh Evidence to be adduced, after all the witnesses for the Prosecution, whose names were endorsed in the information, had been examined; those, who knew the nature of Evidence in this community, the facility with which any fact can be verified, however false, would not feel surprised at the result. An infamous perjury convicted this most unfortunate female, and Judgment of Death was in consequence pronounced.

Petitions for
remission of
sentence.

A Petition was immediately prepared, signed by Fourteen Magistrates and many other Gentlemen, for the utmost extension of Mercy, and a second was addressed by the Directors of the Bank of Australia with the same intent, in consequence of a service she had rendered them during her confinement in Jail, from information she there gleaned as to lead to the recovery of some of their Notes.* These Petitions are said to have been withheld from the Governor's perusal, and public rumour has assigned the cause for this arbitrary and most cruel act to a feeling of revenge in the Breast of the Party, whose duty it was to deliver them. Subsequent conduct of that Individual seems to confirm this suspicion.

Free pardon
granted to
Jane New.

From the effects of this Trial, on legal objections, independently of a host of affidavits which were perfectly satisfactory as to her innocence, this Woman was relieved by a Free Pardon ordered by the Executive Council.

Order for
return to
Tasmania.

On her discharge from Jail, she was apprehended and sent to the Factory without any legal authority; upon which, a Habeas Corpus was ordered, and she was declared† by the Judges to have been improperly confined. But, as she was a Prisoner of the Crown transported to Van Diemen's Land, the Court ordered that she should be removed thither, as the permission given by Governor Arthur for her removal here was considered to be contrary to Law.

Memorial to
G. Arthur
for pardon.

The Husband accordingly made every effort for her being sent by some Vessels, which were about sailing for Hobart Town, but his entreaties were refused. Under these circumstances, Mrs. New has been advised to petition Governor Arthur for her Emancipation, and the Memorial together with all the Documents, I shall take the liberty of enclosing for your perusal, with an earnest request from Mrs. New that you would be pleased to present them.

A Subscription has been set on foot for the purpose of paying her passage to England, should His Excellency be pleased to grant the Indulgence solicited.

I beg to apologise for having intruded at such length; and, in conclusion, I would wish to refer you to my Brother Alfred,‡ who will receive a Letter from my Father on the same subject, containing a request that he will use every exertion to carry the prayer of the Petition into effect.

I have, &c.,

JOHN STEPHEN, junior.

* Note 11.

† Note 12.

‡ Note 13.

[Enclosure No. 2.]

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29 June.

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Supreme Court Office, 24th June, 1829.

In reply to Your Excellency's Letter of this day's date, addressed to the Judges of the Supreme Court, I have the honor to inform Your Excellency that there are no Affidavits filed in the Office of the Supreme Court in the case of Jane New between the 21st of March last and the 1st day of May inclusive. That case was argued on the 18th of March and finally determined on the 21st of the same month. The registrar holds no distinct Office from that of the Supreme Court, in which all Affidavits in all cases whatsoever, depending in the Court, are Filed.

Absence of affidavits re Jane New in supreme court.

I have, &c.,

FRANCIS FORBES, Chief Justice.

[Enclosure No. 3.]

EXTRACT FROM THE MINUTES OF THE EXECUTIVE COUNCIL.

Minute No. 24.

Council Chamber, Tuesday, 23rd June, 1829.

PRESENT:—His Excellency The Governor; The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Col. Patrick Lindesay.

Minutes of executive council.

The Minute of Proceedings at the Meeting on the previous day was read and confirmed.

His Excellency The Governor then laid before the Council a Letter from the Principal Superintendent of Police, addressed to the Colonial Secretary and dated the 19th Instant, reporting that, having received information that a female Prisoner named *Jane New*, who some time ago had effected her escape from the Female Factory at Parramatta, was harboured in the House of a man named Amos Crisp, a Convict holding a Ticket of Leave at Lower Minto, he had given directions for a search being made in the House in question, and transmitting a Letter from the Bench of Magistrates at Liverpool, together with the Depositions taken before them relative to this Case.

Report re attempt to apprehend Jane New.

It appears from these Depositions that, on examining one of the rooms in Crisp's House, the door was found to open from the outside, and it contained a bed, the clothes of which were warm as if a person had recently left it. Sundry articles of woman's and man's apparel were found in this room. The Constable, suspecting that a person had escaped, asked Crisp's Daughter to allow him to look into some of the Trunks and boxes in the Room, thinking that he might find some traces which might lead to the individual that had been sleeping there.

On searching one of these boxes, a Certificate, of which the following is a Copy, was discovered, vizt. :—

" I hereby certify that the bearer hereof Mrs. Dickson is free.

" 10th May, 1829.

" JOHN STEPHEN, Junr., J.P."

On a further search being made, in another Box a woman's side pocket was found, and in that pocket a second Certificate, of which the following is a Copy, vizt. :—

" Sydney, 1st May, 1829.

" To certify that the bearer hereof Jane New became free on the 27th ultimo, as appears by Affidavits filed in my Office.

" JOHN STEPHEN, JUNR.,

" Registrar of Sup. Court."

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Conduct of
J. Stephen, jr.

The originals of these Certificates in the handwriting of Mr. John Stephen, Junior, were produced to the Council.

Mr. John Stephen, Junior, being in attendance upon the Council, was introduced, and was informed that certain matters had been brought under the notice of the Government, which appeared to implicate his character and conduct as a Public Officer, and which therefore rendered it necessary that he should be called upon to explain the circumstances, and with this view he was now brought before the Council.

Examination of
J. Stephen, jr.

Mr. Stephen was then asked:—

No. 1. Question. Have you been in the habit of granting Certificates of the freedom of individuals, and under what circumstances?—*A.* I have frequently granted them as Passes of protection.

No. 2. Q. In what capacity?—*A.* As other Magistrates.

No. 3. Q. Did you grant a Certificate to a Mrs. Dickson stating that she was free?—*A.* I did.

No. 4. Q. Who is Mrs. Dickson?—*A.* A servant employed by me.

No. 5. Q. When did she become free, and how long has she been in your service?—*A.* I imagine that she is a native of this Colony, and that this Board has no authority to enquire into my private affairs.

No. 6. Q. I as Governor enquire of you as a Civil Officer of this Government?—*A.* Unprepared Gentlemen as I must be to meet any interrogatories from you, and having been informed by one of your Members that there are circumstances, which have induced your Excellency to require my resignation as an Officer of the Government, I should wish to know what motive there may be for making this Enquiry. Will your Excellency prefer any charge against me?

No. 7. Q. His Excellency observed I have already stated that certain matters have been brought under the notice of the Government, in which your conduct as a public Officer is implicated, and have, therefore, thought it necessary to call upon you for an explanation of the circumstances?—*A.* As therefore this Convocation of the Council appears to be of such importance to myself, your Excellency must see the difficult situation in which I am placed in being called upon to answer questions in reference to a matter with which I am not yet informed.

No. 8. Q. You will be informed of the matter as the Questions are put. Did you grant a Certificate to a woman named Jane New that she became free on the 27th of April?—*A.* I granted a Certificate from affidavits put in by Counsel on the 21st and 26th of March last, that such appeared to be the fact on the 1st day of May last in preference to giving up these affidavits to her Husband; but which Certificate was subsequently returned to me.

No. 9. Q. Was it your duty as Registrar of the Supreme Court to grant Certificates of the freedom of Prisoners on affidavits, which you state to have been filed in the Registrar's Office of the Supreme Court?—*A.* It is the custom of parties making affidavits in Court generally to hand them over to their Counsel, and, if required, they are left with the Clerk of the Court, and marked as filed generally at the time of being tendered. In many instances, I have had left with me affidavits which are never subsequently required; and I consider them whilst in my custody as filed, although they may be withdrawn at any time. Counsel have often desired me to return Affidavits and not to mark them as filed, as all filed affidavits are

subject to a fee. I think at the present moment I have many affidavits, which were never made use of, lying in my desk as waste paper.

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Examination of
J. Stephen, jr.

No. 10. Q. On what ground did you as an Officer of the Government consider yourself justified in granting the Certificate to Jane New without apprising the Government of the fact, knowing that the Government considered Jane New still to be a Prisoner, who had absconded from the Factory at Parramatta?—*A.* I object to that Question as assuming my knowledge of Jane New being considered by the Government as a Prisoner. And further I considered that any affidavits left with me as under the seal of the secrecy of my office, and that I should not have been justified in making the contents of any affidavits public.

No. 11. Q. Did you believe that the Government supposed on the 1st of May last that Jane New was still a Convict?—*A.* I don't doubt but that the Government supposed that female to be a Prisoner at that date; but I believe to the contrary, as the affidavits alluded to bore testimony to the fact of her freedom from the 27th day of April, 1829.

No. 12. Q. Did you not communicate to the Government, as Registrar of the Supreme Court on the 21st of March last, that it was ordered by the Supreme Court, "that Jane New be remanded to the Factory at Parramatta for safe custody, until His Excellency the Governor shall cause her to be transmitted to Van Diemen's Land, from which Colony she came to this Colony contrary to law"?—*A.* On the 21st of March last, Jane New appeared by affidavits then before the Court to be a Prisoner of the Crown at Van Diemen's Land; but at the same time it was in my knowledge privately, from affidavits alluded to, that, on the 27th of the following month, her original sentence would expire.

No. 13. Q. Who were the parties who made those affidavits and before whom were they sworn?—*A.* One by James New, a second by the woman herself, a third by Dr. Carlyle, and a fourth by James Horton; but there were several others which I think are in my Brother's office, unless they were stolen out of my apartments up the Country by the parties, who stole the Certificate His Excellency has produced.

No. 14. Q. Were you aware that Jane New had absconded from the factory when you granted the Certificate on the 1st of May, and where did you give her that Certificate?—*A.* As it appears that this question has a tendency to criminate myself, if I have done any thing illegal, I decline answering it. At the same time, I have to remark that my conduct if illegal is open to the proper Tribunals; and, having been advised that the whole of these proceedings like those of the Star Chamber are contrary to the true spirit of British Law, I must protest against this Council interrogating me further. If I am guilty of any offence cognizable by the law, there is an appeal to their authority, and to their power alone am I liable. I do not mean to be contumacious or disrespectful, but I must decline answering any more questions; prove me guilty of any offence, and I will subscribe to the punishment prescribed without a murmur.

Refusal to
answer
questions.

The Council then directed the Clerk to read for the information of Mr. Stephen the Letter from the Principal Superintendent of Police, which gave rise to the present proceedings, together with

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Irrelevancy
of answers by
J. Stephen, jr.

Examination
of A. Crisp.

the Depositions and other Documents which accompanied it. Mr. Stephen declined hearing them read unless furnished with a copy, which was refused; and he then withdrew.

The Council, observing the irrelevancy of Mr. Stephen's answers to the questions put to him as above, think it proper to state that all Mr. Stephen's answers were given by him in writing, and that no more direct answers could be obtained from him.

Amos Crisp, in whose House the Certificates alluded to above were found, was then called in and interrogated as follows, vizt. :—

No. 1. Question. Where do you reside?—*A.* In the district of Lower Minto.

No. 2. Q. Are you free?—*I* am not. I have held a Ticket of leave for fourteen years.

No. 3. Q. Are you married?—*A.* I am a Widower, and have six children.

No. 4. Q. In whose house do you live?—*A.* I rent a house and farm from Mr. Edward Riley.

No. 5. Q. Have you been in the habit of letting lodgings?—*A.* Never but on one occasion, when I let a small room to Mr. John Stephen.

No. 6. Q. About what period did you let these lodgings to Mr. Stephen?—*A.* About the month of January and he still hires them.

No. 7. Q. Now state to the Council how the room has been made use of generally, while it has been so hired, and by whom it has been occupied?—*A.* It has been occupied by Mr. John Stephen when he occasionally visited the Country, and by a Mrs. Dickson when he was not there. Mrs. Dickson slept with my daughter when Mr. Stephen was there.

No. 8. Q. Who is Mrs. Dickson?—*A.* I dont know who she is.

No. 9. Q. When did she first come to your House?—*A.* About five weeks ago to the best of my recollection.

No. 10. Q. Who brought her to your House?—*A.* I was not at home at the time, but I understood from my children that Mr. Hart of Sydney brought her to my house.

No. 11. Q. How long did Mr. Stephen remain there generally?—*A.* Two or three nights at a time, and once for that length of time since Mrs. Dickson has been there.

No. 12. Q. In what capacity did Mrs. Dickson live there?—*A.* I cannot exactly say. She did not appear as a Servant, nor yet as a friend.

No. 13. Q. Was Mrs. Dickson in the room when the Constables came on the night of the 17th instant?—*A.* I do not know positively that she was, as I came home so late; but, as the bed was warm when the Constables examined it, I conclude she had been, as she always slept in that bed when Mr. Stephen was not there.

No. 14. Q. What was the cause of her running away?—*A.* I don't know; but, from the circumstance of her having absconded, I immediately entertained doubts of her being the person she had represented herself to be.

No. 15. Q. What rent is paid for these lodgings?—*A.* Ten shillings a week.

No. 16. Q. Where did Mr. Stephen board for the days he resided at your House?—*A.* He and Mrs. Dickson breakfasted and dined together.

No. 17. Q. Had Mrs. Dickson any Certificate to shew that she was free?—*A.* She had.

No. 18. Q. By whom was that Certificate signed?—A. By Mr. John Stephen, a Magistrate, and I thought I did not do wrong to admit a person into my house who held such a Certificate.

No. 19. Q. Did you see any other Certificates found by the Constables on that occasion?—A. I saw one in a pocket or little bag found by the Constables amongst Mrs. Dickson's clothes.

No. 20. Q. What was the purport of that Certificate?—A. It was to certify that Mrs. Jane New was free, and it was signed by Mr. John Stephen.

No. 21. Q. Have you seen Mr. Stephen since you were brought to Sydney?—A. He came to me in the Watch House, and I saw him afterwards in the Police Office on Friday last.

No. 22. Q. Did he enquire after Mrs. Dickson?—A. Yes, he asked me what had become of her. I told him that I did not know, and that she went away when she heard the Constables coming. He told me not to be under any apprehension for my children, as, if I lost my liberty, he would send someone to take charge of them.

No. 23. Q. How long did the Constables knock before you admitted them?—A. They did not knock. I heard the dogs bark, and I opened the door and saw a Gig coming down with three persons in it. I recognised one of these, when he got out of the gig, to be Mr. Meredith, the Chief Constable of Liverpool. Another of these persons Skinner told me that he wanted to look over the House. I told him he was very welcome, and immediately shewed them in, when they searched every room there was in the House. The Constables then asked me, if there was any other room. I told them there was one, which had no communication with the interior of the House, and I showed them round to it, when to my surprise I found the door half open. This was the room let to Mr. Stephen and occupied by Mrs. Dickson.

No. 24. Q. Did Mr. Meredith ask your Daughter to allow him to examine any of Mrs. Dickson's boxes?—A. He did, and my daughter opened the boxes (which were not locked) that they might examine the contents.

No. 25. Q. Did the Constables take any thing away but the two Certificates already alluded to?—A. They did not.

Amos Crisp was then ordered to withdraw.

The Council considering the extreme importance of this case, the successful attempt of Mr. John Stephen to defeat the ends of justice by exercising an authority, which he did not possess as a Magistrate, in granting a Certificate of freedom to Jane New under the fictitious name of Mrs. Dickson (the identity of these persons being satisfactorily proved), and, having had communication with the Prisoner Jane New, after she had escaped from the Factory at Parramatta, without having given any information to the Police or any other Department of Government as it was his undoubted duty to have done in order that she might be secured; and further the circumstance of Mr. Stephen's having abused the authority vested in him as Registrar of the Supreme Court by usurping the power exercised only by the Governor or by the Colonial Secretary under the immediate orders of the Governor in furnishing Jane New with a Certificate, stating that she became free on the 27th of April last, having at the time a public document actually filed in his office shewing that she was tried in England in the Month of April, 1824, and sentenced to seven years' transportation. The Council considering also that, if Mr. Stephen had believed from the affidavits which

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he states to have been filed in his office, that Jane New became free on the 27th of April last (two of which Affidavits are stated by him to have been sworn to by her husband and herself, which affidavits he refused however to produce, although he said they were then in his possession) it was his bounden duty to have communicated the circumstance to Government, in order that the usual Certificate of freedom should be made out and any measures for her apprehension, which might have been taken by the Government, discontinued. The Council, finally considering the dangerous example this affords to a Colony constituted as this is, are of opinion that Mr. John Stephen, Junior, has been guilty of a most flagrant dereliction of his duty, and, therefore, recommend that his name be struck out of the Commission of the Peace, and that he be suspended from the Office which he now holds as a commissioner for apportioning the Territory, until His Majesty's pleasure shall be known.

Recommendation for dismissal from magistracy and suspension from office of J. Stephen, jr.

Case of Jane New.

In concluding their Proceedings on this subject, the Council, with reference to their Minutes No. 1 of the 8th of January and No. 3 of the 23rd March last, think it proper to state that the Prisoner Jane New, after having committed repeated acts of shoplifting in this Colony, had judgment of death recorded against her in the Supreme Court on the 5th of January last, but that, in consequence of an opinion of the Judges that her conviction was not valid, she having been tried and sentenced under Statutes which had been repealed and were not in force (in this Colony) at the time the offence was committed, her sentence was remitted, and, being a Convict, she was sent to the Female Factory at Parramatta to prevent her continuing her depredations upon the public. She remained in the Factory until the 21st of March, when she was brought before the Supreme Court by a writ of Habeas Corpus, upon a motion of Mr. Sydney Stephen, on the ground of her having been illegally detained, when the Court ordered* her "to be remanded to the Factory at Parramatta for safe custody, until His Excellency The Governor should cause her to be transmitted to Van Diemen's Land, from which Colony she came to this Colony contrary to Law," she having been originally transported to Van Diemen's Land and subsequently permitted to accompany her husband to Sydney; but, by the improper interference of Mr. John Stephen as appears by a Letter from the Sheriff, dated the 28th of March last and addressed to the Colonial Secretary, she effected her escape from custody immediately after leaving the Court House on that occasion.

Escape, apprehension and second escape of Jane New.

Inquiry re escape.

She was afterwards apprehended in a House at no great distance from that in which the Police had latterly information of her having been concealed, and returned to the Factory, from which she finally escaped on the 5th of April. In consequence of this event, His Excellency directed an Enquiry to be made into the circumstances by the Committee of Management of the Factory, and this Report on the subject is recorded in the Appendix. The Examination of Ellen Fraser, as contained in that Report, goes further to prove that Mr. John Stephen assisted in the first escape of Jane New, as the circumstances stated by Fraser could only, from her situation as a close Prisoner in the Factory, have been communicated by Jane New herself, notwithstanding Mr. John Stephen's Affidavit on this subject, as also recorded in the Appendix, which, however, does not appear to contradict Jane New's Statement as reported by Ellen Fraser that he conveyed Mrs. New from Sydney after she had effected her escape from custody.

Connivance of J. Stephen, jr., in first escape.

* Note 12.

It further appears to the Council that Mr. John Stephen has been more or less connected with the case of Jane New for a considerable period.

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The Council then adjourned *sine die*.

E. DEAS THOMSON, Clk. of the Council.
(P.) RA. DARLING.

Extracted from the Minutes of the Executive Council of New South Wales by—
E. DEAS THOMSON,
Clerk of the Council.

APPENDIX to the Proceedings of the Executive Council (Minute No. 24 of 1829) includes the following:—

Appendix to proceedings.

[Appendix BB.]

MR. F. N. ROSSI TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Sydney, 19th June, 1829.

I have the honor to report to you for the information of His Excellency The Governor that, having received information that the Female Prisoner named in the Margin,* who some time since effected her escape from the Female Factory at Parramatta, was harboured and concealed in the House of a man named Amos Crisp, a Ticket of Leave holder at Lower Minto, I directed the Assistant to the Chief Constable (Skinner) to repair to the House in question, and I have now the honor to transmit to you a Letter from the Bench of Magistrates at Liverpool together with the depositions taken before them on the charge against Amos Crisp, whom I have detained in Custody till the pleasure of His Excellency be known.

Transmission of papers re Jane New.

I have, &c.,

F. Rossi, J.P., and P. Supt. of Police.

[Sub-enclosure No. 1.]

MESSRS. MOORE AND KINGHORNE TO MR. F. N. ROSSI.

Sir, Liverpool Court House, 18th June, 1829.

We have the honor to enclose depositions taken before us this day relative to a search made at the residence of "Amos Crisp" a Ticket of Leave-holder at lower Minto in this district.

Transmission of papers by magistrates.

The person "Jane New" has not yet been found; but, from the within Testimony, and the Articles found in "Crisp's" house, there can be no doubt that she made her escape on the constables entering the premises.

We have placed two Constables in charge of the room and property therein contained, and we have no doubt but Jane New will soon be apprehended, as we have ordered strict search after her.

We have sent "Amos Crisp" to Sydney in charge of Constable Skinner.

We have, &c.,

T. MOORE, J.P.

ALEXR. KINGHORNE, J.P.

[Sub-enclosure No. 2.]

AFFIDAVIT BY J. SKINNER.

Liverpool Court House, 18th June, 1829.

JOHN SKINNER, Assistant Chief Constable in Sydney, came before us, Thomas Moore and Alexander Kinghorne, Esquires, Magistrates of the Territory, and maketh oath and saith That yesterday he

Affidavit by J. Skinner re search for Jane New.

* *Marginal note.*—Jane New, Tried in April, 1824—Sentence, Seven Years.

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Affidavit by
J. Skinner
re search for
Jane New.

received orders from the Prinl. Supdt. of Police in Sydney and the Chief Constable there to proceed immediately to Liverpool, and from thence to the residence of Amos Crisp, a ticket of leave holder in Lower Minto.

That Dept. called on the Chief Constable of Liverpool, Mr. Meredith, who conducted Dept. to Crisp's Residence and their orders being to search for and apprehend a person named "Jane New" and bring her to Sydney.

That they arrived at Crisp's residence last night a little past twelve o'clock; they knocked at the door, and, after about five minutes' waiting, were admitted into the house.

That Deponent with Mr. Meredith searched every apartment in the house whilst they had stationed a Constable on the outside to watch if any person had made their escape.

That Deponent searched four different apartments but did not find the person looked for.

That, on entering the fifth apartment, they found the door to open from the outside and the door was about half open. Dept. asked Crisp how he happened to leave that door open at such a late hour of the night; he replied that they must have gone to bed and forgot to shut it.

That, on searching the room, Dept. found a bed with the bed clothes turned half down, and on feeling the clothes perceived that they were quite warm as if a person had newly left it.

That, on searching the Room, they found sundry articles of women's apparel and likewise some men's apparel.

Deponent asked Crisp who had been sleeping in this bed; he answered his Daughter. Deponent then said, how could your Daughter be sleeping here, when I saw her in another room in bed with the Children? To this, he made a reply that he did not understand what Dept. meant. Dept. then asked Crisp to whom the clothes belonged that were in the room? he replied that all the women's apparel belonged to his Daughter, and the men's apparel belonged to himself.

his
JOHN X SKINNER.
mark

Sworn before us this 18th day of June, 1829.

THOS. MOORE, J.P.

ALEXR. KINGHORNE, J.P.

[Sub-enclosure No. 3.]

AFFIDAVIT BY F. MEREDITH.

Affidavit by
F. Meredith
re search for
Jane New.

MR. FREDERICK MEREDITH, Chief Constable of Liverpool, being duly sworn, corroborates the foregoing Testimony of John Skinner in every particular relating to the search made for the person named "Jane New" at the residence of Amos Crisp at Lower Minto, and makes the following additions:—

That, on suspecting a person had made their escape from the apartment where the bed was found warm, Dept. asked Crisp's Daughter to allow him to look into some of the Trunks and Boxes in the room, thinking that he might discover some traces that might lead to the person who had been sleeping there.

That, on Dept. opening a small Box which stood on a table, Deponent found a Certificate marked A. which he has signed with reference hereto; that, on searching a larger box in the same room,

which contained a quantity of woman's apparel, as also a woman's side Pocket in which pocket he discovered the Certificate marked B, which Deponent has likewise signed with reference hereto.

On making this Discovery, Deponent said to Amos Crisp that the Certificate marked B contained the name of the person "Jane New" that he was in search of, and plainly testified that she had been there; Crisp on this, as also his Daughter, positively denied that ever such a person had been in their house; Dept. on this consulted with the former witness John Skinner, and they brought Amos Crisp in Custody to Liverpool, and left a constable at Crisp's residence to take charge of the apparel in the room and to watch if any person came to own or carry it away.

FREDK. MEREDITH.

Sworn before us this 18th day of June, 1829.

THOS. MOORE, J.P.

ALEXR. KINGHORNE, J.P.

[Appendix CC.]

MR. T. MACQUOID TO COLONIAL SECRETARY MACLEAY.

Sir, Sheriff's Office, Sydney, 28th March, 1829.

In compliance with the request contained in your letter of yesterday's date, I have the honor to report, for the information of His Excellency the Governor, the result of the enquiry made by me into the circumstances attending Jane New's escape from the Custody of a Gaol constable, named Samuel Cleme, on the 21st Inst.

Report by
sheriff *re* escape
of Jane New
from custody.

When the Court had decided that Jane New was to be returned to the Factory at Parramatta, I fully expected she would have been remanded to Gaol, under an order of the Court for transmission in the usual way, and I gave instructions to a Police Constable in waiting near me in Court, named John Kelly, to take care of her for that purpose. These instructions I afterwards confirmed to the under Sheriff, Mr. Prout, who came into court about the time. I have felt it necessary to take down the statement of Mr. Prout and Kelly, as to what passed on the occasion, enclosed herewith No. 1 and 3, which will explain the manner in which Mrs. New came to be left in the sole custody of the Gaol Constable, a circumstance I was not apprized of till after she had accomplished her escape.

On asking the Registrar Mr. J. Stephen for the order which I had understood was to be made in regard to the Woman in question, he shewed it to me, observing that she could not be sent to Gaol under it, but ought to be forwarded at once to the Factory, which he considered it was his duty to carry into effect. Looking upon the Registrar as the Organ of the Court, whose directions in the case he was obeying, it appeared to me that Jane New was removed from my charge or responsibility; and I therefore did not interfere further in the matter, but left it to that Officer to do what he might deem his duty on the occasion.

I beg to enclose the statement of Samuel Cleme, No. 2, as to the manner in which Jane New effected her escape from him. As this man's conduct on the occasion appears to have been very stupid and negligent, I have deemed it my duty to remove him from the situation of Gaol Constable.

It will by this time be within the knowledge of His Excellency that Jane New is again in Custody.

I have, &c.,

T. MACQUOID, Sheriff.

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[Sub-enclosure No. 1.]

STATEMENT BY J. KELLY.

Sheriff's Office, 28th March, 1828.

Statement re
escape of
Jane New by
J. Kelly;

JOHN KELLY (a Police Constable) states that, on Saturday the 21st instant, while in attendance on the Supreme Court, the Sheriff gave him (John Kelly) instructions to this effect "Constable, that Woman (Mrs. New) is to go back to the Gaol, keep a look out on her"; when he advanced near the woman, who he found in charge of a Gaol Constable, and observed to him, "I have charge of this Woman"; to which he received a reply that, "I brought her up, and can take her back again"; at which time Mr. John Stephen interfered, and ordered that she be left in charge of the Gaol Constable, who had brought her up in the morning, and that he would write an order for her, on delivery of which he told the Gaol Constable to take the Woman to the Secretary's Office, and then observed to James Kelly "never mind, He" (pointing to the Gaol constable) "can take her down."

[Sub-enclosure No. 2.]

STATEMENT BY S. CLEME.

by S. Cleme;

SAMUEL CLEME confirms what James Kelly has stated, as far as regards what passed between them, and further adds that, on Mr. Stephen observing that "he can take her down," he gave the Constable a paper, which he understood to be an order to take her to the Secretary's Office, as directed by Mr. Stephen.

On the way down, through Elizabeth Street Mrs. New begged to be allowed to get a drink of water, to which he gave consent, following her into the house of one Thomas Evans fronting to Philip Street, where she took off her bonnet and Shawl, and then went into a bed room, where, from motives of delicacy, he did not follow her. On finding after waiting a short time that she did not return, he requested Mr. New to seek for her. The woman of the house then observed, "She's gone out at the front door"; when he (the Constable) said to Mr. New "this is a pretty concern," Mr. New replied, "he would not have had it happen for One hundred and Fifty Pounds." He (the Constable) then returned to the room, and took charge of the Bonnet and Shawl, and, on Proceeding to the Front door, Mr. New observed, "perhaps she is gone to see Mr. Stephen on some business she may have forgotten"; when almost instantly Mr. Stephen appeared, and said to Mr. New, "take care of your wife." Mr. New replied, "She's gone, Sir, she has made her escape." He (the Constable) then returned to the house, and made further search, which proved fruitless. The Bonnet and Shawl he took to the Gaol.

[Sub-enclosure No. 3.]

STATEMENT BY PROUT.

and by
C. Prout.

MR. PROUT (the under Sheriff) states that, immediately after the decision of the Court was passed on Mrs. Jane New, he came into Court, where the Sheriff informed him that she was to be sent to Gaol for transmission to the Factory, and desired him to see that Constables were duly attending to her safe custody or words to that effect. While, in the act of looking after this woman, He observed several constables around her, and the woman complaining of their harsh treatment; when Mr. Stephen appeared and observed,

"Surely one Man is enough to take care of one Woman," and bade her sit down, which she did, the Gaol Constable on one side and the Husband on the other. The Constable observed, "I brought a Paper up with this woman, I ought to have one to take back." Mr. Prout then asked Mr. Stephen if an order was necessary for her being sent to the Gaol? Mr. Stephen replied "She is not to be sent to the Gaol but to the Factory. I will write the order for the Judge's Signature directly." He then went into Court. Mr. Prout reported to the Sheriff that an order was preparing for the Woman's being sent direct to the Factory.

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Statement *re*
escape of
Jane New by
C. Prout.

[Appendix DD.]

MESSRS. ANDERSON AND DE LA CONDAMINE TO COLONIAL SECRETARY
MACLEAY.

Sir, Factory, Parramatta, 6th April, 1829.

The Committee of Management, having assembled to investigate the circumstance of the escape of Jane New, a prisoner p. Ship Henry from this Establishment, have the Honor to transmit for the information of His Excellency the Governor the Minutes of the Examinations of witnesses, and beg to make the following remarks:—

(1) The Committee are of opinion that no blame or neglect is attachable to the Matron Mrs. Gordon, who appears to have been vigilant in the discharge of her duties.

Findings of
committee
re escape of
Jane New.

(2) It does appear to the Committee that Mrs. Nairn, Assistant Matron in charge of the first Class, has not been sufficiently attentive in discovering that Jane New was absent from her Mess at Tea time, up to which period she was seen by different persons belonging to the Institution.

(3) It further appears to the Committee that Jane New could not have effected her escape from the Factory without the assistance and connivance of some persons of the same class to which she belonged; and the Committee are further of opinion that the Monitress Mary Ann Carroll is guilty of great neglect of duty in not immediately reporting the absence of Jane New on her discovering that she was not present with her mess at tea.

(4) The Committee has endeavoured to elicit from the immediate associates of Jane New matters connected with her escape; from the statement of Mary Gannon, the Committee have been unable to obtain any satisfactory information, although they are of opinion that she knows more than she has disclosed.

(5) The statement of Ellen Fraser with whom New was intimate, the Committee consider important, as it is probable it may lead to a discovery of the parties connected in her escape.

I have, &c.

M. ANDERSON,
T. DE LA CONDAMINE,

[Sub-enclosure No. 1.]

MINUTES of Proceedings of the Committee for the Management
of the Female Factory.

6th April, 1829.

PRESENT:—Rev. S. Marsden; Major Innes; T. de la Condamine;
M. Anderson.

Proceedings of
committee *re*
escape of
Jane New from
female factory.

It having been made known to the Committee that a Convict named Jane New had effected her escape from the Factory on the

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Proceedings of
committee re
escape of
Jane New from
female factory.

evening of the 5th Instant, the Committee immediately assembled for the purpose of investigating into the manner in which this woman accomplished her purpose.

Mrs. Gordon, having been called, states that, a quarter after 5 o'clock at the close of evening worship, she saw Jane New among the other women; they were then proceeding to their respective Yards; at Six o'clock, the women were assembled for their tea, when it appears that Jane New was absent from her mess, but was not reported by the Monitress; at $\frac{1}{2}$ after six Johnson, the Principal Convict overseer, reported to Mrs. Gordon that Jane New was absent from her room. The most diligent search was then made in every part of the Building, but without success, and a report was immediately sent to the Chief Constable at Parramatta; the Messenger with this Report left the Building about 7 o'clock.

Mrs. Gordon states that, in consideration of her having received Instructions from Major Innes to be vigilant in preventing Jane New from having any intercourse with persons without the Establishment, she had employed her apart from the general body of the women in a small room in the inside Building, and was careful by frequent personal visits to ascertain that she was present.

Mrs. Gordon further states that she had examined the women, who were admitted, very minutely, conceiving it probable that an attempt would be made to introduce letters for this woman.

Mrs. Gordon had been informed that Jane New tried to bribe a woman to convey a letter out of the building, and intercepted one addressed to her Husband, herewith enclosed.

Assistant Matron of the 1st Class, Mrs. Nairn, being called states that, about $\frac{1}{2}$ after 5 o'clock at the close of the evening worship, She saw Jane New, who was then going with the other women into the 1st Class yard; that, in about ten minutes after, the Women assembled for tea, when it appeared that Jane New was absent, but the circumstance was not observed by Mrs. Nairne, another woman having taken her place and filled up the Mess; at about $\frac{1}{2}$ after 7 o'clock, the absence of Jane New from her bed-room was mentioned to Mrs. Nairne by the Principal Convict Overseer Johnson, and it was then that another Convict overseer named Mary Ann Carroll first mentioned to her that Jane New had not been present at Tea. Mrs. Nairn States that she usually musters the women at meals, but that she did not do so on the above occasion, being otherwise engaged at that time; and that the last muster, which is taken at night, is by the Matron Mrs. Gordon between 7 and 8 o'clock, when the women are in bed.

Mrs. Nairne supposes that Jane New must have escaped immediately after evening worship by passing into the 2nd Class Yard.

Sarah Johnson, overseer of the 1st Class, being called, states that, about $\frac{1}{2}$ after six o'clock, a woman named Mary Cox told her that Jane New had not answered to her name in the bed-room, and immediately she reported her absence to Mrs. Gordon. Johnson states that she was not present when the women were at tea, but that, when Jane New's absence was discovered, Mary Cox and Mary Ann Carroll both Prisoners told her that she had not been at tea, and that, when she was enquired for, a woman named Mary Gannon answered that she was in another mess!

Mary Ann Carroll, overseer of the 3rd Class, states that she saw Jane New a few minutes before the women went in to tea walking up and down the 1st Class Yard. When the women were at tea

Susan Courtney asked, where is Jane New? when a woman named Mary Gannon answered, she is in another Mess. Susan Courtney being called states, that she belongs to the first Mess; that Jane New belonged to the same Mess; that, observing that Jane New did not join the Mess yesterday evening at tea, she asked where she was, when Mary Gannon answered that she would not come in and afterwards that she was gone to another Mess.

Mary Ann Clark, being called, states that she belongs to the 1st Class; that, yesterday evening at tea, observing that Jane New was absent, she enquired for her, and Mary Gannon answered that they had quarrelled in the morning, and that she was gone to another Mess. Mary Ann Clarke observed at this time that Margaret Stroud and Mary Gannon looked at each other slyly.

Mary Gannon, being called, states that she was not particularly intimate with Jane New, and knows nothing about her; she observed that she was absent from the Mess yesterday evening, and said that she supposed Jane New would not come in, as they had had a quarrel at Dinner.

Mary Sullivan, 3rd Class and formerly a Servant to James New at Sydney, states that, on Thursday last, she was asked by Mary Ann Carrol (Monitress 3rd Class) how the Husband of Jane New was getting on, when she told her that she had heard he was going to England, and had sold off all his things for that purpose.

Mrs. Pegg, assistant Matron in charge of the 2nd Class, being called, states that she was present in the mess-room of the 2nd class yesterday evening between 5 and 6 o'clock, after which she continued in the room till the whole of the women had passed out of the mess-room door; immediately afterwards she locked the door and kept the key in her own possession, and that it was impossible that Jane New could have escaped that way.

Ellen Fraser, overseer of the Laundry, being called in, states that, about half past six o'clock yesterday evening, she heard the Monitress, Mary Cox, say that they could not find Jane New; that she assisted in looking for her, and then desired overseer Sarah Johnson to report the circumstance to Mrs. Gordon, who immediately came. Fraser was acquainted with New's Mother in England, and became acquainted with New herself in the Factory. On Sunday week last, Fraser enquired of New why she had not reached the Factory at the same time another Female had, who came up from Sydney with her in the Coach on the previous evening, and the cause of her being so late, when New told her that she had stopped at Hodge's to write a letter to her Husband to acquaint him where she was; and then, without Fraser's enquiring anything further, New informed her that it was all arranged for her to effect her escape previous to her leaving the Criminal Court House on the day that the Judges had decided her case; that she went when in charge of a Constable from the Court to a house in Philip Street, kept by a person of the name of Phillips, in which house a woman of the name of Smith lodged. That New, when in the House, asked the Constable to take a glass of wine, but she gave him a tumbler of Brandy; she then said she felt unwell and asked Mrs. Smith to let her go into her bedroom, leaving her Bonnet and Shawl on the Table; that she immediately left this house and went into another House in Philip Street, where she changed her clothes and from thence proceeded past the Court House to the Race course, where she was met by a person with a horse and Gig

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(Fraser considering the place spoken of to be Hyde Park Race Course); that afterwards they proceeded on, when Mr. John Stephen came and accompanied her in the Gig to Cunningham's, a House on the Liverpool Road; and that she (New) was afterwards to have been removed to a House, about 5 Miles from it where she was taken by Jilks and Skinner.

J. ANDERSON.
T. DE LA CONDAMINE.

[Sub-enclosure No. 2.]

JANE NEW TO JAMES NEW.

Dear Husband,

April the 3rd.

Letter from
Jane New.

I hear that you are in Parramatta; I hope and trust that you will get a order to come and see me, for I am almost out of mind at not seeing you. Please to send me word where you are stopping at, as I wish you to stop in Parramatta a few days; if you cannot come, send me an answer to this.

I remain Loving Wife Tho. unfortunate Till Death.

JANE NEW.

[Appendix EE.]

AFFIDAVIT BY J. STEPHEN, JUNIOR.

Affidavit by
J. Stephen, jr.

In the Supreme Court, New South Wales.

JOHN STEPHEN, JUNR., registrar of the Supreme Court, being duly sworn, maketh oath and saith, he did not either directly or indirectly aid, abet or assist in the escape from custody of Mrs. New on the 21st day of March last, and further that Deponent did not know or suspect any intention on her part to make an escape from custody.

JOHN STEPHEN, JUNR.

Sworn before me this ninth day of April, in the year of our Lord, 1829.

JOHN GURNER,
commr. of sup. court.

I certify this is a true copy of an affidavit filed in the supreme Court office.

GEORGE J. ROGERS,
Clk. of Sup. Court office.

[Enclosure No. 4.]

MR. J. STEPHEN, JUNIOR, TO GOVERNOR DARLING.

Sir.

York Street, Sydney, 2d July, 1829.

Request for
reasons of
dismissal and
suspension.

The Colonial Secretary having informed me that he had received your Excellency's commands to acquaint me, "that your Excellency had felt it necessary to suspend me from the Duties of my Office as Commissioner for apportioning the Territory until the pleasure of the Secretary of State shall be known, and further that my services as a Justice of the Peace will be dispensed with," I take the liberty to request that your Excellency will be pleased to direct that I may be informed of the grounds of this act of your Excellency towards me.

As I am totally ignorant of any just cause for such a proceeding, I trust that this reasonable and just request may be granted to enable me to meet the question on fair grounds with your Excellency before the Right Honorable the Secretary of State.

At the same time, I beg that your Excellency will order that the Testimonial, signed by the Judges and Attorney General on my quitting my Office as Registrar of the Supreme Court, and which I lately transmitted for your Excellency's perusal, may be returned to me.

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And lastly may I solicit the favour of your Excellency permitting this Letter to accompany any representations, which your Excellency may have thought it expedient to address to the Secretary of State in reference to the subject of my suspension.

Request for
transmission
of letter.

I have, &c.,

JOHN STEPHEN, JUNR.

[Enclosure No. 5.]

MEMORANDUM FOR THE COLONIAL SECRETARY.

4th July, 1829.

INFORM Mr. John Stephen, JUNR., in reply to his Letter of the 2nd inst., that I must refer him to the subject of his Examination before the Executive Council on the 23rd of last Month for the grounds of his suspension from Office, which will fully enable him to prepare such explanation as the case admits of for the information of the Secretary of State.

Reply by
R. Darling to
requests.

Let the Document, which he has called for, be returned, keeping a Copy in your Office; And inform him that his Letter shall be forwarded as he desires with my Report.

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Alfred.)

Sir, Government House, 30th June, 1829.

30 June.

It appearing by a Communication from the Colonial Agent that Dr. Douglas had received from him half Salary as Commissioner of the Court of Requests to the end of June, 1828, I beg to acquaint you that the same was issued to Mr. Francis Stephen his Agent here, being the end of the Quarter when he left this Colony; and I request that the Colonial Agent may be directed to deduct from the next issue to Dr. Douglass the sum which has been overpaid, it appearing by the enclosed copy of a letter from Mr. F. Stephen that it is not in the power of Dr. Douglas's agents to refund the Money in question.

Double
payment of
salary for
H. G. Douglass.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO MR. F. STEPHEN.

Sir, Colonial Secretary's Office, 1st June, 1829.

The Colonial Agent having reported that he has paid Dr. Douglass his half Salary as Commissioner of the Courts of Requests for the Quarters ending 1st July and 1st of October, 1828, I am directed by His Excellency the Governor to transmit to you the accompanying Copy of a letter from the Colonial Treasurer, by which it appears that the half Salary to the 1st July was issued to you in this Colony on account of Dr. Douglass, and to request that, as a double payment has been made, you will refund the amount received by you.

Request to
agent for refund
of payment.

I have, &c.,

ALEX. MCLEAY.

[Enclosure No. 2.]

1829.
30 June.

MR. F. STEPHEN TO COLONIAL SECRETARY MACLEAY.

Sir, York Street, 11th June, 1829.

Letter
acknowledged.

I beg to apologize for the time which has elapsed since I received your letter of the 1st Instant and this reply, but the necessity of consulting one of my co-attorney's upon the subject of it has hitherto prevented my answering the communication.

On the receipt of the half Salary of Dr. Douglass for the quarter ending the 1st of July in last year, I communicated the fact to him by the earliest opportunity.

Inability of
agent to make
refund.

I therefore think that it is most probable that the Sum twice paid will by this time have been refunded in England, or stopped there by the Colonial Agent. But at any rate it is out of our power at present to repay the amount, and I do not think it impossible but the Right Honorable The Secretary of State may direct the extra £100 to be retained by Dr. Douglass.

I have, &c.,

FRANCIS STEPHEN,

Agent for Dr. Douglass.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch delivered by Sir E. Parry.)

2 July.

Sir, Downing Street, 2nd July, 1829.

Letter of
introduction for
Sir E. Parry.

I do myself the honor of introducing to your notice the bearer of this letter, Captn. Sir W. Edward Parry,* whom the Australian Agricultural Company have appointed to superintend their affairs at New South Wales in the room of Mr. Dawson; and, as it is desirable that Sir Edward Parry should not have less authority over the Convicts and other persons composing the Company's Establishment than his Predecessor enjoyed, I request that he may be included in the Magistracy of the Colony.

I have, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 82, per ship Alfred; acknowledged by Sir George Murray, 5th June, 1830.)

4 July.

Sir, Government House, 4th July, 1829.

Appointment of
G. Innes as
commissioner
for lands.

I have the honor to acquaint you, in reference to my Despatch No. 81 reporting the Suspension of Mr. John Stephen, junior, from the Office of Commissioner for apportioning the Territory, that I have appointed Mr. George Innes, a Settler, who is well acquainted with the Colony, to Act in that Situation until I shall be honored with your Commands on the Subject.

The Salary being only One Pound Sterling per diem, which is by no means correspondent with the situation, it would have been impossible to have procured any suitable Person to undertake it,

* Note 8.

if allowed only half the Salary. I have therefore been obliged to promise Mr. Innes the full Amount, which I trust will be approved in the circumstances of the Case.

I have, &c.,
RA. DARLING.

1829.
4 July.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Alfred.)

Dear Sir,

Sydney, 4th July, 1829.

I gather from a Letter I have received from Colonel Dumaresq, for he alludes to the circumstance only incidentally, that an impression has been made at Home that I am under the influence of Sir John Jamieson, or that he is allowed to interfere in the business of the Government. I therefore presume that Sir John Jamieson is the person alluded to in the Dispatch, which I had the honor to receive from the Secretary of State, dated the 30th of August last, wherein I am warned from resorting to unofficial and unauthorised Advisers. Feeling that my proceedings have but little claim to Your Countenance, it is with extreme reluctance I intrude on You in a matter which you may consider of no importance. You will recollect, however, it has been thought necessary to admonish me on the subject, and I trust you will believe that I have no other object on this occasion than to satisfy you that the grossest imposition has been practised on you and that I have been censured at the instance of a very unworthy Character. When I received the Despatch above mentioned, I was at a loss to conceive to whom it could possibly allude, as there was no foundation whatever for the representation which had been made, and I could therefore only meet it by a general and broad assertion of its falsehood.

Alleged
influence of
Sir J. Jamieson
on R. Darling.

You will now be enabled to judge from the following short Statement of the probability of the truth of the Report you have received and of the degree of Credit which is due to its author.

I have not *seen* Sir John Jamieson since the 24th of April, when we met accidentally on the Race Course; and, prior to that time, I had not met him since the 1st of October last Year, when he dined with me at Parramatta, as President of the Racing Club; so that, during the last nine months, he has dined with me once and we have met twice. Speaking generally, I might say we never meet, and I have never held any Correspondence with him. Dr. Douglass must have been aware of this when he left the Colony; and the fact will be fully established by a reference to Sir John Jamieson's Visits to Government House.

Denial of
intercourse with
Sir J. Jamieson.

I have already shewn that he has not dined once here during the present Year, though Six Months of it have elapsed. In the

1829.
4 July.

Visits of
Sir J. Jamison
to government
house.

Objects of
H. G. Douglass.

Reasons for
allegations *re*
Sir J. Jamison.

Character of
Sir J. Jamison.

Defence
against
H. G. Douglass
unnecessary.

Letter to be
communicated
to secretary
of state.

Year 1825, he was invited three times; In 1827, twice; and in 1826, thrice; that is *eight* times in three Years and a Half. He resides almost constantly on his Estate* about forty Miles from Sydney, where I stopt *once* for an Hour to rest my Horses, when returning from a Journey.

This simple Statement will I hope satisfy you with respect to Dr. Douglass' Character and enable you to judge whether I have misrepresented the Man. He and the Party here, whose Agent he is, will not easily be diverted from their purpose. You will probably have seen a Letter,† which I addressed to the Secretary of State some time since relative to some reports which had been circulated by Mr. John Stephen, whom I have since been obliged to suspend from office. Those reports were said to have been received from Dr. Douglass. Thus, these mutual Agents reciprocally afford each other the benefit of their inventive genius in fabricating stories to have effect on both sides of the Water. The Stephens and Wentworth have no doubt taken offence at Sir John Jamieson's adhering to the Govt., and have made up the story of his being my adviser with a view of injuring us both. It is due to Sir John Jamieson to mention in this place that ever since my arrival he has conducted himself with the utmost propriety, evincing on all occasions a readiness to give his support to the Governmt. And, being one of the first Landed Proprietors in the Colony, he has certainly merited its Countenance, while I am free to Confess, in consequence of the Orders‡ respecting him received from Your Office, I have paid but little attention to him. The expression of my humble approbation on this occasion will perhaps have the more weight, not being voluntary or made with a view of benefitting a partizan, but having in fact been extorted by the proceedings of his Enemies. I regret, Sir, having taken up so much of your time, as I do that it should have been necessary for me to defend myself against such a Man as Dr. Douglas. When you have had more experience of the Characters which I have had to contend with, we shall both have much less trouble in this respect. I will not conclude without expressing a hope, that you will receive this Communication in the same good Spirit in which it is made. Your observations as to the ill consequences of attending to "idle tittle tattle," which I have received as I am sure they were intended, could not have been better enforced than by the effects produced at Home by Dr. Douglas's notable Fable.

I remain, &c.,

RA. DARLING.

P.S.—If you see no objection to it, I should be obliged to you to communicate this Letter to the Secy. of State as far as relates to Sir John Jamieson.

R.D.

* Note 14.

† Note 15.

‡ Note 16.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 83, per ship Alfred.)

1829.
6 July.

Sir, Government House, 6th July, 1829.

I have the honor to forward two letters from E. S. Hall, the Editor of the Monitor News Paper, who is now in Jail, having lately been sentenced to fifteen Months' imprisonment* for publishing two Libels.

Transmission
of letters from
E. S. Hall.

I hope, Sir, it is not considered necessary that I should reply to the rhapsodies of this Man, as it would be a Waste of time and could not fail to interfere Materially with the necessary attention to the business of the Government.

As to his representations of my having granted Land and assigned Convicts to my relations and Friends, the Statements† I have already transmitted will prove the falsity of the charge.

Denial of
allegations.

Tyler was directed to be withdrawn from Hall's Service‡ in the hope, as he would have the less means of disseminating his poison, that the tranquillity of the Colony would be the better preserved. But the Judges having given their Opinion, as I have already had the honor of reporting to you, that the Act of 9th Geo. 4th, ch. 83rd, does not give the Governor the power of withdrawing Convicts from the Persons to whom they have been assigned, but for the purpose of granting them Indulgence, Tyler has in consequence been returned to his Master.

Convict
assigned to
E. S. Hall.

With respect to the Letter, dated the 2d of May, the subject of Letting Land in the manner pointed out in the Government Notice§ of the 16th of October, 1828, was considered of the greatest importance to the Colony, being calculated to operate as a check upon the Cattle Stealers and prevent the Farms of established Settlers being grazed upon by the Herds of itinerant Individuals, who, having no Land of their own, traverse the Country and pick up such Stray Cattle as they happen to fall in with, or may have an opportunity of Stealing in their progress through it.

Reasons for
leasing land
adjacent to
land grants.

I have only to observe without thinking it necessary further to notice the absurdities of this revolutionary Scribbler, whose object it is to write down the Government by representing the Public as laboring under grievances which exist only in his own diseased mind, that the matter was maturely considered in Council, and that it was the unanimous opinion, all the Members being present, that the adoption of the measure would be of great importance to the Settlers and the Colony in general.

I may perhaps, Sir, be excused for endeavouring to throw some light on this man's character, in order that you may be the better able to judge of his claim to attention.

* Note 17.

† Note 18.

‡ Note 19.

§ Note 20.

1829.
6 July.

Positions held
by E. S. Hall.

I think the late Mr. Oxley, when speaking of Hall's proceedings, enumerated eleven different characters* in which he had figured in the Colony; and I see, on referring to the Gazette as far back as April, 1824, five years ago, that he was at that time represented as having exhibited in no less than eight. Amongst the rest, as a Preacher to the Mob, where he was also employed as at this moment, Libelling the Magistracy. He is perhaps mortified that his overtures to be taken into the pay of Government have been rejected, and is therefore determined to persevere in the hope of ultimately succeeding.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. E. S. HALL TO SIR GEORGE MURRAY.

Sir,

Sydney, N. S. Wales, 12 March, 1829.

Previous
attention to
complaints
against
governors.

After seventeen years' residence in this country, I never in a single instance discovered that a complaint against the Governors of these Colonies had been neglected, nor, if well founded, allowed to remain unredressed. Such judicious policy in His Majesty's Home Government is not likely to encourage His Majesty's distant subjects here to come before the King with frivolous complaints. The immense space that separates New South Wales from England, and consequent prospect of a year or probably years of delay, damps the resentment of the most resentful, and calms the impatience of the most irritable. While, therefore, the beneficent attention, our Sovereign has always paid to the complaints of the people here, has doubtless operated on the minds of our Rulers in a beneficial way and influenced them to wield their immense power and patronage in a manner less oppressive than otherwise they would, the ready ear, which His Majesty's Ministers have always lent to our complaints, has been attended with the happiest effects in our conduct and sentiments.

Labour
performed
by convicts.

You are probably aware, Sir, that the labour of this country, agricultural as well as commercial, is chiefly performed by bond-men. Freed men also do a portion, but the more expensive and mechanical parts of labour the latter perform. The chief labour of the Colony is done by bond-men, that is, by men who are under sentence of transportation. These bondmen (or as they termed here, Prisoners of the Crown) were, before a late Act† of Mr. Peel (now in its turn superseded by the last of the New South Wales Acts), assigned at the pleasure of the Governor. And it was always considered the Governor could withdraw them until the said Act of Mr. Peel; after that Act, the services of Prisoners, once assigned, were considered the property of their master.

Assignment
of convicts.

With this new privilege granted to employers of convicts in New South Wales, the latter of course were well pleased. It was

* Note 21.

† Note 22.

received by them of the King with gratitude; and it was considered by the free Colonist as a mark of His Majesty's gracious favour and confidence, and as having been induced by his royal consideration of their being deprived of those civil rights and protection, which the penal nature of this country, through the interested representations of certain families here, have caused the Parliament still to withhold from us; though we are fully aware that, if (as your predecessor Mr. Huskisson represented in the House of Commons in the debates on the last Act of Parliament relating to this Colony, and which act has cut off the few straggling privileges we formerly enjoyed) His Majesty had but really known "what we Colonists know" (to use Mr. Huskisson's own favourite expression, echoed by the Treasury bench), he would have ordained for us a better fate. But unfortunately for this Colony, and the loyalty of its inhabitants, and particularly of the *Australian-born population*, who are of course rapidly rising to be the *leading* population, Mr. Huskisson's real ignorance was considered by the House to be deep-grounded information of the best sort, much superior to the plausible statements of the Australian-made petition, presented to the King and both Houses of Parliament at the time of the said debates; and, consequently, Mr. Huskisson annoyed and distressed this Colony by an Act and a charter, more oppressive than those which regulated the Colony, when, save the civil and Military officers, our population consisted exclusively of a *male convict* population, who were neither householders nor land-holders, husbands nor fathers; but a labouring population of the lowest grade.

The new Act in question, among other vexatious clauses, gives the Governor of these Colonies the power, not only to assign Convicts transported to New South Wales to Masters, but to re-assign them, provided the said re-assignment be for the bettering of the condition of the Convict. That is to say, His Excellency is not only now empowered to refuse, without giving a reason, a farmer, a ship-builder, or a manufacturer, or a gatherer of colonial produce, possessing the benefit of Convict labourers *at all* (after leaving his friends and native land to possess this benefit in New South Wales among others), but, according to Governor Darling's interpretation of the new Act, His Excellency can send constables to the farm of a settler, just when the convict labourers of the latter are entering the ripened wheatfield; and, though the Settler's clothing be on their backs and his shoes on their feet, His Excellency can take them into custody, and place them in the charge and keeping of Mr. Healey, our Superintendent of Convicts; and the latter can, through that natural influence which he and all our civil Officers have with His Excellency (I mean

1829.
6 July.

Principles
adopted in
9 Geo. IV,
c. lxxxiii.

Power
conferred on
governor over
re-assignment
of convicts.

1829.
6 July.

Alleged
favoritism in
assignment of
convicts.

particularly His Excellency's two brothers in law, Lieutenant Colonel and Captain Dumaresq, who have held or hold high civil appointments, and cultivate a large farm), take the best of such labourers, and send them to reap their own wheat fields. Such, Sir, are the species of vexations to which Mr. Huskisson's last Act of Parliament has rendered His Majesty's free subjects in New South Wales liable. And thus the late Colonel Stewart who, with Captain Dumaresq, was a member of our Sydney land-board* as it is called (that is has the regulating of convict servants, except when it is His Excellency's pleasure to supersede or interfere with their labours, a privilege General Darling has never been found backward to exercise); I say Lieutenant Governor Stewart, and the Messrs. Dumaresq through such influence have procured skilful convict mechanics to improve their estates (comprising whole Parishes of the richest soil in the Territory) at Bathurst and Hunter's River, while neither the Settler established or establishing in these parts of the Colony, except in rare instances, could procure the aid of such convict mechanics.

In order, Sir, you may not think that the unbounded authority invested by the late Act of Parliament in General Darling is exercised by His Excellency benignantly in proportion to its extent, and that therefore, *de facto*, the said Act "works well" for His Majesty's very distant and very unprotected Juryless subjects in New South Wales, I beg to lay before you a correspondence, which has within the past week taken place between His Excellency's Authorities and myself by the General's command. And first, I draw your attention to the following letter:—

Order for
convict assigned
to E. S. Hall
to attend at
police office.

Peter Tyler, per Grenada.

Prinl. Supert. of Convicts Office,

Sir,

11th March, 1829.

I have received the commands of His Excellency the Governor to request, that you will cause the Prisoner named in the margin, now in your service, to be in attendance at this Office on Tuesday next, the 10th instant, at twelve o'clock.

I am, Sir, &c.,

for the Prinl. Supert. of Convicts,

J. MACALISTER.

To the Editor of the Sydney Monitor.

I immediately suspected what was intended by this "request" and what eventually took place. Before, however, I had time to comply with the said request, and the day appointed in the above letter, I happened to be present in the Civil Court as a witness in a cause trying before Chief Justice Forbes, when I perceived a constable with a resolute countenance step into the Court, and beckon to one of the two Reporters who were reporting the trial

* Note 23.

then going on. They the Reporters were sitting at a desk, directed by the Judges to be made for their special accommodation, it being the wish of our Judges to have reports of the trials of the Colony laid before the public, that, by means of our periodical Journals, both the towns-people and the settlers may learn how the laws, English as well as Colonial, are expounded, and how they apply in the Colony. Indeed, I can assure you, Sir, that the increasing importance of the Colony actually requires that the free people should be made acquainted, by means of this cheap and rational mode of instruction, what is the nature of those innovations on English law, by which their political and moral behaviour should be regulated, and of which their property and personal liberty are made the stake.

On being thus beckoned to, although suspecting his intended capture, the Reporter submissively got up and surrendered himself to the Constable, and the latter took him to the Convict-Barracks and put him within the gates among those prisoners of the Crown, who are employed in the public works. He was the assigned servant of Mr. Hayes, the Proprietor, Editor, and Publisher, of the "Australian" Journal. The other Reporter, that sat by his side, remained in Court unmolested, and continued to report the trial. *He* has not been taken into custody, nor do I conceive he will be; he reports for the paid official organ of the Government (The Sydney Gazette and New South Wales Advertiser), and, as Mr. McLeay, our Colonial Secretary, influences the columns of this paper, it is not likely the Editor will be molested.

Grieved and indeed shocked at this violation of public decorum and invasion of the private property of a most respectable emigrant like Mr. Hayes (for what is a Newspaper without a Reporter?), I determined within myself not to comply with the request contained in the above letter, seeing its intention. Accordingly, I hastened out of the Court, ran to my Printing Office, and requested my foreman Tyler (a very steady, useful prisoner of the Crown) to continue at his work, and not to go up to the Convict-Barracks, as I had previously intimated to him to do. For, although I do not wish Sir to use harsh or vulgar terms in speaking of the King's Representatives here, yet the spectacle, I had just witnessed, of His Excellency sending a Constable and forcibly taking a Gentleman's servant out of a Court of Justice, employed as he was in one of the most beneficial occupations that can be conceived, whether his master's private business or the public good were considered, appeared to me to be shocking; and I felt all that heart-sinking, which my recollection of our military juries (appointed by the Governor) never fails to depress my spirits withal, when I cast in my mind, to whom and

1829.
6 July.

Publication of
law reports.

Arrest of
convict
reporter of
Australian
newspaper.

Revocation of
assignment
resisted by
E. S. Hall.

1829.
6 July.

Alleged effects
of arbitrary
actions in
governors.

where I and my brother Proprietor (Mr. Hayes) could look for succour or protection against so painful, so un-English, so degrading an outrage, as I had just witnessed?

These feelings, Sir, became the feelings of the whole of our little community, for the news of the outrage soon spread through the town, being the first act of authority or, as you must here permit me to call it, illegal despotism, that had taken place under Mr. Huskisson's new oppressive act. An act, Sir, which my duty to my King and Country forces me to inform you, once for all, will stifle the ancient loyalty of us, who are Emigrant fathers, and convert our *sons* into disaffected rebels. I, Sir, speak as father of eight Australian-born sons and daughters; and though I myself glory, and shall die glorying, in the name of *Englishman*, yet my children glory in *another* name. To be *Australian* is their signal-word, as opposed to Emigrants. Already do they club together, and, in bands at their harvests and feasts, challenge and insult the British born. Think you, Sir, that my eldest Son, who is now rescuing my farm from its barbarous state, and reducing it to civilization in order to become the abode of himself and his posterity, his mind being well imbued with history, with De Lolme, and with Paley's political philosophy, will do otherwise than scorn that Country, the Representatives of whose King shall now or hereafter send his myrmidons into his father's Office or into his own wheat field to deprive him of his servants, and to rob him of his harvest? Is it possible, Sir, that your predecessor Mr. Huskisson, when, in the late debates on this Colony, he taunted Sir James Macintosh and Sir Charles Forbes who *really know* the Colony, with their ignorance, could suppose his new Act would shake the allegiance of the Country? The King was, till lately, emphatically the father of his people in New South Wales. He gave us farms and cattle to stock them and convicts to till them, and fed these convicts at his own royal expense; while we emigrant settlers, being as yet feeble and poor and unable to go great distances to till this sterile Country, exposed as it is either to overwhelming floods or still more destructive droughts, were incompetent to feed and clothe them. But how is His Majesty suddenly changed in his nature! Through the measure now complained of by me, the King is made to appear as a hard taskmaster, extreme to mark what is done amiss, abandoning general rules of policy, to pitch upon individuals who have become obnoxious, and to make them a violent and marked exception to general rules. You, Sir, have already been made acquainted by me, in a former letter,* that my cattle are starving for want of pasture, and that, because I am an *Editor*, I am refused to be allowed to *rent land*. Yet, Sir, I and other Colonist pay as heavy

* Note 24.

taxes to the support of this Government as the people of England do towards theirs? Seventy thousand pounds, as you will see by General Darling's own accounts, do we free Colonists pay annually into the Public Treasury here. This, Sir, comparing our population with that of England, is fully as much as our Countrymen at home pay, although they have the interest of a national debt to discharge, and we have none. They, Sir, can have a skilful, honest labourers at a small rate of wages. I give to my Convicts, many of whom are neither skilful nor honest, 7 lbs. of beef, a peck of wheat, and £10 a year, which I lay out for them in tobacco, tea, sugar and clothing. These men, you are aware Sir, would, if they were kept in England in the hulks, cost the Government a great sum. Now they cost them nothing; while, on the other hand, they are trained by me to habits of industry and to some profitable craft, so as that, when they become free, they can earn their own living, marry, bring up a family, and people the wilderness. Several men, who have become free, are still in my service; the only difference on their becoming free being that, in lieu of £10 a year, they get £20 and a still larger ration. Now, Sir, permit me respectfully to ask you, is not the man, who thus converts an English pick pocket or highwayman into a laborious Australian peasant, and who also pay taxes fifty times as great as the American Colonists did (for Adam Smith informs us (Book 4, Chapter 7, part 2), that the three millions of Americans in his time paid no more than we sixty or 70,000 Australians now pay) worthy of better treatment from the King or his Representative, than what I have just above described? But you, Sir, shall judge.

1829.
6 July.
Colonists
entitled to
consideration.

The day after the above mentioned outrage took place in our Supreme Civil Court, I received the following letter from Mr. Hely, the Principal Superintendent of Convicts.

Notice of
revocation of
assignment
of convict to
E. S. Hall.

Prinl. Supert. of Convicts' Office,

Sir,

11th March, 1829.

His Excellency the Governor having revoked the assignment of the Prisoner mentioned in the margin, I hereby warn you that, in case you harbour him after this notice, you will be liable to penalties enacted against parties harbouring prisoners of the Crown.

I am, Sir, &c.,

F. A. HELY.

To the Editor of the Sydney Monitor.

Thus, Sir, it is made to appear what the "being in attendance at Mr. Hely's Office," as requested in the first letter, meant. The calling at Mr. H's Office meant virtually *trepanning*. What, I

1829.
6 July.

Action
anticipated
by E. S. Hall.

shall do in the premises, I have not yet determined. I shall consult Counsel. I have no doubt but that His Excellency's usual pertinacity of purpose, which generally increases as His Majesty's free subjects here feel it their duty to resist it, will issue in seizing by force my servants; and afterwards, by prosecution, fine, levy, and all the violent remedies which the ill-digested acts of our close Legislative Council (over which we, the people, have not the most remote or shadowy influence) have unhappily put in His Excellency's power. Whether Sir I shall in a future letter continue the present dire history of my own and the Country's wrongs, my leisure and view of my own interests will determine. I feel confident however, I have said enough to make you, Sir, as one possessing the best sort of experience, that sort I mean gained in the world and not in the insidious intrigues of a Court and Cabinet, *think and feel*. And, when I do this, I know that I render the King good service, and this Colony a solid benefit; for, when N. S. Wales is *thought* of, she cannot fail to be benefited by patrons of your high character, talent, influence, and generosity.

In concluding my letter, I beg leave, Sir, to call your serious attention to my Journals of the 9th and 16th *ultimo*, copies* of which I lately forwarded to you, and duplicates of which I now take the liberty to transmit. From the important disclosure I therein made to Governor Darling, and which the Commission of Enquire, sent by him to Port Macquarie, *seems not to have been so fortunate in discovering*, I expected His Excellency would have abated somewhat of that hostility to the independant press of this Country, which His Excellency's attempt by his Colonial newspaper acts to destroy by heavy taxation which it could not sustain. The disclosure in question must however produce eventual enquiry, and must infallibly lead to arrangements and checks, and also to changes in His Excellency's appointments, which will be the means of saving to the British Treasury many thousands of pounds annually, which are now being little better than pilfered from the Government at our remote Settlements. In lieu, however, of evincing any satisfaction at my labours in this respect, His Excellency, it is publicly reported, immediately on the publication of my said valuable and important disclosures, not only expressed a desire to Mr. Baxter his Attorney General to file against me *ex-officio* an information for libel *at the instance or on the part of the prison* WHOSE MALVERSATIONS I HAD BROUGHT TO LIGHT (and offered and still offer to prove by the testimony of free and freed men), and who thereby will have been eased of the inconvenience of making affidavit of his innocence of the charges alleged against him, but also expressed a desire

Criticism of
administration
in *Monitor*
newspaper.

Instructions
given for
prosecution of
E. S. Hall for
libel.

* Note 25.

that the Crown Officers would search into my Journals, published by me a long time ago. Accordingly, with the aid of all the Counsel and Solicitors at all connected with the Government here, they were diligently searched; and a few stray sentences, published by me in my Journals of the 22nd and 29th of November* last (nearly four months ago) were selected as libellous, and I received accordingly notice, yesterday, that two informations for libel were filed, and were to be tried by the Supreme Court this term.

1829.
6 July.

Informations
for libel filed
against
E. S. Hall.

You, Sir, having rendered your King and Country such splendid services in the field, as a brave and talented soldier of the highest order, will not perhaps sympathise with me in my complaint, when I inform you that, if your predecessor had thought it expedient that felonies should continue to be tried by seven of the Officers of our Sydney Garrison, he ought to have had more consideration, not to say humanity, than not to have made cases of libels, filed by the Crown Officers here *ex-officio*, exceptions to the general rule. If the Supreme Court in civil suits was, on petition either by plaintiff or defendant, empowered to grant a special Jury of twelve free Colonist, surely, when the Governor complains of a subject for an offence against his own Government, he ought not himself to appoint the Jury? and thus be allowed to unite in his own person the several offices and capacities of accuser, prosecutor, Judge and Executor of the law? This union (which is enough to make an Englishman shudder) violates that fundamental maxim of English law, viz., "no man shall be judge in his own cause." Yet by Mr. Huskisson's late act, visited on the unhappy people of this country, there is not an emigrant settler, who is not liable to such a mode of prosecution. And, as for myself and my brother Editors, we are in particular exposed to its effects. Every time our newspapers issue from the press, may we naturally expect to be visited with this sort of legal vengeance. Judge then, Sir, with what care and circumspection we must have conducted our Journals, when only one conviction,† on an *ex-officio* information for libel, has ever been obtained by the Crown Officers, since the Press here was rendered free; zealous as they are in this part of their public duty?

Protest against
trial of *ex officio*
informations
for libel by
military juries.

I have, &c.,

[Enclosure No. 2.]

E. S. HALL.

MR. E. S. HALL TO SIR GEORGE MURRAY.

Sir,

Sydney, N. S. Wales, 2 May, 1829.

A rumour has gone abroad in the Colony, owing perhaps to the policy pursued by the present administration in granting and letting Lands to the Colonists, that it is His Majesty's wish to encourage in chief, if not exclusively, civil and Military

Rumour *re*
encouragement
of wealthy and
officer settlers.

* Note 26.

† Note 27.

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officers in the Colony, and emigrants of wealth and Capital from England.

Opposition of
native-born
colonists to
policy.

It is not for me, Sir, in a letter of this kind, to enter on the policy or impolicy of this course of proceeding, if it be indeed pursued by His Majesty's Government. I shall merely take the liberty at this time of making one observation thereon, for, in that one, is in fact summed up almost all I should have to say on the subject; that one is this, that my long residence in this Colony and my accurate acquaintance with the native-born youth of the Colony, who are fast superseding the old free and freed Colonists as their natural successors, view this policy (if such Sir have indeed been adopted by your predecessor) with feelings that will gradually alienate their affections from the Mother Country, and render them and their posterity disaffected to their King. In proof that the above rumour is not altogether groundless, I beg to lay before you the subject of a Government Notice of General Darling, published last week, and dated the 22nd instant (but not numbered). This Government Notice is introduced to the Colonists in the following words:—

Announcement
of leases
granted.

“*Government Notice.*—The following persons are permitted to depasture their live-stock on the land adjoining their respective properties, as undermentioned, on the conditions specified in the regulations* of the 16th October, 1828. Rent to be paid for the same at the rate of two shillings and sixpence per annum per every hundred acres.”

List of lessees.

A List follows of the names of such persons. They are thirty-three in number and the quantity of acres, they are allowed to rent, is attached to their names, that is to say:

1. Edmund Lockyer, late Major in the 57th Regt., and Inspector of Roads and Bridges, with a Salary of £600 a year	acres. 1,000
2. Same	1,000
3. Shelly, W.	2,000
4. J. McArthur, J.P., son of the Honble. John Macarthur, Esqr.	1,920
5. G. Vine	8,000
6. John Reddall	5,000
7. Revd. T. W. Reddall	4,000
8. Mrs. Bunker (a married lady)	15,000
9. Henry Howey	1,920
10. G. T. Savage	2,000
11. Andrew Gibson, J.P., Assistant Surgeon of the N.S.W. Veterans, and late civil colonial surgeon	2,000
12. W. P. Faithfull	3,000
13. Same	2,000
14. James M'Farlane	3,000
15. D. M'Farlane, not residing in the Colony	3,000
16. R. Futter, J.P.	4,000
17. Same	4,000

* Note 20.

	acres.	
18. Henry Howey	1,920	1829.
19. Alexr. McLeay, Coll. Secretary	2,500	6 July.
20. W. Smith	850	List of lessees.
21. Same	1,840	
22. Messrs. Berry* and Wolstonecraft	8,000	
23. Same	2,000	
24. Charles Throsby, J.P.	2,000	
25. Wm. Hutchinson	10,000	
26. George Sewell, Senr.	500	
27. George Sewell, Junr.	320	
28. J. Gibbons	2,000	
29. C. O'Brien	1,920	
30. James Jenkins	500	
31. John Coghill, J.P.	6,000	
32. Thomas Kendall	1,920	
33. T. B. Wilson	6,000	
	<hr/>	
Total	95,710	

Of these Tenants, the following ten are civil officers or magistrates, namely :—

Nos. 1, 2, 4, 7, 11, 16, 17, 19, 22, 23, 24, 25, and 31, and these ten persons you will find, Sir, are allowed to rent 46,500 acres out of 95,710; where the remaining eighteen citizen settlers are allowed to rent the remaining 30,870.

I beg, Sir, to observe to you that the ten persons, who are thus indulged with such great portions of land, while I have been refused† to be allowed to rent a single acre because I conduct one of the independant newspapers (notwithstanding any and every Colonist is entitled so to do by a special clause in the new Act of Parliament) are already holders of immense estates and leases of land. It is impossible in a Colony, where so much mystery and concealment are used in its public offices (and which caused me a short since to do myself the honor to address a letter† to you, pointing out the great advantage of your causing all alienations of land from the Crown to be made here as public as possible, in order that you might be able to see the strictures of the independant press of Sydney thereon) to point out the exact number of acres actually held in one shape or another by the ten persons above enumerated; but, if the charts and registers of the office of our Surveyor General be examined, I doubt not but the following quantities of land, as belonging to the families of the four said persons, will not be found excessive, to wit :—

The families of the Messrs. Macarthur ..	60,000	acres.
The Colonial Secretary	20,000	
Messrs. Berry and Wolstonecraft	40,000	
The family of the Messrs. Throsby	15,000	
	<hr/>	
Total	135,000	

* Note in original.—Mr. Berry is a Member of the Council,

† Note 28.

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Now, Sir, permit me to suggest to your reflecting and equitable mind, what is to become of the Settlers of the Colony, some aged, some native born, who comprise our chief landed population, when so much good land is thus being picked and occupied by twenty nine persons only, and a large portion of it by four families closely allied to the Executive?

Character of
land in county
of Argyle.

You ought, Sir, to be informed here that Argyle* is an exceedingly barren County. In passing through it, you travel whole stages of barren rocks and scrub before you come to a meadow, which meadow, when at length it makes its appearance, is perhaps from two to five miles long and one broad. Then you may pass a few miles of poor grazing ground, fit for small-sized sheep and cattle, but incapable of supporting large beast, or even of being mown on account of the lightness of the swath.

Effect of
leases on small
settlers.

Therefore when a few families are allowed to rent all the contiguous commons and the little Settlers are confined to their own farms, varying from 50 to 300 acres, chiefly poor land, they will inevitably be ruined; and permit me, Sir, to ask you, what must be the feelings of a Settler and his sons, who have borne the burden and heat of the day by dwelling alone in the wilderness in days of yore, when bushrangers and wild natives were alike their pest and their terror, to find that, when at length civilization and good neighbourhood have begun to cheer their humble huts, they are deprived of the use of the contiguous Crown Lands? Great families, by their being Magistrates and Civil Officers, form a strong chain of political power in this Colony. The faint distant cry of these poor people, if it should happen to penetrate to the Government-House in Sydney (which is not very probable) will have to break through the clamour and misrepresentations of a Host of wealthy, interested and greedy men. Of men, who are on terms of friendship with the members of our close Council, who are the makers of those laws by which the poor of this Country are now being every day sacrificed to the rich.

Effect of act
for regulation
of fencing.

That this last affirmation is not an idle one, I beg to call your attention, Sir, particularly to two Acts† passed about nine months ago by our said close Council. One compels poor Settlers to fence in their farms, whenever called upon by their rich neighbours so to do; So that, after a bad harvest or other casualty, a greedy man of wealth may call upon his poor neighbour to fence in his farm, and, on the latter refusing so to do, either from a sense of oppression or from inability, or from both, the Act gives power to the rich man to fence in his own farm complete, and so to become the creditor of his poor neighbor for half the amount expended in such fences; and, being now a creditor, the Settler's farm and cattle are thereafter for ever put in the power of the

* Note 29.

† Note 30.

said rich man. Now, Sir, let me put it to your simple and disinterested humanity, as a brave and gallant soldier, whether loyal feelings and love for the country, which gave birth to their forefathers, can possibly fill the minds of the tall sons of the poor Settler, when they are informed, by way of excuse for such impolitical laws, that they are the result of *orders from home*; that is, in short, that they are ordained by the King of England?

The other Act passed by our close Council (in which of course, as you are doubtless aware, *the people have no voice*), the other Act I say, which so grievously afflicts the Colony at this moment, is called "*The Impounding Act.*"

The ancient Impounding laws of England, you are aware, Sir, mild as they be and small as the fees and fines for impounding live stock are, are never very popular. You are aware too that all persons in England keep their lands well fenced in. The people of England have had hundreds of years of time and leisure to do this; therefore, if a field or a garden in England remain unfenced or be seen with gaps in it, it indicates not poverty or want of time and capital so much as negligence and idleness. The reverse of this is true in New South Wales. Besides the land in England is valuable; the occupiers pay a heavy rent for it, and cannot afford that their neighbours should trespass on it.

Without considering or making allowance for these things, some of our rich Magistrates and Civil Officers-graziers, with unfeeling selfishness, persuaded our Members of Council (consisting of the Governor, the Commandant of the garrison, the Archdeacon, the Chief Justice, and two great landholders, namely, Mr. McArthur senior, and Mr. Berry of the firm of Berry and Wolstonecraft) Gentlemen, except the two last, misinformed of all that concerns the welfare of the agricultural poor of the Colony, to pass the above-named impounding law, by which the fees and fines, consequent on the capture of stray cattle, are so high as to cause the ruin of our poor cottagers. Even the rich Settlers, when they become inimical to the country Justices and their head constables (the latter being generally the pound keepers, by which means our numerous grazier justices escape all impounding of their own cattle), even the richer Settlers, I say, do not, happily for the poor, always escape the rigour of the new Impounding law. A flock of sheep, belonging to a man of substance, was lately driven to the pound. This country, Sir, as I have observed before, is the reverse of England, where the land is rich and where the meadows are studded with towns, villages, hamlets and isolated farm-houses, and where the pin-folds consequently are not more than a mile or a few miles asunder. In this barren country, on the contrary, from five to twenty miles are not an

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6 July.

Protest
against
"impounding
act."

Comparison of
English and
colonial
conditions.

Passing of
"impounding
act."

Practical
results of act.

1829.

6 July.

Practical
results of act.

uncommon distance for the pounds to be separated from each other. The flock of sheep in question was driven a great distance, and the fees came to *sixty pounds*! The money of this country is, like the good land, very scarce. Money in fact in our interior is almost unknown; our wilderness is not like the villages of England, surrounded with Country Banks, with fairs and markets held ever and anon, where coin and Bank-notes can be had on the instant in exchange for or on the security of property in the largest or the most minute quantities. Hence the shepherd of the flock impounded as above mentioned had to travel above a hundred miles to inform the proprietor of the sheep of his misfortune. That proprietor on hearing the disastrous intelligence had to raise the fees (£60) on the instant. Many, I may perhaps say most of our farmers, could not have done this without mortgaging some of their property in the present insolvent state of the Colony, and which insolvency has been brought about through our loss of the last three harvests. But this gentleman was able to obtain the money immediately, and in due time his sheep were released; but, when released, they were found by their long confinement in the public pin-fold to have become infected with the scab, which deteriorated the flock in value to an amount even greater than the fine and the fees.

Now, Sir, what I wish to impress on your gallant unsophisticated mind, is that, if a rich man could not escape this amount of loss, what may you contemplate is the present situation of the agricultural poor of this unhappy Country under such a law; and what must be the feelings of our national youth, whose own substance and the substance of whose aged parents is thus being made the legal prey of ordinances, in the concocting of which they have not the least influence? framed by Gentlemen living in Sydney, Civil and Military Officers, not long perhaps arrived in the Country, and consequently more ignorant of the localities of our interior farmers and of their necessities than you Sir will be after you have read this letter of mine; framed by a few Gentlemen, who are themselves imposed on daily by the advice of greedy men; who, finding the Country barren and its resources too petty to fulfil the golden expectations they had formed in England, before they became adventurers in New South Wales, take advantage of the infirm state of our laws and constitutions, which open a large field for political intrigue and unconstitutional despotism, and resolve to acquire land and property by means, which bring with them little shame, because they are screened by the letter of bad laws.

I submit the above statement to you, Sir, with frankness and brevity, because there is an idea current amongst us in New

South Wales that your habits of life are not those of a Courtier, accustomed to the intrigues of office, but the plain straightforward habits and sentiments of an honest Gentleman, bred in camps; where courage and honour go much farther than the arts of policy or duplicity. Were it not I feel pretty confident that I am writing to such an one, who has a mind to feel, and a judgement to perceive the force of this matter-of-fact-statement, I would not either trouble you, Sir, with reading nor myself with inditing this epistle.

I have, &c.,
E. S. HALL.

1829.
6 July.
Reasons for
appeal to
Sir G. Murray.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Lucy Davidson; acknowledged by Governor Darling, 29th December, 1829.)

Dear Sir,

Downing Street, 7th July, 1829.

7 July.

I am directed by Sir George Murray to transmit to you the accompanying extract of a letter addressed to Sir George Cockburn by Mrs. Abell, Daughter of the late Colonial Treasurer, upon the subject of a Grant of land which she is desirous of obtaining adjoining to her late father's property, and which, to prevent her being deprived of it through the means of her husband, she further requests may be placed in the hands of proper Trustees. Mrs. Abell states that this mode of giving Land to Females has not unfrequently been adopted, and Sir George Murray would be glad to meet the wishes of this Lady, if it be reasonably practicable, though it is not his intention to authorise any such departure from the Regulations in her favor, as may be found hereafter an inconvenient precedent.

Recommendation of request from daughter of W. Balcombe.

I am, &c.,
HORACE TWISS.

[Enclosure.]

EXTRACT FROM LETTER OF MRS. ABELL TO SIR GEORGE COCKBURN.

"You were so very kind as to say you would use your interest in procuring me an Order for a Grant of Land; it would indeed be a very great act of goodness, and there would be no risk of my being deprived of it through the means of my unprincipled Husband, my Father and the Depy. Commissary General here becoming Trustees for me; there are many instances of Land being so given to Females; the usual grant to all descriptions of Persons, who possess the means of stocking and farming it, is 2,560 Acres. I have had Stock left me by a Friend who died lately, and, not having any Land of my own, my Father at present takes care of my Stock for me; if I was fortunate enough to procure a Grant of Land I should wish it to be near my Father's in the County of Argyll."

Request for land grant.

If this can be done for Mrs. Abell, whose Father is Mr. Balcombe, formerly of St. Helena and now Paymaster General (I believe) at Sydney, New South Wales, I shall feel obliged.

G. COCKBURN.

Admty., 24 June, 1829.

1829.
7 July.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 85, per ship Alfred.)

Sir,

Government House, 7th July, 1829.

Transmission
of report *re*
delay in
financial
statements.

I do myself the honor to transmit to you, in reference to my Despatch of the 25th of January last, No. 6, a Letter which I have just received from the Colonial Secretary on the Subject of the Statements of the Revenue and Expenditure, which he was required to prepare, and pointing out the difficulties which he has to contend with in Completing these Documents. I regret exceedingly the delay, which has taken place, though, from the attention I have myself paid to the subject, I am satisfied Mr. McLeay has not exaggerated the difficulties he has had to encounter in this respect.

Statements
transmitted.

I have gone through the Schedules, Abstracts, etc., from time to time as they have been prepared; but it is not in my power at this moment to make any observations on the different subjects, as the Papers have only just now been put into my hands and the Ship is to sail to Morrow Morning. I have no reason however to think that any further observations will be necessary than the Papers themselves contain, as the Secretary has spared no pains to render them as clear and satisfactory as possible.

Preparation of
blue-book and
financial
statements.

After the Blue Book and Statements for the Year 1827 had been completed, which until then had always been prepared under the direction of the Colonial Secretary, I directed that the Auditor should be charged in future with the preparation of these Documents, conceiving that it more properly belonged to his Office, which immediately possessed every requisite information, while he was less liable to interruption than the Secretary, and, I might add, peculiarly qualified for business of this description. On receiving your (Circular) Despatch of the 6th of June, 1828, which did not reach me until the 22nd of January last, I immediately cancelled the Orders I had given as above, and placed the business as directed in the hands of the Colonial Secretary.

Inability to
send full
printed
statements.

It will be observed that the printed Copies now transmitted are not quite complete, though they require but little to render them so. But as there is not time for the purpose just now, all Printing business of this particular description being very slowly executed in this Country, the Secretary has added in Manuscript what is deficient to the Copy which immediately accompanies this Despatch, in order that as little inconvenience as possible may be felt.

I have, &c.,

RA. DARLING.

[Enclosure.]

1829.
7 July.

COLONIAL SECRETARY MACLEAY TO GOVERNOR DARLING.

Sir, Colonial Secretary's Office, Sydney, 7th July, 1829.

Understanding that the Ship Alfred will sail for London tomorrow, and that there is no prospect of another direct opportunity for some weeks to come, I beg leave to transmit to Your Excellency thirty copies of the Blue Book for the year 1828, as far as the Printing has been completed; and I have the honor to request that you will be pleased to forward them to the office of the Right Honorable the Secretary of State for the Colonies by the Alfred.

Transmission
of copies of
blue book.

I regret exceedingly that, at this advanced period of the Year, I should be under the necessity of forwarding these Copies in an imperfect state; but Your Excellency is aware of the difficulty, which I experienced in procuring satisfactory materials and information to enable me to make up the financial Statements, after you had specially entrusted the compilation of the Blue Book to my care, and communicated to me the pleasure of the Secretary of State that I, as Colonial Secretary, should be considered personally responsible for its correctness.

Difficulties in
preparation of
blue book.

The Blue Book for the last three Years was compiled in my office; but, as mine is not an office of Account, I did not consider that I was answerable for the financial Statements which it contained, any further than as to the correctness of the transcription of Accounts furnished by the respective Departments to which they related; and, as Your Excellency had been pleased to direct that the compilation of the Book for 1828 should be entrusted to the Colonial Auditor, I was in no respect prepared for the change, when, in your Minute of the 25th of January, you communicated to me the order of the Secretary of State that this duty should be entrusted to me. I, however, lost no time in applying for all the necessary accounts and Documents, and I certainly spared no trouble in examining them, so as to enable me to put them into an intelligible form; but this, with respect to the Commissariat Accounts, I found to be a much more difficult task than I could have anticipated.

The yearly account rendered by that Department to the Treasury proved, with respect to the distribution of the Expenditure, to be made up almost entirely by Estimate; and I must admit that, from the peculiar circumstances of this Colony, a distinct account of the distribution of Commissariat Expenditure in any one year cannot be expected at a very early period of the Year following. I found too that the Commissary's Accounts were not at all Kept under the Heads under which it became my duty to class the several Items of Receipt and Expenditure, and the remodelling of them occasioned much labour and delay. Since those difficulties were overcome, the Printer has been constantly employed, and I fully expected that the whole would have been completed long before this time; but I am disappointed, and I shall only observe on this subject that those, who have experienced the expedition with which such things are done in London, can form no idea of the difficulty of getting any printing containing what is called *Ruled-work*, or any thing out of the common way done in this Colony.

The few sheets that remain of the Blue Book will, however, be certainly printed in time to be sent by the next direct opportunity for London, and, in the meantime, I intend to send one Copy with the unfinished part in Manuscript.

Statements
transmitted
partly in
manuscript.

1829.
7 July.

Anticipations
re future
blue books.

I have arranged with the Deputy Commissary General that he is to keep his accounts in future in such a form as to be enabled to furnish all the particulars required for the Blue Book with as little delay as possible after the expiration of the Year; but, with our widely scattered Establishments and imperfect machinery, I see little prospect of our being able to complete the Blue Book in this Colony with the required degree of accuracy, sooner than the end of March in any Year; and consequently it is not likely that it can often be received in London before the end of the Parliamentary Session. No exertion on my part, however, shall be wanting to expedite its transmission from hence; and the great improvement, which has taken place in all the Departments of the Colonial Government, in consequence of the Regulations established by your Excellency, gives me good reason to expect an advantageous co-operation on the part of the officers in charge of the several Departments.

I have, &c.,

ALEX. MCLEAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Alfred.)

Dear Sir,

Government House, 7th July, 1829.

Transmission
of addresses
to R. Darling.

I take the opportunity of forwarding to you the enclosed Copies of two Addresses which have been presented to me on the occasion of the "Impeachment," transmitted by Mr. Wentworth.* I have only time to add that the first Address was brought forward by the *principal* Land Proprietors and Merchants, who were unwilling it should receive the Signature of any other Class of People. I understand that no Person in the Employment or Pay of Government has been permitted to sign it, nor has the Signature of any "Emancipist" been inserted.

I should have transmitted a Copy officially, but the Deputation informed me it was their intention to forward one to the Secretary of State.

Status of W. C.
Wentworth
and party.

If you were acquainted with the names of the people here, you would now see the truth of what I have often repeated, that Wentworth and his Party are not countenanced by one respectable Individual.

Imprisonment
of editors for
libel.

The Editors† of the "Monitor" and "Australian" are both in Jail, the former having been sentenced fifteen Months and the latter six Months' Imprisonment for Libellous Publications.

I remain, &c.,

RA. DARLING.

Participation of
Sir J. Jamison
in address.

P.S.—It may not be unnecessary to mention, with reference to my private Letter of the 4th, that, although Sir John Jamison's name appears the first on the List of Persons who signed the Address, that *it did not originate with him* nor was he concerned in it until it was sent for his Signature. I have thought it as well to notice this, as Dr. Douglass would probably avail himself of the circumstance in support of the information he appears to

* Note 31.

† Note 32.

have given. I conclude, as several had signed the Address before it was sent to Sir John Jamison, that his name, having been since placed first, was intended as a Compliment to him, as President of the Agricultural Society and other Bodies and from his holding perhaps the largest Stake in the Colony. The decided Step now taken by the principle People will I have little doubt put down effectually both Mr. Wentworth and his Radical Associates, including I hope, the imprisoned Editors, and prevent the Govt. meeting further interruption.

1829.
7 July.

Probable
results of
addresses.

R.D.

[Enclosure No. 1.]

THE Address of the Landed Proprietors and Merchants of New South Wales to His Excellency Lieutenant General Ralph Darling, Governor in Chief, etc., etc., etc.

Address of
landed
proprietors and
merchants in
support of
R. Darling.

May it please your Excellency,

We, the undersigned, Landed Proprietors and Merchants, resident in the Colony, beg leave to approach your Excellency, with unfeigned expressions of duty and regard, and to state that, although we have hitherto remained silent, yet it has been with deep regret that we have long observed every measure of your Excellency grossly vituperated by licentious public writers in a manner calculated to inflame the minds of the lower orders of the community against your Excellency's Administration, and to produce discontent and insubordination among the prisoners of the Crown for no other purpose than to promote the interested views of such writers. As, however, we now find that charges against your Excellency have been forwarded to the Home Government, in the form of an Impeachment, we can no longer refrain from an expression of our sentiments.

It is but justice to state that we have long observed your Excellency patiently sacrificing your health and comfort by an indefatigable attention to the difficult and arduous duties of the important charge committed to your care by our gracious Sovereign.

And it is gratifying to us to acknowledge, amongst the important results of your Excellency's labours, many improved arrangements in the various public Departments of the Colony.

We are convinced that every act of your Excellency's administration has emanated from the purest motives, and, in the particular case upon which the Impeachment is founded, we feel confident that the measures adopted were not only judicious, but at that time imperative, and the result has been the most satisfactory.

We deny that the political opinions promulgated by the opposition journals are those of the more intelligent classes of the community, or that these publications form any criterion by which the justness of your Excellency's measures can be appreciated.

Having thus conveyed to your Excellency our feelings, we beg to express our sincere wish that your Excellency's measures may be justly appreciated by the Home Government, and that you may long continue in the administration of the high office you now fill.

JOHN JAMISON	L.D.*	JOHN MACARTHUR	L.D.
ROBERT CAMPBELL	M,	HANNIBAL H. MCARTHUR	L.D.
RICHARD JONES	M.	JOHN PALMER	L.D.

* *Marginal note.*—L.D., Landed Proprietor; M., Merchant.

1829.	WILLIAM COX	L.D.	J. H. WILDE	L.D.
7 July.	JOHN COGHILL	L.D.	JOHN WILDE, JUN.	L.D.
Address of landed proprietors and merchants in support of R. Darling.	CHAS. W. WALL	L.D.	H. C. ANTILL	L.D.
	EDWARD WOOLSTONECRAFT	L.D.	JAMES WALKER	L.D.
	JOHN MACLAREN	M.	ROBERT LAMBERT	L.D.
	WM. LAWSON	L.D.	J. W. GOSLING	L.D.
	JAMES NORTON	L.D.	JAMES WILSHIRE	M.
	GEORGE BUNN	M.	W. J. ELRINGTON	L.D.
	THOS. M'VITIE	M.	JOS. B. WELER	L.D.
	JAS. BRINDLY BETTINGTON	M.	PETER M'INTYRE	L.D.
	JOHN DICKSON	M.	A. WALKER SCOTT	L.D.
	ARTHUR POOLEY ONSLOW .	L.D.	HELENUS SCOTT	L.D.
	JOHN M'HENRY	L.D.	ALEXANDER M'LEOD (Lusk-	
	T. HORTON JAMES	M.	intyre)	L.D.
	R. C. PRITCHETT	M.	JAS. BLACK	M.
	JAMES ROBERTSON	M.	THOS. WILLFORD	L.D.
	JOHN HOSKING	M.	JAMES KING	L.D.
	WM. M'ARTHUR	L.D.	JAMES COBB	M.
	J. BARROW MONTEFIORE . .	M.	DUNCAN MACKELLAR	L.D.
	WM. COX, JUNIOR	L.D.	ARCH. MOSSMAN	M.
	JOSHUA JOHN MOORE	L.D.	THOMAS RAINE	M.
	MATTHEW HINDSON	M.	JOHN BELL	L.D.
	DAVID POOL	L.D.	JOHN DULHUNTY	L.D.
	THOMAS BARKER	M.	JOHN GILCHRIST	L.D.
	LACHLAN MACALISTER . . .	L.D.	HENRY DONNISON	
	WM. BROWNE	M.	GEORGE THOMAS SAVAGE .	L.D.
	JOHN WOOD	L.D.	GEORGE COX	L.D.
	J. H. POTTS	M.	HENRY COX	L.D.
	JOHN HARRIS	L.D.	WM. JOHNSTONE	L.D.
	GEORGE DRUITT	L.D.	DAVID PERRIER	L.D.
	ROBERT LETHBRIDGE	L.D.	JOHN PIPER MACKENZIE . .	L.D.
	ELLIS M. SCOTT	M.	WILLIAM H. KERR	L.
	GEO. THOS. PALMER	L.D.	GEORGE INNES	L.D.
	ALEXANDER BERRY	L.D.	GEORGE RANKEN	L.D.
	WARHAM J. BROWN	M.	THOS. F. HAWKINS	L.D.
	ALEX. BRODIE SPARK	M.	T. J. HAWKINS	L.D.
	THOS. ICELY	L.D.	ALEX. KENNETH MAC-	
	GEORGE SUTTOR	L.D.	KENZIE	L.D.
	JOHN LAWSON	L.D.	A. RANKEN	L.D.
	THOMAS JAMISON	L.D.	JOHN STREET	L.D.
	CHARLES S. MARSDEN	L.D.	JOHN BROWN	L.D.
	JOHN PALMER, JUN.	L.D.	CHARLES T. WARE	L.D.
	JAMES HASSALL	L.D.	RICHARD BROOKES	L.D.
	GEORGE BLAXLAND	L.D.	JOHN REDDALL	L.D.
	R. COPLAND LETHBRIDGE . .	L.D.	JOHN REDDALL, JUN.	L.D.
JOSEPH THOMPSON	L.D.	ARCHIBALD CAMPBELL	L.D.	
WILLOUGHBY BEAN	L.D.	THOMAS DEANE ROWE	L.D.	
JOHN BLYTH SUTTOR	L.D.	DAVID REID	L.D.	
W. H. SUTTOR	L.D.	ROBERT FUTTER	L.D.	
ROBERT JOHNSTON	L.D.	ANDREW GIBSON	L.D.	
GEORGE BALLARD VINE	L.D.	JAMES R. STYLES	L.D.	
T. W. M. WINDER	L.D.	WILLIAM MITCHELL	L.D.	
LESSLIE DUGUID	L.D.	WM. LEE	L.D.	
GEORGE ALLEN	L.D.	HENRY PERRIER	L.D.	
JOHN HAWDEN	L.D.	ROBERT BONNER	L.D.	
MAJOR ROHDE	L.D.			

[Enclosure No. 2.]

HIS EXCELLENCY'S Reply to the Landed Proprietors and
Merchants of New South Wales,

Gentlemen,

I have received, with sentiments of sincere satisfaction, the Address which you have done me the honor to present to me. The public expression of the sentiments of the independent Landed Proprietors and Merchants of this important Colony could not fail to be as gratifying to me, as it is honorable to the feeling which has dictated it on their part.

The Press has undoubtedly indulged itself to a most licentious and criminal extent in its endeavours to degrade the Government and excite public discontent. None but the ignorant, however, the slaves of popular clamour, have been deceived by the specious garb, "the freedom of discussion," which these writers have assumed. They are now making atonement to the injured laws of their country, and justice is satisfied.

It is, I confess Gentlemen, very gratifying to me that persons of your character and estimation, the most extensive Landholders and Merchants of the first consideration, should have come forward on this occasion to express the indignation you have felt at the exertions which have been made to injure my reputation.

As to the "Impeachment," a gross and absurd compound of base and incredible calumnies, it carries with it its own antidote, and furnishes ample means of judging of the character and motives of the author.

Gentlemen, you have not overrated my desire or my exertions to discharge the difficult and arduous duties of the important trust confided to me by my Royal Master. I have allowed no considerations of private convenience or comfort to interfere with the faithful performance of my public duty. I pledged myself to this when I first came amongst you; and, while I am capable of rendering you any service, the pledge shall be held sacred.

If, Gentlemen, there is any one part of your Address more gratifying to me than another, it is that wherein you "deny that the political opinions promulgated by the opposition journals are those of the more intelligent classes of the community." These journals have laboured incessantly to propagate a belief that they are the voice of the public, well knowing that they are not countenanced by any man of character or common respectability. The refutation of their assertions, in coming from you, is from the best source, the fountain head itself; and few will dispute with them the right or the honor of being the organ of those individuals whose sentiments and principles they have so zealously disseminated.

It is impossible, Gentlemen, I should not feel gratified at the expression of the wish with which you have been pleased to conclude your Address. Allow me to assure you, in closing my Reply, that, as long as His Majesty shall be pleased to consider my services desirable here, and they can be rendered useful to your interests and the general welfare and prosperity of the Colony, I shall be happy to devote them to those favorite and important objects.

I remain, Gentlemen, with sentiments of unfeigned regard,
your obliged and most faithful Servant,

Government-house, 4th July.

RALPH DARLING.

1829.
7 July.Reply of
R. Darling
to address.

[Enclosure No. 3.]

1829.
7 July.Address from
landholders in
district of
Hunter river
in support of
R. Darling.ADDRESS to His Excellency Lieutenant General Darling,
Governor in Chief, etc., etc., etc.

Sir,

We, the undersigned, His Majesty's loyal and dutiful subjects, the Landholders and Resident Proprietors of the district of the River Hunter, beg leave most dutifully and respectfully to approach you, our Gracious Sovereign's Representative, and to state that it is, with the deepest regret and unmixed Indignation, we learn that an Impeachment has been forwarded to England against your Excellency by people who, forgetful of the public good and only mindful of securing low popularity, while actuated by motives of revenge and self aggrandisement, have so often of late endeavoured to stir the public mind against the measures of your Excellency's Government.

We, feeling convinced that the Act on which the Impeachment is founded, emanated from your Excellency with the purest motives for the public good of this Colony and of His Majesty's forces therein, and that it was necessary and imperatively called for by the apparent circumstances of the times, regret that any person or persons could be found willing to disturb the mind of our respected Governor, whose sole study, intense thought, and unparalleled application, so directed to the public affairs of the Colony, deserved a far better reward, the thanks of our Sovereign and of us, the latter of which we feel pleasure in unfeignedly offering your Excellency, in the firm conviction that you will shortly be honoured with the former.

We could not fail to have admired the dignified silence with which your Excellency had so long treated the many wanton attacks that were made against the motives and measures of your Administration; and we feel convinced that, if your Excellency were pleased to have added thereto a contempt of such useless attempts to lower or bring into disrepute those measures, that your Excellency would have thereby foiled every endeavour made for that purpose, and have also silenced those factious demagogues who alone are found willing to impeach any act of yours.

With sentiments of the most profound respect and dutiful attachment, we are,

Your Excellency's most obedient and humble Servants,

J. REID.	ANDREW LANG.
FRANCIS MORAN, M.D.	EMANUEL HUNGERFORD.
A. TOWNSEND.	J. H. TOWNSEND.
WILLIAM THURLOW.	T. V. BLOOMFIELD.
W. INNES.	J. FALES.
W. EVANS.	G. A. MIDDLETON.
JAMES P. WEBBER.	JOHN P. WEBBER.
JAMES PHILLIPS.	E. G. CORY.
JOHN COBB.	GEORGE TOWNSEND, J.P.
ALEX. M'LEOD (Ratagan).	ALEXANDER PARK.
GEORGE WYNDHAM.	W. DUN.
S. L. HARRIS.	BERESFORD HUDSON.

[Enclosure No. 4.]

1829.
7 July.

HIS EXCELLENCY'S Reply to the Landholders and Resident Proprietors of the Lower District of the River Hunter.

Reply of
R. Darling
to address.

Gentlemen,

I am very sensible of the kind feeling which dictated the letter you have been so good as to address to me, in consequence of the "Impeachment," as it is designated, to which you allude; but which, in fact, is the act of one solitary individual, and not, as you appear to suppose, of any number or body of men.

As to the attacks of a licentious Press, every man of character must disregard them, though the public good requires they should be repressed. That the public measures are aspersed by the journalists, to whom you allude, is at least some proof of their merit.

I assure you, Gentlemen, it is very gratifying to me to find that my exertions to serve the public are so warmly acknowledged by the respectable inhabitants of your valuable district. The satisfaction, I derive from this circumstance, infinitely outweighs any disappointment I could experience from the efforts of the infatuated incendiaries who have attempted to assail my character, as they have the characters of many others, and to disturb the Colony. My endeavours to promote its best interests will, I trust, defeat their designs, though I can entertain no hope that such men will ever cease to condemn the proceedings of a Government, which does not avail itself of their willingness to espouse its cause and advocate its measures.

I remain, Gentlemen, with my best wishes for your happiness and prosperity.

your sincere friend and faithful Servant,

Government House, 6th July.

RALPH DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Lucy Davidson.)

Sir,

Downing Street, 8th July, 1829.

8 July.

With reference to my letter of the 3rd of June last, I am directed by Secretary Sir George Murray to transmit to you the enclosed copy of a letter from the Secretary of the General Commanding in Chief, and I am to desire that you will make to Surgeon Thomas Forster a Grant of Land on the terms, on which it is usually held by Officers who have served in the Army; and that you will observe the same rule in the case of every Military Surgeon on half pay, who may proceed under such circumstances to settle in the Colony.

Recommendation of
T. Forster for
land grant.

I am, &c.,

H. TWISS.

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY TWISS.

Sir,

Horse Guards, 4 July, 1829.

Having laid before The General Commanding in Chief your letters of the 30 ultimo relative to Mr. Fletcher Wells, Surgeon on the half-pay of the 23d Lancers, and Mr. Thomas Foster, Surgeon on the half pay of the 14 Light Dragoons, I am directed to acquaint

1829.
8 July.
Recommendation of
T. Forster for
land grant.

you for the information of The Secretary of State that these Gentlemen proceed to New South Wales as Settlers, and Lord Hill is of opinion that they should have the same advantages, as other officers upon halfpay emigrating to the Australian Settlements, according to the General Order* of the 16 May, 1827, which states "that Officers of all Ranks on Half pay are eligible to enjoy the Advantages offered by the General Order of the 8 June, 1826."

I have further to state, for the Information of Sir George Murray, that Surgeons Rank in the Army as Captains.

I have, &c.,
FITZROY SOMERSET.

UNDER SECRETARY HAY TO GOVERNOR DARLING.†

10 July.
Recommendation of
F. Thompson.

My dear Sir, Downing Street, 10th July, 1829.
At the request of Lord Granville Somerset, I beg to introduce to you the bearer of this letter, Mr. Frederick Thompson, who is about to proceed to Sydney. He is connected with Mr. Homfray, an Iron Merchant on an extensive scale. I have told Lord Granville that I could hold out no hopes of employment for Mr. Thompson, but that I would recommend him to your good offices.

Yours, &c.,
R. W. HAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.†

13 July.
Recommendation of
F. Thompson.

My dear Sir, Downing Street, 13th July, 1829.
I beg to introduce and recommend to your protection the bearer of this letter, Mr. Frederick Thompson, who is about to proceed as a Settler to New South Wales. I have no personal knowledge of Mr. Thompson; but, as the character, which has been given of him by the Lord Mayor (whose letter I enclose), is a very favorable one, I have no doubt he will prove a valuable acquisition to your settlement; and as such I feel assured that you will be disposed to serve him as far as you can do it consistently with the Regulations.

I remain, &c.,
HORACE TWISS.

[Enclosure.]

[A copy of this letter is not available.]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch delivered by Sir E. Parry.)

14 July.
Instructions re land for
A.A. company.

Dear Sir, Downing Street, 14th July, 1829.
An application has been made by the Australian Company to Sir George Murray to permit an alteration in the Boundaries of the land,‡ set out by Mr. Dawson and Mr. Oxley at Port Stephens. As it is not improbable that this application will be acceded to, Sir George Murray directs me to acquaint you that there will be no objection to your allowing Captain Sir William

* Note 33.

† Note 7.

‡ Note 34.

Edward Parry, who is the bearer of this letter, to proceed immediately with any survey he may wish to make of land to be substituted in any other situation, it being always understood that, should this application of the Company be finally disallowed, any survey so made by Sir W. E. Parry is to be considered as if it had never been made or authorised. The quantity of substituted land, which you may allow him to survey, must not exceed 600,000 Acres, and it must either adjoin the land reserved at Port Stephens out of the existing location, or must be in some one or two and not more than two other locations, so that there shall not be in all more than three locations, Port Stephens included.

I have, &c.,
 HORACE TWISS.

1829
 14 July.

Instructions
 re land for
 A.A. company.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Morley.)

Dear Sir,

Downing Street, 15th July, 1829.

15 July.

I have had the honor to receive your letter of the 28th of January, respecting a Settler named Michael Hyam, whom I had recommended to you at the request of the Chancellor of the Dutchy of Lancaster.

Despatch
 acknowledged
 re M. Hyam.

I am glad to perceive that you have not dispensed in the case of this Settler with any established Regulation, and I should not have now troubled you with any observations in reply, had I not been anxious to take advantage of the opportunity, which it affords me, of requesting that you will not consider it to be the object of any recommendations of the nature of that furnished to Michael Hyam to obtain for the parties any favor, which their situation or circumstances may not fairly entitle them to expect.

Object of
 letters of recom-
 mendation.

I have, &c.,
 HORACE TWISS.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per brig Ionia and ship Alice.*)

Dear Sir,

New South Wales, 15th July, 1829.

I beg to inform You, in reply to Your Letter of the 15th of December last, enclosing one which had been addressed to You by Sir George Cockburn, that the second Son of the late Mr. Balcomb possesses no means of bringing Land into Cultivation, and is further ineligible to receive a Grant of Land, being a Clerk in the Commissariat. Feeling desirous, however, to assist the family, I directed soon after the death of Mr. Balcomb that the eldest son, who has hitherto managed and resided on his Father's Property, should receive a Grant. I have, &c.,

Land withheld
 from second
 but granted
 to eldest son of
 W. Balcombe.

RA. DARLING.

1829.
16 July.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Morley.)

Sir,

Downing Street, 16th July, 1829.

Instructions
re land grant
at Newcastle
for T. Potter
Macqueen.

I am directed by Secretary Sir George Murray to transmit to you the enclosed copy of a communication which was addressed to this Department by Mr. T. Potter Macqueen in the year 1826, containing a request that his Agent Mr. McIntyre might be put in possession of 10 Acres of land on the North side of the Harbour in the neighbourhood of Newcastle for the purpose of erecting Warehouses.

By the enclosed copy of the answer which was at that time returned to this application by Mr. Hay, you will perceive what were the intentions of Lord Bathurst with regard to it. As, however, considerable delay has already taken place, Sir George Murray is disposed to avoid the further loss of time, which might be occasioned by an unnecessary reference home, and, therefore, desires that, if it should appear to you that a compliance with the request of Mr. Macqueen will not be in any way prejudicial to the interests of the Colony, you will put Mr. Macqueen's agent in possession of the land accordingly; but, if you should entertain any doubt on the subject, you will transmit a report for Sir George Murray's consideration.

I am, &c.,

HORACE TWISS.

[Enclosure No. 1.]

MR. POTTER MACQUEEN TO EARL BATHURST.

My Lord, Ridgement House, Woburn Beds, 3d June, 1826.

Application
for land grant
by T. Potter
Macqueen.

Being obliged to quit Town somewhat earlier than I had expected in consequence of the general Election, I am under the necessity of addressing your Lordship by letter instead of seeking the honor of a few minutes' personal conference.

By advices recently received from New South Wales, I learn that, altho' after much demur my Agent Mr. McIntyre has been placed in possession of 10,000 acres in conformity with your Lordship's Instructions, Still that the Minor Grant of 10 Acres in the Harbour of Sydney was refused by the Colonial Secretary upon the ground that the situations were required for the public Service.

The Grant in the Interim is on a branch of the Hunter's River about 90 Miles from Newcastle; and, as it is evident that that place must become the Sea Port most contiguous to the Estate, I venture to submit a request to your Lordship that instead of the proposed Grant of 10 Acres at Sydney, I may be indulged with a like quantity on the North Side of the Harbour in the neighbourhood of Newcastle, where I have reason to believe there is abundance of Space.

I have the satisfaction of adding, for your Lordship's information, that the cultivation of the first Grant of 10,000 Acres is proceeding with great rapidity and success. Two mills, one for Corn, another for Flax, are in course of erection, and Mr. McIntyre reports favorably of the conduct of the Convicts in his employment.

I have, &c.,

T. POTTER MACQUEEN.

[Enclosure No. 2.]

1829.
16 July.

UNDER SECRETARY HAY TO MR. POTTER MACQUEEN.

Sir, Downing Street, 8th June, 1826.

I have received the direction of Earl Bathurst to acknowledge the receipt of your letter, dated the 3d instant, submitting the request that, in addition to the 10,000 acres of land which you have already received in New South Wales, you may be put into possession of a Grant of Ten Acres on the North side of the Harbour in the Neighbourhood of Newcastle, as the sea port most contiguous to that part of the Country where your land is situated. Lord Bathurst has desired me to acquaint you in reply that he does not feel himself at liberty to give any directions on the subject of your application without a previous reference to General Darling, to whom your letter will accordingly be forwarded. His Lordship however cannot refrain from observing that a Grant of ten Acres immediately bordering on a spot, which at no distant period will become a place of considerable importance, will be extremely objectionable; for it may not only interfere with the public Service, but be detrimental to the Interests of the Colonists, when that part of the Colony shall become generally located; and Lord Bathurst cannot therefore but entertain very great doubt as to the expediency of making to you a Grant in that quarter.

Request to be referred to R. Darling.

Criticism of application.

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

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 125, per ship Morley; acknowledged by Governor Darling, 30th December, 1829.)

Sir, Downing Street, 17th July, 1829.

17 July.

His Majesty's Government having given their consideration to the representations contained in your despatch of the 18th of February last, as to the difficulty which has been experienced in disposing of the Female Convicts, the Settlers refusing to receive them as assigned Servants, and the Government not possessing fit places within which to confine them, I am induced to recommend to your consideration the adoption of a regulation for remedying this inconvenience. It has appeared to me that, by compelling every Settler to take off the hands of Government one Convict Woman for every two or even for every three Convict Men, who may be assigned to him, there would be effected not only a saving of the heavy expense, which the maintenance of all unassigned Prisoners occasions to the Public, but a great Moral improvement of the unfortunate Females themselves, and a material advance towards the prevention of those mischiefs, which their exportation was intended to remedy.

Difficulty in disposing of female convicts.

Regulation proposed for compulsory assignment of female convicts.

Although it is to be apprehended that the measure may, at first, be unpopular by the obligation on the part of the Settler to take charge of a proportion of these Women, yet I am willing to hope

1829.
17 July.
Regulation
proposed for
compulsory
assignment of
female convicts.

that the good sense of the majority of the Inhabitants will point out to them the prospective benefits to be derived to the Community from it; and I am, therefore, desirous, if you see no serious objection, that the experiment should be tried. You will consider yourself at liberty to modify the proposed arrangement in any way, which you may deem expedient, particularly by diminishing the number of the Female, as compared with the Male Prisoners, whom the Settler is to be bound to take, if you should think it unadvisable to fix the proportion at the rate I have mentioned.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

18 July.
Recommendation in favor of
A.A. and J.
Alderson.

Dear Sir, Downing Street, 18th July, 1829.

I beg to recommend to your protection and good offices Mr. Adam Abel and his brother Mr. James Alderson at present residing in New South Wales, and respecting whom the enclosed Memorandum has been put into my hands by Sir Henry Hardinge. I shall be obliged to you to afford them any facilities, which it may be in your power, consistently with established Regulations, to render.

I remain, &c.,
HORACE TWISS.

[Enclosure.]

[A copy of this paper is not available.]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Claudine.)

19 July.
Appointment
of J. Edwards
as assistant
surveyor.

Sir, Downing Street, 19th July, 1829.

This letter will be presented to you by Mr. John Edwards, whose appointment as Assistant Surveyor in New South Wales was notified to you by Sir George Murray's despatch of the 20th ultimo.

I remain, &c.,
HORACE TWISS.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

21 July.
Recommendation of
M. Pearcy.

My Dear Sir, Downing Street, 21 July, 1829.

I beg to recommend to your protection and good offices Mr. Matthew Pearcy, who is about to proceed as a Settler to New South Wales, and I shall be obliged to you to afford him any facilities which it may be in your power consistently with established Regulations to render.

I remain, &c.,
H. TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 126. per ship Morley.)

1829.
22 July.

Sir, Downing Street, 22nd July, 1829.

I have the honor to transmit to you the copy of a communication, which has been received at this Department from Vice Admiral Durham, with an application from Mr. Nicholson, the Master Attendant at Sydney, for an addition to the grant of land which he already possesses in New South Wales; and with reference to my despatch, No. 9 of the 22nd of June, 1828, I am to request that you will furnish me with a Report as to the services and pecuniary circumstances of Mr. Nicholson.

Transmission
of letter.

Report
required *re*
J. Nicholson.

With reference to the application of Mr. Nicholson to be allowed to participate in the advantages held out by the Admiralty Regulations to Officers of the Navy emigrating to the Australian Colonies, you will acquaint that gentleman that, as those advantages extend to such persons only as actually emigrate under the provisions of the Regulations in question, and that, as he does not appear to come under that description of Settlers, I do not feel authorised to comply with this application.

Refusal of
application by
J. Nicholson.

I am, &c.,

G. MURRAY.

[Enclosure.]

VICE-ADMIRAL DURHAM TO ———.

Sir, Fordel, 20th July, 1829.

I have the honor to enclose to you an extract of a letter from Mr. Nicholson, Master Attendant at Sydney, New South Wales, who was several years under my command and is a very deserving Officer, by which you will observe he is desirous to have a further grant of land. "I am now in possession of 2 small Grants about 100 Miles from Sydney, one given me by the late Genl. Macquerie for my public services to the Colonial Government during his Administration and particularly for saving a Government Vessel which had been Wrecked at Port Macquerie at its first formation in 1821. The other is from Sir Thomas Brisbane for services during his Government, so that I have had no indulgences during the Administration of our present Governor. My Services in the Navy is nearly 25 years; with my large increasing family, I think I am entitled to the same as other Officers of the same standing. I know a good deal may be done, if you will favor me with your Interest at head quarters, and, whatever may be done in this way, it would be most desirable to order direct from home, altho' I know his Excellency General Darling is well disposed to serve me with all his power. He is a most Excellent man, and always feels a desire to serve those that are faithful to his Government. My youngsters will soon be entitled to some indulgence, the oldest being 11 years, and I mean to make Farmers of them as soon as I can. They have all got 3 or 4 Cows each now."

Request by
J. Nicholson
for additional
land grant.

Sir, I am, &c.,

P. C. H. DURHAM, Vice Admiral.

1829.
27 July.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 86, per brig Ionia and ship Alice; acknowledged by Sir George Murray, 6th April, 1830.)

Sir, Government House, 27th July, 1829.

Having been informed by the Gentlemen Composing the Deputation, who presented the accompanying address, that it was their intention to forward a copy of it to you, it appeared at the moment unnecessary for me to trouble you on the subject. I now do so merely to point out what those Gentlemen could not of course mention, that it is signed by the principal and most respectable Land Proprietors and Merchants in the Colony, that pains were taken to confine it to these two Classes, and that no Individual in the employment or pay of the Government (the Civil Officers forming no inconsiderable portion of the respectable part of our community) was permitted to put his name to it. The Signatures, I understand, would have been much more numerous, but it would have been difficult to have found means of sending the address through the Country, without its receiving names which the originaters of it were desirous should not be affixed to it; Conceiving that the Signatures of the principal Proprietors and Merchants gave it a more important Character than if more numerously subscribed by other Classes.

This, however, is not the point to which I am more particularly desirous of drawing your attention. It is to the effect likely to be produced by the principal Inhabitants of the Colony uniting in a Body to express their Sentiments with respect to the conduct of the Press and the manner in which the measures of the Government have been calumniated. I trust that the result will be beneficial and that the opposition Press and the Individuals, by whom it has been supported, seeing that they are openly discountenanced by the most respectable Members of the Community, will discontinue their efforts to disturb the public tranquillity and that good order will be permanently established.

The imprisonment of the Editors* of the "Sydney Monitor" and the "Australian," both of whom are now in Jail for Libels, cannot fail to conduce to this desirable end, and I sincerely trust it will not be necessary for me again to trouble you with such representations as it has unfortunately for some time past been my duty to make.

I avail myself of the opportunity of informing you before closing my Despatch, that the present state of matters affords the best grounds for these expectations; and, as the Colony is in some measure recovering from the effects of the long and severe

Preparation of
address to
R. Darling.

Probable
influence of
address.

Imprisonment
of editors for
libel.

* Note 32.

Drought with which it has been visited and Trade is assuming a more wholesome Condition, I trust they will ere long be realised.*

1829.
27 July.

I have, &c.,

RA. DARLING.

[Enclosures.]

[Copies of these addresses will be found on page 71 et seq.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 87, per brig *Ionía* and ship *Alice*.)

Sir, Government House, 28th July, 1829.

28 July.

Having informed you in my Despatch of the 5th of May last, No. 54, that the Trial of the Pirates, who had been captured by His Majesty's Ship *Satellite*, was about to take place, I feel it my duty to report the result for your information.

Transmission
of papers *re*
trial of
pirates from
Shoalhaven.

It appears that the Attorney General did not proceed against these Men for the Act of Piracy, of which they had been guilty, but for a Larceny; and they were in consequence adjudged to Seven Years' Transportation only.

Feeling how important it was in a Colony of this description that the Convicts should be made aware that no pains would be spared to bring them to punishment, should they attempt to escape, I considered myself fortunate in inducing Captain Laws to proceed in pursuit of the Men in question, and I confess that my disappointment at the course adopted for their Trial has been proportionate.

When I last had the honor of writing to you on this subject, I had seen the Attorney General, who informed me that the necessary measures were then in progress for the Trial of these Men for the Piracy. I heard no more of the matter, until I saw the Report of the Trial in the Newspapers, when I sent for Mr. Baxter, and, pointing out to him the ill effects likely to result from the proceeding, desired, if consistent with the Law, that the Men might still be proceeded against as Pirates. He observed that some pledge had been given, or observation made in Court, that would prevent their being again brought up for that offence.

Conceiving it proper that you should be put in possession of the facts of the case, I acquainted the Attorney General of my intention of writing to you on the subject, and requested he would furnish me with a Report for that purpose, a copy of which I do myself the honor to transmit for your information. As the matter however appeared to require further elucidation, I deemed it necessary to apply to Mr. Justice Dowling, who presided at the Trial, for his report of the proceedings, a copy of which I

* Note 36.

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have also the honor to enclose herewith. This Report is so full, and states the particulars of the Piracy so circumstantially and the opinion of the Judge as to the nature of the offence of which the Men had been guilty, that it cannot be necessary for me to trouble you with any observations on the subject.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

ATTORNEY-GENERAL BAXTER TO GOVERNOR DARLING.

Sir, Court House Chambers. 1st July, 1829.

Report by
A. M. Baxter
re trial of
pirates.

In reply to your Letter of the 13th ult. requiring a Report of the Trial of the Pirates, who were Apprehended by Captain Laws of His Majesty's Sloop Satellite, I have the honor to inform Your Excellency that, from the nature of the Evidence adduced against them, it appeared to the learned Judge, who presided at the Trial, as well as to myself, not to be a case which would have inferred the Punishment consequent upon an Indictment for Piracy; It having appeared that the parties, who were then tried, were not mainly instrumental in the Capture and Piracy of the Vessel feloniously taken from Shoal Haven, but were most of them compelled to join other parties, who were the Ringleaders (who have not hitherto been apprehended) and who are the proper subjects of the Capital Charge. They were therefore tried under Statute 7 and 8 Geo. 4, c. 28, S. 12, which makes the Stealing from a Vessel lying in a Creek an Offence punishable by transportation for Life. At the Trial however, on behalf of the Prisoners, an objection was taken by the learned Judge to the higher Charge contained in the information. His Honor having ruled that, as the Offence contained in the information was Committed in December, 1827, that the New Statute not having arrived in the Colony could not apply to it and directed the Jury to find a Verdict for a Larceny at common Law. His Honor suggested subsequently from the Bench that from the Evidence which had been gone into at the Trial, that the Prisoners should be relieved from any future prosecution on the Capital Charge of piracy, it appearing that they were less Guilty than the other parties not before the Court.

I have, &c.,
A. M. BAXTER, Attorney General.

[Enclosure No. 2.]

REPORT by Mr. Justice Dowling on proceedings at trial of
J. Hackett and others.

In the Supreme Court, New South Wales.

Criminal Sessions.

Wednesday, 3rd June, 1829.

BEFORE James Dowling, Esqr., Assistant Judge.

The Prisoners, *John Hackett, Patrick Foley, Peter Donahoe, James Cancs* and *John Sweeney* were arraigned upon an Indictment at common Law, charging them with piratically and feloniously stealing, taking and carrying away a certain Brig or Vessel, called the

Report by
J. Dowling
on trial of
pirates.

Phæbe, belonging to Alexander Berry and Edward Wollstonecraft, Esquires, on the High Seas on the 14th December, 1827.

To this Indictment, the Prisoners pleaded not Guilty.

After the Prisoners had pleaded, and before the Jury was sworn,

Mr. *Attorney General* informed me that, in his Judgment, he had not the means of establishing the charge of Piracy, inasmuch as the Offence was not committed upon the high Seas. He, therefore, suggested that it would be a waste of time to go through a long detail of proofs, if in the result the Prisoners must be acquitted of Piracy. Under such circumstances, he prayed leave to quash this Indictment with a view to indict the Prisoners for Stealing certain Property on board the Vessel in question contrary to the Statute.

I told the *Attorney General* that of Course he was the best Judge of his own case, having, I presumed, duly considered the force and effect of the depositions before him, and to which I had not access. If, upon due consideration, he was of Opinion that the charge of Piracy could not be substantiated, certainly there would be no use in going on with this case. I was entirely in his hands and must be governed by his intimation as the Public Prosecutor.

The *Attorney General* repeated that in his Opinion the Offence of Piracy could not be made out.

I therefore directed the Indictment to be quashed, and informed the Prisoners that they were to be again indicted for an Offence, which would not affect their Lives.

The Prisoners were then arraigned upon a second Indictment, which charged them with Feloniously Stealing, on the 14th day of December, 1827, 8,500 feet of Cedar of the Value of £100, the Goods and Chattels of Alexander Berry and Edward Wollstonecraft, Esqrs., then being in and on board a certain Brig or Vessel called The *Phæbe* in the Territory of New South Wales in the Port of Entry, there situate, called Shoal Haven Port, contrary to the form of the Statute, etc.

To this Indictment, the Prisoners severally pleaded Not Guilty.

The Jury having been Sworn and Charged with the Prisoners,

Mr. *Attorney General* stated the case and called the following Witnesses—

ALEXR. BERRY, ESQR., sworn:—I am a Merchant in Sydney. In December, 1827, I received information that a Number of my Assigned Servants had conspired to carry away a Vessel from Shoal Haven, belonging to my Partner Mr. Edward Wollstonecraft and myself. I went down to Shoal Haven, where my Partner and myself have a large Farming Establishment. I left Sydney on the 14th, and I arrived on the 16th December, and found that fifteen of my Men had absconded the day previously. All the Prisoners now at the Bar except John Sweeney had been Assigned Servants to us, and they were missing. I missed a Vessel called the *Phæbe*, containing a Cargo of 8,000 feet of Cedar of the Value of £100, the property of myself and Partner.

JOHN SMITH, sworn:—I am Assigned Servant to Messrs. Berry and Wollstonecraft. I was employed by them at Shoal Haven in December, 1827. They had a Vessel called the *Phæbe* loaded with Cedar going to Sydney. The Prisoners were all Assigned Servants to my Masters. On the Morning of the 15th of December at break of day, I went on board the *Phæbe* with the Prisoners; I saw her wreck afterwards on an Island called Mioke, one of the Society

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Islands. I went with the Prisoners to the Society Islands in the Phœbe. About five Months afterwards, I saw the Vessel wrecked on Mioke; I was heaved overboard by Taggart, one of the Men, at a place called Rhiatea, one of the Society Islands. Three of the Prisoners were put on Shore at an Island called Tar. The others were put on Shore at Mobittie. The Provisions fell short, and the Crew drew lots, who should be put ashore. I was put overboard at Rhiatea for fear that, if she should go Otahiete, I should say she was a stolen Vessel. The Cedar was given out among the Natives at Mobittea, one of the Leward Society Islands. This was to get Provisions. The Prisoners were on board, when the Vessel was got out of Shoal Haven. She was taken from Crook Haven. The Farm is called Shoal Haven. The Prisoners were present when the Cedar was divided among the Natives. The Phœbe was in the employment of Messrs. Berry and Wollstonecraft. We intended to go to America. We had a good Map. I have been to sea. The Prisoners are all Irishmen. I came out to this Country for Shoplifting in Dublin. I was forced to go on board the Phœbe by the others.

Cross examined by the Prisoner Peter Donahoe.—The Prisoner Donahoe was one of the Persons who went on board. He made no resistance. Nor did I make any resistance. We had 56 Bushels of wheat, a little Pork, two tons of New Zealand Potatoes, three Pigs, and Seven Casks of Water. Hunter, one of the Men, said he would go to America in 25 days.

Cross Examined by the Prisoner John Sweeney.—The Prisoner Sweeney was taken away forcibly by Taggart. He was made to carry a Box by Taggart. I was sent over from Tar by the Natives to Rhiatea, where I was picked up by the Crew of the Satellite. I have been in this Colony three Years. I have had no Promises held out to me for the Evidence I should give here today.

The other prisoners put no questions to the Witness.

JOHN HENRY SMITH, Sworn:—I was employed by Messrs. Berry and Wollstonecraft at Shoal Haven in December, 1827, in measuring Cedar for them. On the 15th day of December, 1827, the Phœbe, then in the employment of Messrs. Berry and Wollstonecraft, laden with Cedar for Sydney, was carried away about Six in the Morning by 15 of their Assigned Servants. All the Prisoners were on board. I am sure there was Cedar on board when the Vessel went away. The Cedar belonged to Messrs. Berry and Wollstonecraft. I was in a Hut close to where the Vessel was loaded. Two Men came to me, and one of them presented a Pistol at me and desired me not to move. I was employed by Messrs. Berry and Wollstonecraft in measuring Cedar and loading the Vessel. One of the Men went into the Hut and took a Musket. In the mean time, two other Men went on board the Phœbe. They then shouted, and two Boats came from round the Point. The Prisoners and the other Men were in the Boats. I saw the Prisoners go on board the Phœbe. She was between 24 and 25 Tons burthen. The Prisoners made no attempt to resist going on board. I could see every one of them distinctly. I was then ordered on board the Vessel. I went, and I was then ordered into a Boat. I went into the Boat with four or five other Men to pull the oars. They then brought me back again on board. I was then desired to pilot the Vessel safely to the Heads. I did so. When she came to the Heads, they anchored. The Prisoner Sweeney was one in the

Boats. I saw no force used in making the Prisoners go on board. They then brought a Quantity of Wheat off from Shore in two Boats. This belonged to Messrs. Berry and Wollstonecraft. They then hauled the Anchor up and attempted to go out of the Heads. I was then ordered into one of the Boats to assist in towing her out. In going out, she got betwixt two Rocks that they did not know of. After passing the heads, they sent us back, that is, three Men belonging to the Vessel and myself and two Sawyers. Taggart and two Men named Bowes were the principal persons in carrying away the Vessel. The Prisoners appeared to be willing to go. I was brought up to the Sea. Taggart wanted me to go with him.

Cross examined by Sweeney.—I saw Sweeney go into a Boat to pull one of the Oars. There were several who could not pull. I cannot say I saw Sweeney pull the Oars.

THOMAS MALY:—I was in the employment of Messrs. Berry and Wollstonecraft at Shoal Haven on Board the Phoebe loaded with Cedar; I was coming up in the Vessel to Sydney. Some of the Prosecutor's Servants came and took the Vessel from where she was taking in her Cargo; the Prisoners came on board, and took the Vessel along with the rest of the Party. They kept me on board till they went outside the Heads, and sent me back again in a Boat.

MICHAEL KEARNS, Sworn:—I was overseer in December, 1827, to Messrs. Berry and Wollstonecraft. I remember the Prisoners (who were under me) eloping on the Morning of the 27th of December, 1827, on board the Phoebe. We missed them from their duty on the Morning of the 15th, the day the Vessel was taken. John Smith was one Man who went away. Taggart misled the other Men. The two Bowes, Norton and Taggart were the principals. These Men were out and outers. The Prisoners now at the Bar were ignorant poor fellows. The Prisoners were very attentive to their Work on the Farm. Some of them have been in this Country 18 Months, others 15 Months. They were always well behaved industrious Men. I think the Prisoners were seduced by the Men I have mentioned. The Prisoners are not Seamen; They were brought up as Agricultural Labourers. Smith was a bit of a Seaman. I have been for Six Years in the employment of the Prosecutor.

Here the case for the Prosecution was closed.

The Prisoners were severally called upon for their defence.

Hackett, Foley, Donahoe and Canes said nothing.

John Sweeney said "I was taken away by force by Taggart."

No Witnesses were called by the Prisoners.

I then Summed up the Case for the Jury, premising that it was most fortunate for the Prisoners that they had not been tried on the Charge of Piracy, for most undoubtedly there was abundant Evidence, as it turned out, to have supported the case in point of Law. Probably Mr. Attorney General was not aware that such facts would have been disclosed, as now came out in Evidence. I was, however, bound to presume that he had exercised a sound discretion in not submitting to the Court a case, which he conceived must have ended in an acquittal. Had I been apprised of the fact that the Vessel had been actually carried off, I should, in the discharge of my duty, directed the case to proceed; for, although the first taking was in a *Harbour*, yet the subsequent carrying out upon the *high Seas* made the Offence Piracy in all persons concerned in the taking of the Vessel. It was now too late to resort to that part of the

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transaction. The question now was whether the Prisoners, all or any and which of them, were privy to the taking of the Cedar mentioned in the Indictment. If the Jury thought that the Prisoners were forcibly taken away in the Vessel against their free Will, then I apprehended they would be entitled to an acquittal, because that would negative a felonious intention on their part. If, however, they should be of opinion that all the Prisoners, though at first disinclined to join in the Act of taking the Cedar, yet afterwards consented to go away with it, their conduct would bring them within the Scope of this Indictment. I then recapitulated the whole of the Evidence.

The Jury found all the Prisoners Guilty of Larceny.

Saturday, 6th June, 1829.

On this day, the Prisoners were brought up for Judgement, and, after conferring with the other Judges upon the case, I ordered the Prisoners to be severally transported to such penal Settlement as His Excellency the Governor should direct and Appoint for the term of Seven Years.

JAMES DOWLING, Assistant Judge.

Sydney, 11th July, 1829.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 88, per brig Ionia and ship Alice; acknowledged by Sir George Murray, 24th February, 1830.)

Sir,

Government House, 29th July, 1829.

29 July.
Transmission of
memorial from
Jane Balcombe.

I have the honor to transmit for your consideration the enclosed Copy of a Memorial from Mrs. Balcombe, Widow of the late Treasurer, praying to be allowed a Pension on Account of her Husband's Services.

Quarterly
allowance
granted.

In consequence of the embarrassed State of Mr. Balcombe's circumstances, I brought the subject under the Consideration of the Executive Council, and I do myself the honor to transmit for your information an Extract from the Minute of the Proceedings in the case, and to acquaint you that, in consequence of "the state of utter destitution," in which Mrs. Balcombe and her Daughter have been left, I have with the Advice of the Council authorized a Quarterly Allowance of Thirty Pounds being made to her, until I am honored with your Orders on the subject.

I have, &c.,

RA. DARLING.

Occupations
of sons of
W. Balcombe.

P.S.—It may be proper to add that Mr. Balcombe left three Sons unprovided for. I have lately given the Eldest, who is an Agriculturist, a Grant of two Square Miles of Land. The Second Son is employed as a Clerk in the Commissariat and the youngest as a Clerk in the Office of the Supreme Court.

R.D.

[Enclosure No. 1.]

THE RESPECTFUL MEMORIAL OF JANE BALCOMBE.

To His Excellency Lieut. Genl. Ralph Darling, Captn. General and Governor in Chief of New South Wales, etc., etc., etc.

Sheweth.

That your Memorialist is the Widow of the late William Balcombe, Esqr., who departed this life on the twentieth day of March last.

That her late Husband obtained the Appointment of Colonial Treasurer in this Colony from Earl Bathurst, the then Secretary of State for the Colonies, as a Compensation in part for very heavy pecuniary losses, which he had sustained in the Government Service at the Island of Saint Helena, and that Your Memorialist lived only to fill the office for the space of five years.

That, at the time of Mr. Balcombe's decease from the short period he enjoyed the appointment, his Widow and family find themselves in a situation perfectly destitute of the means of support, the whole of his property, which consisted principally of live Stock, having been appropriated to the payment of his Creditors at a very considerable loss on the purchase Money of them, owing to the late unprecedented depreciation thereof.

That your Memorialist finds herself, at an advanced age, totally unprovided for with a large family, some Members of which, from unfortunate circumstances, are dependent on her without any means of support.

Your Memorialist respectfully begs leave to call Your Excellency's attention to the propriety of her being allowed, as the Widow of an old public officer, such pension as to Your Excellency, under the painful circumstances detailed in this Memorial, shall seem fit. And Memorialist will ever pray.

JANE BALCOMBE.

[Enclosure No. 2.]

EXTRACT of Minute No. 30 of the Proceedings of the Executive Council on the 28th July, 1829, when there were present:—

HIS EXCELLENCY the Governor; The Venerable The Archdeacon; The Honble. the Colonial Secretary: The Honble. Col. P. Lindesay.

His Excellency the Governor then laid before the Council a Letter from Mrs. Balcombe, Widow of the late Colonial Treasurer, requesting, in consequence of the unfortunate state of affairs in which she and the family have been involved by his death, that His Excellency would be pleased to recommend her to the Home Government for a Pension according to the situation Mr. Balcombe filled: and in the mean time, as she was perfectly without resources, that a quarterly advance be made to her.

The Council recommended that Mrs. Balcombe's application be referred to H.M. Government, and, in the mean time, in consideration of the state of utter destitution of herself and family, that she be allowed a quarterly advance of Thirty Pounds (£30) which, though quite inadequate to the exigencies of the case, is all that the Council feel, under the circumstances, at liberty to propose."

A true Extract:—E. DEAS THOMSON, Clk. of Council.

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29 July.Memorial
soliciting
pension from
Jane Balcombe.Quarterly
allowance for
Jane Balcombe
recommended
by executive
council.

1829.
30 July.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 127, per ship Morley.)

Sir,

Downing Street, 30th July, 1829.

Death sentence
on M. Miller to
be commuted to
transportation
for life.

I have the honor to acknowledge the receipt of your Despatch No. 136 of the 11th of December last, with its Enclosures, containing the proceedings in the case of Matthew Miller, who was convicted of Murder at New South Wales; and, having referred this case for the consideration of the Secretary of State for the Home Department, I have to acquaint you that Mr. Secretary Peel has stated it as his opinion that the Capital Sentence of the Law ought to have been carried into execution, no grounds being alleged sufficient to warrant a mitigation of the Capital Sentence in so aggravated a case of Murder. Mr. Peel further states his opinion that the most severe punishment next to death, which can be imposed on the Prisoner, ought to be inflicted, and he has therefore submitted to His Majesty a Pardon commuting the Prisoner's Sentence to Transportation of life, either to Norfolk Island or to such other Penal Settlement as you think fit.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 141, per ship Dunveagan Castle.)

1 Aug.

Sir,

Downing Street, 1st August, 1829.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your despatch No. 32 of the 20th of March last, notifying the death of Mr. Balcombe, Colonial Treasurer at New South Wales.

Appointment of
C. D. Riddell
as treasurer.

I approve of the arrangement which you have made for the temporary execution of the duties of that Office, and I have to acquaint you that His Majesty has been pleased to appoint Mr. Campbell Drummond Riddell permanently to succeed to it.

Mr. Campbell is at present engaged as a Commissioner of Enquiry in the Island of Ceylon, and he will proceed to New South Wales immediately on the arrival in the former Colony of Mr. Cameron, the Gentleman who has been appointed to succeed him there.

Securities
given for
C. D. Riddell.

I have further to acquaint you that it has been thought advisable that security should be taken in this Country for the due execution of the trust to be reposed in Mr. Riddell in his new Office, and two Securities have come forward to the amount of £5,000 respectively, and I have to desire that you will, on the arrival of Mr. Riddell at New South Wales, take his personal Bond to the amount given by his Predecessor Mr. Balcombe on his entering on his Office.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch per ship Dunvegan Castle.)

1829.
1 Aug.

Sir, Downing Street, 1st August, 1829.

My despatch of this day's date will have acquainted you of the appointment of Mr. Riddell to the Office of Treasurer of New South Wales.

Arrangements
re payment of
salary to
C. D. Riddell
during first
twelve months.

In consequence of the recent nomination of Mr. Riddell as one of the Commissioners of Enquiry in Ceylon, a difficulty has arisen in providing any outfit for his Successor Mr. Cameron, without throwing upon the Public the expense of a double appointment. The only practicable way of attaining this object appears to be by Mr. Riddell's relinquishing a portion of the future emoluments of his Office of Treasurer. It has accordingly been arranged that half Salary shall be paid to the gentleman executing the duties of Treasurer in Mr. Riddell's absence, from the date of his entrance upon those duties until Mr. Riddell's arrival in the Colony of New South Wales; that, from his arrival there until the 1st of August, 1830, Mr. Riddell himself shall receive half Salary and no more; and that, from the 1st of August, 1830, Mr. Riddell, if he be then arrived in the Colony, will begin and continue to receive the full Salary. The other moiety of the year's Salary from the date of this despatch to the 1st of August next, being a sum of £500, will be applied to defray the extra fees, which this double appointment of Commissioners would otherwise throw upon the Public, and to furnish Mr. Cameron with some means of meeting the expenses of that Outfit for which, under the present circumstances, he has waived his claim upon the Public.

The Agent for New South Wales has accordingly been directed to issue the sum of £500 for the purposes, I have mentioned, from the funds of the Colony.

I remain, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 89, per brig Ionia and ship Alice; acknowledged by Sir George Murray, 6th April, 1830.)

Sir, Government House, 1st August, 1829.

I have the honor to forward for your consideration the enclosed Copy of an Application from Lieut. Colonel Snodgrass, Brigade Major, for an Allotment of Land in the Neighbourhood of Sydney for the purpose of erecting a House for the residence of his Family.

Transmission
of application
from
K. Snodgrass.

I have, &c.,
RA. DARLING.

1829.
1 Aug.

[Enclosure.]

LIEUT.-COLONEL SNODGRASS TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 14th July, 1829.

Application by
K. Snodgrass
for town
allotment.

I have the honor to lay before you for the knowledge of His Excellency the Governor that, having no House provided for me by Government as Head of a Department embracing a variety of duties, and the Lodging Allowance high as it is being quite inadequate, I have a desire to build one for the Accommodation of myself and Family, should His Excellency be pleased to grant me an Allotment in or near Sydney, and which I will bind myself to Commence Building without delay and to have finished within a Year.

At present I am paying for a very indifferent House close upon one eighth of what I receive as Pay (£173 7s. 6d. yearly) for my Services in this Colony, above what my Lodging Allowance Amounts to. Under these circumstances, I hope His Excellency will have it in his power to grant me this Indulgence, which many enjoy who have no Claim upon the Government for House Accommodation. Should however His Excellency not think him self enabled to comply with my request, I beg he will have the goodness to transmit this as my Application to the Secretary of State for the Colonies with His Excellency's recommendation.

I have, &c.,

K. SNODGRASS, Lt. Col.

Major of Brigade.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 90, per brig Ionia and ship Alice.)

3 Aug.

Sir,

Government House, 3d August, 1829.

Reduction in
annual
increments to
junior clerks.

I have the honor to acknowledge the receipt of your Despatch of the 27th November last, No. 63, and to acquaint you, with reference to the Suggestions, contained in a Letter addressed to me by Mr. Twiss, Under Secretary of State on the subject of the above, I have reduced the Amount of the Annual increase to the Salaries of the Clerks of the Junior Class from £20 to £10 per Annum. I enclose herewith a Copy of the Minute which has been issued to this effect.

I have, &c.,

RA. DARLING.

[Enclosure.]

MINUTE NO. 87 FOR THE COLONIAL SECRETARY.

Government House, 1st August, 1829.

Orders re
annual
increments for
junior clerks.

LET it be Notified to the Auditor that the Secretary of State has been pleased to sanction, in his Despatch, dated 27th November, 1828, No. 63, the Augmented Allowance of Twenty Pounds per Annum to the Salaries of the Clerks of the Junior Class, in such Cases as it may have been Actually paid; But he has directed that no further payment at that rate shall be made, it appearing to him that an increase of Ten Pounds per Annum is sufficient in the Case alluded to.

Let it further be Notified to the several Public Offices that the Regulations, contained in Minutes No. 81 of the year 1827, are to be

considered applicable to the Clerks in those Offices (subject to the Alteration in the Amount of the encrease to the Junior Clerks as above mentioned) the same as to the Office of the Colonial Secretary.

1829.
3 Aug.

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 91, per brig Ionia and ship Alice; acknowledged by Sir George Murray, 6th April, 1830.)

Sir, Government House, 4th August, 1829.

4 Aug.

I have the honor to acknowledge the receipt of your Despatch of the 2d of February last, No. 88, on the Subject of the Security which Mr. Macpherson as Collector of Internal Revenue should be required to enter into for the due performance of his Trust.

Security
required from
collector of
internal
revenue.

The enclosed Copy of a letter from the Acting Collector of Internal Revenue points out that the Monies received are paid over Weekly to the Treasurer, and that the Auditor is furnished with an Attested Account Monthly of the Sums paid into the office of Internal Revenue and transferred to the Treasury.

It appears that the average Amount of the Collections in the Department of Internal Revenue is about £2,000 per Month. It might therefore be sufficient under present circumstances to require Mr. Macpherson to give his personal Bond for £3,000 Sterling, and to furnish other Sureties for a like Sum. It may, however, be expected that the Receipts will encrease considerably as the Quit Rents become due, when Security to a larger Amount should be required.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. JAMES BUSBY TO COLONIAL SECRETARY MACLEAY.

Sir, Internal Revenue Office, Sydney, 24th July, 1829.

In reply to your Letter of the 24th inst., No. 29/195, I have the honor to acquaint you, for the information of His Excellency the Governor, that I am required, by the Regulations of the 4th of September, 1827, "established in pursuance of Instructions from the Secretary of State for the Colonies, dated 1st December, 1826," and conveyed to me by your Letter of 8th of September, 1827, No. 130, "to pay over the Amount Collected by me in each Week to the Colonial Treasurer every Saturday, furnishing half Monthly Statements of the Collections to the Colonial Treasurer, and (Attested) Monthly Accounts to the Auditor."

Weekly
payments to
treasurer by
collector of
internal
revenue.

I have also the honor to annex a Statement of the Sums received each Month from 1st January to 23d inst.

I have, &c.,
JAMES BUSBY,
Collector Internal Revenue.

1829.
4 Aug.Statement of
collection of
internal
revenue.

[Sub-enclosure.]

STATEMENT of the Receipts of the Collector of Internal Revenue
from 1st January till 23 July, 1829.

	£	s.	d.
January	1,711	10	1 $\frac{1}{4}$
February	821	10	8 $\frac{3}{4}$
March	4,816	12	5 $\frac{1}{4}$
April	2,267	12	5 $\frac{1}{2}$
May	1,175	14	2
June	1,300	16	2 $\frac{1}{2}$
1st to 23d July	2,008	4	4 $\frac{1}{2}$
Total	£14,102	0	5 $\frac{1}{4}$

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 92, per brig Ionia and ship Alice; acknowledged by
Sir George Murray, 6th April, 1830.)

5 Aug.

Sir,

Government House, 5th August, 1829.

Selection of
new site for
settlement at
Moreton bay.

I have the honor to acquaint you, in reference to my Despatch No. 76 of the 24th of June last, relative to the State of the Penal Settlement at Moreton Bay, that I sent Mr. Fraser, the Superintendent of the Botanical Garden, to assist Captain Logan, the Commandant, in Searching for a Situation which would enable me to relieve that place of a portion of the Prisoners; and I am happy to have it in my power to report that they have discovered a very eligible Spot for an Agricultural Establishment, being well supplied with Water, about Six Miles lower down the River, where it is proposed to cultivate Maize for the use of the Settlement and the Government generally. I submitted this measure to the Executive Council, which was fully approved and recommended for adoption.

Freighting
of ship
Waterloo.

The Prisoners now under Sentence of Transportation being Numerous, I have been under the Necessity of hiring the Ship Waterloo to Convey them and the Necessary Supplies of Provision to Moreton Bay at an Expense of about £350 Sterling, which I request you will be pleased to authorise being Charged in the public Accounts as required by my Instructions.

Employment
of vessels at
King George's
sound and Fort
Wellington.

I beg to add that two of our largest Government Vessels are now employed in withdrawing the Settlement from Port Raffles on the Northern Coast, and another in Victualling King George's Sound, in which Services these Vessels will be engaged at least four Months, which I instance in order to Account for the Necessity of freighting the Ship Waterloo.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 93, per brig Ionia and ship Alice; acknowledged by Sir George Murray, 6th April, 1830.)

1829.
6 Aug.

Sir, Government House, 6th August, 1829.

I have the honor to inform you that I have felt it necessary to detach an Officer to take charge of the Police Establishment at Penrith, and to employ the Officer, attached to the Mounted Police at Wallis's Plains, to superintend the Police Establishment at that place and in the adjoining Districts.

Appointment of
superintendents
of police at
Penrith and
Wallis plains.

I referred the matter to the consideration of the Executive Council, the Members of which concurring with me in the expediency of the measure, I have authorised the issue of an Allowance to the Officer at Penrith of Five Shillings per diem and Two Shillings and Six pence in lieu of Forage for a Horse. And I have further increased the Allowance, hither granted to the Officer stationed in Charge of the Mounted Police at Wallis Plains, from £118 12s. 6d. to £150 per Annum, in Consequence of the Additional duties he has to perform. He is now required to pay the Salaries of the Constabulary, etc., of these Districts to the respective Individuals and to attend a second Bench, once a Week, ten Miles from his residence. The Officer at Penrith is also obliged to pay the several persons, who are employed in the District under his Superintendence. I request your Authority for these Expenses.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per brig Ionia and ship Alice.)

Sir, Government House, 6th August, 1829.

I beg to state, in reference to my Despatch No. 93, of this date, that circumstances have induced me to make the arrangements therein reported.

Reasons for
appointment of
superintendents
of police.

The Unsatisfactory manner, in which the Constables have been employed in some of the Districts and other occurrences, have rendered the change, which has been made, necessary. The inconvenience, which has been felt, will be prevented by the appointment of these Officers, who can have no interest in the Distribution or Number of the Constables employed.

As a great portion of the business of the Police Department will under the New Arrangement be transacted at Wallis's Plains, which has heretofore been carried on at Newcastle, it is my present intention to discontinue the Superintendent of Police at the latter, and place the Officer Stationed there in Charge, and

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further to reduce the Establishment of Constables, etc., which will produce a saving of Expense to the Amount of about Three hundred pounds per Annum.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 94, per brig Ionia and ship Alice; acknowledged by Sir George Murray, 6th June, 1830.)

7 Aug.

Sir, Government House, 7th August, 1829.

Conduct of
crown business
in supreme
court.

Some inconvenience having been experienced from the mode of Conducting the business of the Crown in the Supreme Court, I judged it proper to call on the Attorney and Solicitor General jointly to point out what they considered the best means of remedying the evil which had been felt.

I do myself the honor to transmit for your information Copies of the Letter which I addressed to these Gentlemen and of their replies.

Appointment
of crown
solicitor.

Feeling it was a Subject of importance, and on which I was in no respect competent to decide, though fully aware that some change was indispensable to the interests of the Crown and the due course of justice, I brought the matter under the consideration of the Executive Council, and I do myself the honor to transmit a Copy of the Minute of its proceedings, by which it appears that the appointment of a Crown Solicitor was considered necessary to the due performance of the public Business; and the Council also recommended that the Crown Officers should not employ Convict Clerks in their Offices, as such practice might lead to very serious evils.

The Salary fixed for the Crown Solicitor is Five hundred pound per Annum. The Amount was very fully discussed in Council, and it was finally considered that the Services of a properly qualified person of Character could not be obtained at a lower rate.

Nomination of
W. H. Moore.

In consequence of the Secretary of State's orders, I made an offer of the Appointment to Mr. Moore, who formerly held the Situation of Crown Solicitor, and proposed his undertaking the duties at a Salary of Four hundred pound per Annum; but he declined doing it, and I was at length obliged to agree to his receiving £500. When Mr. Moore was formerly employed, he received £300 a year as Crown Solicitor and £300 as King's Coroner, the latter appointment having been made by my predecessor, in order to his assisting the Attorney General, Mr. Moore considering that the Salary as Crown Solicitor was given to him at Home merely to induce him to come out to this Country. His

Claim to this is founded on a Letter from Earl Bathurst to Governor Macquarie, of which the accompanying is a Copy. It is hardly necessary to observe, that the Salary suggested in the Solicitor General's Letter of £200 was totally inadequate, being no more than what Common Clerks are allowed.

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I am aware, in reporting the measure which has been temporarily adopted, that I transmitted, with my private Letter to Mr. Hay of the 30th of August, 1828, a Copy of one which I had received from Mr. Baxter the Attorney General, signifying, with reference to the Appointment of a Solicitor General under the New Arrangement, that a Crown Solicitor would not be required; and I had further the honor to communicate to you, in my Despatch No. 112 of last Year, the arrangement which had been made for the distribution of the duties between the Attorney and Solicitor General. That arrangement did not however answer the purpose intended.

Previous
despatches *re*
law officers.

Having thus placed the subject before you as fully as I am enabled, I beg I may receive your directions as to the adoption of such Arrangement in this respect, as may appear to you best calculated to Answer the object in view. I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

GOVERNOR DARLING TO THE ATTORNEY AND SOLICITOR-GENERAL.

Gentlemen, Government House, 17th January, 1829.

I do myself the honor to acknowledge your Letter of the 12th inst., and in reference to the last Paragraph in which you regret that the great pressure of Public Business will not permit you to prepare Briefs of the cases for the Crown previously to their Trial, but advise that a person should be appointed to perform this duty, which you admit would be of essential advantage to the Public Service. I beg to acquaint you that, having in consequence of a Communication from the Attorney General, informed the Secretary of State some time since that the Appointment of Solicitor General, under the present arrangement, would render it unnecessary to employ a Crown Solicitor, I should feel some difficulty in appointing a person to perform the duty alluded to. I beg however to be informed what description of person you consider would be necessary in the present case, and what additional Expense would be incurred in giving effect to the Arrangement you have proposed.

Inability of
attorney and
solicitor-general
to prepare
briefs.
Proposed
appointment of
crown solicitor.

I have, &c.,

RA. DARLING.

[Enclosure No. 2.]

SOLICITOR-GENERAL SAMPSON TO GOVERNOR DARLING.

Sir, Court House Chambers, 9th March, 1829.

I beg leave respectfully to apologise to Your Excellency for the delay, which has occurred in attending to the directions contained in Your Excellency's Communication to the Attorney General and myself of the 17th January, and trust that Your Excellency will attribute it to its true cause the great pressure of Public Business.

Delay in reply.

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Difference of
opinion
between crown
law officers.

Qualifications
and salary
proposed for
officer to
prepare briefs
for crown.

As the Attorney General differs in Opinion with me on the report which Your Excellency's Letter directed us to make relative to the description of person competent to the duty of Drawing up Briefs of the causes for the Crown, and what additional expense would be incurred in giving effect to such an Arrangement, I beg leave to submit the following remarks for Your Excellency's Consideration.

2. I have the honor to state that the qualifications necessary for the person filling such a Situation will be a general Acquaintance with the principles of Law, and a thorough knowledge of the practice and duty of an Attorney. Possessed of such information, he will be fully adequate to the duty required, which will consist in embodying the facts and arranging the necessary proofs of the different causes referred to him, in order that a Brief may be submitted to the inspection of the Officer at the Head of the Department to which the cause may more particularly relate, some time previous to the Trial, for his correction and remarks. As respects the additional Expense which will be incurred on the occasion, I beg leave respectfully to suggest that a Salary of £200 Sterling will be required in order to secure to Government the Services of a Competent, as well as respectable Individual.

3rd. The Letter, which I had the honor of addressing to Your Excellency on the 23rd Ult., expressing my readiness to prepare Briefs of the Causes for the Crown, should such employment be deemed by Your Excellency more advantageous to the Public Service than some of my present duties, which entirely engross my time, was written solely with the view to remove from the mind of Your Excellency any impression that might be entertained of my wishing to shrink from the duty required of me.

I have, &c.,

JOHN SAMPSON,
Solicitor General.

[Enclosure No. 3.]

ATTORNEY-GENERAL BAXTER TO GOVERNOR DARLING.

Sir,

Court House Chambers, 29th April, 1829.

Letter
acknowledged.

I have the honor to acknowledge the receipt of Your Excellency's favor of the 17th of January last, addressed to the Solicitor General and myself upon the subject of the Appointment of a Crown Solicitor in aid of the duties, which the Attorney and Solicitor Generals have to perform in their respective Offices in this Settlement.

As there exists a difference of opinion between the Solicitor General and myself relative to the Draft of the Letter, of which this is a Copy and which I placed under his consideration, I have not until now had a convenient opportunity of paying due attention to Your Excellency's Communication.

I shall first address myself to the *necessity* of Appointing such a person; next to the *qualifications* he should be required to possess, and the duties he should have to perform; and lastly, to the *remuneration* that a fit and proper person ought to receive for the faithful discharge of his functions.

Necessity for
appointment of
crown solicitor.

First, as to the necessity of appointing such a person. This can be determined only by reminding Your Excellency of the heavy duties, which devolve on the Attorney and Solicitor Generals in their joint and several Offices as Law Advisers of the Crown. It is their joint duty to prepare and frame all Bills for the consideration

of the Legislative Council. This duty has by no means latterly been inconsiderable, and must of necessity be increased in future by reason of the extensive Legislative Functions,* which that Body will have to exercise under the Statute 9 Geo. 4, c. 83, now in operation. Your Excellency must be aware that there is much to do in framing new Laws applicable to the encreasing exigences of the Colony, in consequence of the daily developement of its necessities. Next, it is their duty to answer all cases of importance arising in the course of the execution of the Functions of the Government, where any legal difficulty arises. The matters thus alluded to necessarily occupy a great deal of time.

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7 Aug.

Necessity for
appointment of
crown solicitor.

As to the several and respective duties of the Attorney and Solicitor Generals, though there is no defined Department in which each of these Officers exclusively devotes his attention, yet there is an understanding among themselves as to the general nature of their duty; this understanding, though it does not by any means produce an equal division of Labour, yet it imposes a joint responsibility, requiring an equal proportion of vigilance.

Division of
duties between
attorney and
solicitor-
general.

It is understood that the Solicitor General undertakes those duties, which relate to all legal questions of a Civil nature touching the Colonial Exchequer, Crown Property, and the preparation of all Legal Instruments affecting the Crown Revenue. These alone are quite sufficient to engage the attention of One Public Officer; but in these the Attorney General is often called upon to take his share, not only in advising but in personally superintending the proceedings.

Duties of
solicitor
general;

The most onerous duties however of the Crown Service devolves upon the Attorney General, in what may be called the Criminal Department. The general character of the population necessarily produces a frightful catalogue of Crimes of the greatest magnitude. All these fall under his cognizance; it is his duty to prepare and draw all Informations and Indictments, and to arrange the Evidence and collect the Witnesses necessary to support the Prosecutions. In discharging this duty, the most laborious Correspondence between himself and the different Justice Benches in the Colony often become necessary before the cases can be brought to Trial. When brought to trial, he must give his personal attendance in Court every day during the Sittings of the Supreme Court, which upon an average occupy nine Months in the Year. Besides the above ordinary duties of Crown Prosecutor, He has to prepare, advise and conduct all *Ex officio* Prosecutions for Libels, and other Offences not Committed by the Convict Population. In addition to all those joint and several duties before and last mentioned, he is the constant referee in all cases of difficulty arising before the Benches of Justices in all parts of the Colony, who are perpetually writing to him for information for the guidance of their magisterial conduct. In the Town of Sydney alone, the correspondence of this nature imposes a serious burden. When Summary Convictions are removed into the Supreme Court, and the magisterial conduct of the Justices is there called into question, the duty of upholding the former and defending the latter falls to his lot without any assistance whatever.

and of attorney
general.

After this recapitulation of the general duties of the Attorney General in his Department, your Excellency may form a correct judgment of the necessity of affording the assistance of a Crown Solicitor in aid of the duties of the office, which, in a mere clerical

* Note 37.

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and subordinate point of view, are extremely laborious and difficult to be performed for the want of such assistance. Having thus pointed out to Your Excellency the necessity of appointing a Crown Solicitor in this Colony, I shall now respectfully suggest the qualifications such a person ought to possess, and the duties he should be required to perform.

Qualifications
and duties of
proposed crown
solicitor.

In the first place, as a *siné qua non*, he should be a regularly admitted *Attorney* of one of the Superior Courts of the Mother Country or a Barrister of one of the Inns of Court at home. He should be a Gentleman of unimpeachable honor and probity, and above all temptations to do anything amiss in his Office. He should be a shrewd, sensible, active Man, in the full possession of all his physical and mental energies; should have a general though not profound knowledge of the Law, and be at all times ready to devote himself with zeal to the discharge of his duties. If such a person could be obtained, it should be his duty to render himself generally useful to the Attorney General, and be under his immediate control and direction in getting up the Clerical arrangement of cases for Trial, in framing answers to Letters addressed to the Attorney General officially under the advice, direction and responsibility of that Officer; To hold himself ready to attend Benches of Police Magistrates in the conduct of Summary Crown Business, which are now often neglected for the want of such an Assistant, in short to render himself generally useful in relieving the Attorney General from the Clerical and subordinate drudgery of his Office, so as to leave the mind of the latter free and unincumbered to attend to the due Consideration of the numerous and important duties of his Appointment. With the aid of such an Officer, great loss of time and expense would be saved, and the Attorney General would be enabled to devote his Judicial attention to the proper duties of his Office, which office he humbly takes to be that of Legal Adviser to the Crown in the Public Official Conduct of its Business, both in and out of Court. He apprehends his office to be analogous to that of the Attorney General in the Mother Country, who is never called upon to perform any Clerical or subordinate duties, such as preparing Briefs, Collecting Witnesses, and attending to the minor manual operations of a private Functionary. In the early times of this Colony, the duties of the Attorney General not being very multifarious, probably there existed no necessity for the assistance now pointed out as requisite; but, assuming, as those duties now do, greater complexity, variety and laborious responsibility, it becomes imperative on the Attorney General thus respectfully to press upon Your Excellency's attention the necessity of making a suitable provision for the due discharge of his high and important Office.

Salary
proposed for
crown solicitor.

In Conclusion, I beg leave to intimate to Your Excellency that the remuneration, that a fit and proper person ought to receive for the faithful discharge of the Functions of Crown Solicitor, ought in my opinion not to be less than £500 per Annum. Considering the Incomes that Professional Men ordinarily derive from Practice in this Colony, I think it unlikely that a person of the description I have pointed out to Your Excellency would be induced to accept the Situation for a less Salary, so as to be entirely at the Service of Government.

I have, &c.,

ALEXR. M. BAXTER,
Attorney General.

[Enclosure No. 4.]

EXTRACT from Minute No. 22 of the Proceedings of the Executive Council on the 18th June, 1829, when there were present:—

HIS EXCELLENCY the Governor; The Venerable the Archdeacon; The Honble. the Colonial Secretary; The Honble. Colo. Patk. Lindesay.

His Excellency the Governor next laid before the Council two Letters from the Attorney General and Solicitor General, pointing out the necessity of the appointment of a Crown Solicitor; and His Excellency requested the opinion of the Council whether they concurred in the expediency of such an appointment, and, if so, what Salary should be allowed.

The Council, upon the representations contained in the Letters in question, considered that it is highly expedient to appoint a Crown Solicitor, and were of opinion that, under the present circumstances of the Colony, a competent person in respect to character and ability cannot be obtained at a Salary of less than £500 per annum.

The Council took this opportunity of expressing their decided opinion that it is expedient to discontinue the employment of Convict Clerks in the Offices of the Attorney and Solicitor General, and the more particularly, as His Excellency informed the Council, that the practice of employing Convict Clerks in the public offices has been disapproved by His Majesty's Government at Home, who have given directions that free Clerks should be employed, whenever the Services of such persons can be conveniently obtained.

A true Extract:—E. DEAS THOMSON, Clk. of Council.

[Enclosure No. 5.]

[This was a copy of Earl Bathurst's despatch, numbered 31 and dated 5th July, 1814; see page 268, volume VIII.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 129, per ship Claudine; acknowledged by Governor Darling, 21st September, 1830.)

Sir,

Downing Street, 9th August, 1829.

I have the honor to acknowledge the receipt of your Despatch No. 144 of the 29th of December last, with its enclosures, reporting the motives, which had influenced you in the assistance which you had afforded to the Bank of New South Wales; and, having referred this Despatch for the consideration of the Lords Commissioners of the Treasury, I have to acquaint you that, altho' the cases are extremely rare in which the Public Money should be advanced for the support of any Bank or other Private Establishment, and altho' the mode, in which the New South Wales Bank has been misconducted, would exclude them from all

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7 Aug.

Opinion of executive council re appointment of crown solicitor;

and exclusion of convict clerks from crown law offices.

9 Aug.

Approval of advance to bank of N.S.W.

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9 Aug.
Approval of
advance to bank
of N.S.W.

claim to relief in their difficulties, yet presuming that the security for the repayment of the loan, which you have granted, is unquestionable, and considering that this Bank, whose operations thus misconducted are highly detrimental to the Colony, will by this arrangement be closed within a short period without producing the injury and distress, which would have attended its sudden suspension, His Majesty's Government are of opinion that, under all the peculiar circumstances of this case, the Government of New South Wales have been guided by sound discretion in the course which they have pursued.

I have, &c.,
G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per brig Ionia and ship Alice.)

10 Aug.
Transmission
of report re
S. Pritchard.

Sir, Government House, 10th August, 1829.
Lieut. Governor Arthur having referred to me Lord Frances L. Gower's Letter of the 21st of May, 1828, transmitting the Copy of an Application from Mr. Panton Corbett, relative to an Individual named Samuel Pritchard, who went out as a Settler to Van Diemen's Land in the year 1824, respecting whom Lieut. Governor Arthur acquaints me he has not been enabled to obtain any information further than its being understood that Pritchard had come on to this Colony, I have in consequence caused every enquiry to be made respecting this man, but without Success; and I do myself the honor to enclose for your information the accompanying Copy of a Letter from the Principal Superintendent of Police, containing some particulars respecting an Individual of that name, who it is possible may be the person Alluded to.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. F. N. ROSSI TO COLONIAL SECRETARY MACLEAY.

Report by
F. N. Rossi re
S. Pritchard.

Sir, Police Office, Sydney, 19th February, 1829.
I have the honor to acknowledge the receipt of your Letter of the 12th inst., requiring me to transmit such particulars of the Individual, named in the Margin,* as I can obtain. In reply, I have the honor to report to you, for the information of His Excellency the Governor, that the only Individual so Named, respecting whom I can obtain any information, or of whom I have any knowledge, had served in His Majesty's Navy, and, from the Certificate of Captain Beresford and other Officers, it appeared with Credit to himself. He was employed in the Police as a Constable in the year 1825; but I am unacquainted with the Name of the Ship, by which he came into the Colony or the date of his arrival. The person, to

* Marginal note.—Samuel Pritchard.

whom I allude, was dismissed by me from the Police for Drunkenness, the only charge against him of which I ever heard.

Subsequently he was employed on board of some trading Vessels, and I am informed that he has now quitted the Colony.

I have, &c.,

F. Rossi, P. Supt. of Police.

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10 Aug.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 132, per ship Claudine.)

Sir, Downing Street, 12th August, 1829.

12 Aug.

I have to acknowledge the receipt of your despatch of the 21st of February last, reporting the appointment of a Clerk in the Office of the Sheriff of New South Wales at a Salary of £150 a year.

Despatch
acknowledged.

Under the circumstances stated in your despatch, I am willing to sanction the appointment of a Clerk in that Office; but I am of opinion that the Salary, at first, should not exceed £100, and should go on gradually increasing by periods of two or three years in case of diligence and good behaviour, till it shall reach £150.

Approval of
appointment
of clerk to
sheriff.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 133, per ship Claudine.)

Sir, Downing Street, 13th August, 1829.

13 Aug.

Although I have by no means relaxed in the earnest desire, which I expressed in my despatch of the 23rd of last April to avoid, as far as possible, any increase in the Colonial Establishments, which it may be practicable by a diligent husbandry of the existing resources to spare, I cannot be insensible to the necessity of such an augmentation, gradually and economically made, in the strength of the Surveyor General's Department, as shall enable him to forward the required allotments and grants of land for the Settlers within a reasonable time.

Necessity for
increase in
establishment
of surveyor
general.

Considering then the importance of this object, not only as it benefits the individual Settlers but as it advances the Public Revenue by the additional Quit Rent which it produces, I have resolved to increase the efficient numbers of that Department by constituting three Assistant Surveyors, and three Draftsmen, in addition to the appointments notified in my Despatch of the 23rd of April last.

New
appointments
created.

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13 Aug.
Appointment
of W. Jaques.

Mr. William Jaques, whom I have now nominated to be an Assistant Surveyor, will accordingly proceed to the Colony by the first opportunity; and I will make an early selection of such persons as may appear best qualified to fill the remaining Vacancies.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 95. per brig Ionia and ship Alice.)

Sir, Government House, 13th August, 1829.

Reorganisation
of penal
settlements.

It having appeared desirable to place the Conduct of the Penal Settlements on a more determinate footing than has hitherto been the case, I appointed a Board to revise the Report of the Commissioners sent to Port Macquarie last year, to which I adverted in my Despatch, dated the 12th of December last No. 137, and gave Instructions for their preparing a Code of Regulations in order that the different Settlements might be conducted on one and the same principle.

Indulgences
for officials.

The Circumstance of Individuals being allowed to keep and rear Stock and cultivate Ground must have interfered with the discipline necessary to the proper Conduct of a Penal Settlement.

It has therefore appeared essential to discontinue an indulgence, which was pregnant with so much evil, and it consequently became necessary to furnish the Persons employed with the Ordinary Supplies from the Government Stores, paying a Reasonable Sum for the same.

Employment
of convicts.

Precise regulations have also been laid down respecting the employment of the Convicts, which may not in all cases have been judiciously directed or turned to the best account. When the Convicts become numerous, as they formerly were at Port Macquarie and are now at Moreton Bay, it was difficult to find suitable employment for them. It has consequently been directed that the *Spade* and *Hoe* shall be substituted for the Plough, which, independent of other advantages, will greatly diminish the demand for Horses and Oxen, and be the means of keeping the Convicts constantly and usefully employed.

The abuse, to which the employment of the Convict Mechanics and others, during their own time as it was termed, by Individuals stationed at the Settlements, might have led, appeared to render it desirable to put a stop to this practice, and which could only be effectually done by reforming the System generally. The Prisoners can now have no inducement to pilfer, and all trafficking, the bane of strict discipline, will be completely put an end to. I shall not trespass on your time by entering further

into the Details of the present arrangement, as I could only repeat what you will find clearly laid down in the Regulations, a copy of which I do myself the honor to transmit for your consideration, as also of the Report of the Board.

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13 Aug.

I beg to add that the Regulations have been carefully revised and Modified in Council after the most mature Consideration of the different bearings of the various points which they embrace.

Modification
of regulations
by executive
council.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

REGULATIONS FOR PENAL SETTLEMENTS.

New South Wales, 1st July, 1829.

Regulations
for penal
settlements.

Section No. 1.—General Regulation.

1st. As an aversion to honest Industry and Labour has been the Chief Cause of most of the Convicts incurring the penalties of the Law, they shall be employed at some species of Labour of an uniform kind which they cannot evade, and by which they will have an opportunity of becoming habituated to regular employment.

Labour of
convicts.

2nd. With this view, all Labour of a complex nature, the quantity of which cannot be easily determined, is to be studiously avoided, and the Convicts are to be employed exclusively in Agricultural operations, when the Public Buildings or other Works of the Settlement do not absolutely require their Labour.

3. In these operations, the use of the Hoe and Spade shall be as much as possible adopted, and where the Number of Men who can be employed in Agriculture is sufficient to raise Food for the Settlement with these Implements, the use of the Plough shall be given up and no Working Cattle are to be employed in operations, which can be effected by Men and Hand Carts.

4th. The principle of dividing the Workmen at regular distances from each other as established for Field Labor, is also to be adopted, whenever it is found applicable; and, with the view of affording a more complete and effective superintendence, the different Gangs are as much as possible to be employed in one place.

5. All the Land fit for Cultivation in the immediate Neighbourhood of the Settlement is to be first brought into use and to be cultivated in preference to Land though of a better quality, which is less immediately under the eye of the Commandant.

6. The Commandant will, at uncertain days and Hours, cause the Working Gangs to be mustered in his presence at the spot where they are at Work, and ascertain that they are employed as entered in the Returns of Labour.

Mustering
working
gangs.

7. No Sugar or Tobacco or other Article, which might be used by the Convicts as a Luxury, and which might offer an inducement to plunder, is to be cultivated at Penal Settlements.

Prohibition of
cultivation of
sugar and
tobacco.

8. The principal Articles to be Cultivated are Wheat and Maize, and these Articles are to be raised to such an extent, as to allow of exportation, if necessary. As the Plantations extend however, the Cultivation of Cotton, Hemp and Flax, or any other useful product, which may suit the Climate, may be introduced.

Articles to be
cultivated.

9. When it becomes necessary to employ Mechanics or Tradesmen in their respective Callings, such Arrangements shall be made (by

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13 Aug.

Regulations
for penal
settlements.
Public works.

Regulations
for shipping.

Appointing as many as possible to the Work) as will insure their strict Superintendence, and a speedy return to the employment of Common Labourers.

10. The Commandant will be authorised to undertake any necessary Repairs, immediately reporting the particulars and the expenditure of Stores in Completing the same; but, for the Erection of any Building, etc., the sanction of His Excellency the Governor to the Plan and Estimate must be previously obtained.

11. In order that the Convicts may be deprived of all opportunities of procuring Spirits or any Luxury or Article beyond the Government Allowance, and with the view the more effectually to prevent their escape, it becomes necessary to establish the strictest Regulations with regard to Shipping.

12. A General Invoice of all Articles Shipped at Sydney for the Penal Settlements, whether on Account of Government or for the use of Private Individuals, shall be forwarded to the Commandant.

13. Immediately on the arrival of a Vessel, the Master shall report himself to the Commandant, under whose immediate orders he is to consider himself, while his Vessel remains at the Settlement, and deliver into his hands the Sailing Orders, which he received from the Master Attendant at Sydney, upon which the Commandant should note the date of his arrival.

14. No Passenger, Baggage or Goods of any description shall be landed without the express orders of the Commandant.

15. A Military Guard shall be immediately mounted on board every Vessel that arrives, in order to prevent any Articles being smuggled on Shore; The Guard to be relieved every twelve Hours.

16th. Every Package, which is landed, of private as well as of public Property shall be examined in the presence of the Officer in Charge of the Commissariat Department, who will be held responsible for the correct performance of this Duty. He will immediately seize and detain any Article he may find, which is not included in the Commandant's Invoice, reporting the same.

17. When a Vessel has discharged her Cargo, the Commandant will make a point of seeing that the Master loses no time in reloading and proceeding according to the object of his Voyage.

18. The Cargo is to be discharged and the Vessel reloaded by the Crew, and not by the Convicts, excepting in Cases and under circumstances where their assistance is absolutely necessary; and all Communication between the Crews and the Convicts is to be restrained; The Crews are not to be allowed to be on Shore after sunset.

19. The Boats of the Settlement are to be Chained and locked and hauled up every Evening, and the Oars and Sails taken out and deposited in the Guard House.

20. The Commandant shall forward to the Colonial Secretary a List of the persons, Cargo, and other Articles embarked, whether on Account of Government or the Property of Private Individuals.

21st. When a Vessel has received the whole of her Cargo, the Commandant shall see that the Master proceeds to Sea without delay, and Note the date of his giving orders to this effect in the Master's original sailing orders, which must then be returned to him.

22. The Commandant will report to the Colonial Secretary any unnecessary delay, which may take place in the Sailing of a Vessel, and any irregularity or neglect of orders which may come under his observation.

23. No private or strange Vessel shall be allowed to come to an Anchor at a Penal Settlement except in cases of distress or necessity, in which case they shall receive a Military Guard on board during their stay in the same manner as the Government Vessels; and no Spirits nor any other Article whatever shall be allowed to be landed from them. 1829.
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settlements.
24. A Monthly Medical Inspection is to be made of the whole of the Convicts on the Settlement by the Medical Officer in Charge, who will make a Report to the Commandant of their General State of health. Medical
inspection
of convicts.
25. Divine Service will be performed twice every Sunday; when the whole of the Officers and of the Troops and Convicts on the Settlement, who can be spared from immediate duty, will be required to attend. In the event of the absence of the Clergyman, the Service will be performed by the Commandant or other person appointed by him. Divine service.
26. The following periodical Returns will be transmitted as opportunities may offer:— Returns to be
transmitted.
- 1st. An Annual Return of the Buildings carried on during the Year, shewing the Estimated Expense and the Expenditure which has taken place (See Form No. 1).
 - 2nd. Half Yearly Alphabetical List of all the Convicts on the Settlement, including their Names, Ships, Sentences, and Trades. See Form No. 2. This Return to be made immediately after the issue of Slop Clothing.
 - 3d. Half Yearly Return of Babtisms, Marriages and Deaths. See Form No. 3.
 - 4th. Quarterly Return of Live Stock at the different Establishments on the Settlement, Shewing the Number of Bulls, Cows, Bullocks, Heifers, Calves, Horses, Colts, Mares, Fillies, Foals, Rams, Wethers, Ewes, Lambs and Pigs, with the encrease and decrease of each kind. See Form No. 4.
 - 5th. Monthly Return of all the Convicts on the Settlement, shewing the Numbers and Trades employed in the various Departments, with the encrease or decrease. See Form No. 5.
 - 6th. Monthly Return of Land in Cultivation, distinguishing the Number of Acres in Wheat, Maize, Fallow, Pasture and Breaking up, at the different Establishments on the Settlement. See Form No. 6.
 - 7th. Monthly Return of Agricultural Produce on the Settlement, distinguishing the quantity of Wheat, Maize, etc., at the different Establishments on hand, and the Quantity of each handed over to the Commissariat, and otherwise expended. See Form No. 7.
 - 8th. Monthly Return of Public Buildings erecting on the Settlement; purposes for which intended, dimensions; and state of progress. See Form No. 8.
 - 9th. Monthly Return of Provisions in Store on the Settlement, distinguishing the kinds, with an Estimate of time and date each will last. See Form No. 9.

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transmitted.

10. Monthly Return of daily Register of the Number of Military and Convicts, Women and Children on the Settlement, distinguishing the sick of each Class in and out of Hospital, with State of the Weather, General Health of the Settlement and other Remarks. See Form No. 10.
- 11th. Monthly Return of Summary Trials and Corporal Punishments. See Form No. 11.
- 12th. Manifest of all Articles both for Cargo and Private Individual shipped at the Settlement, with a List annexed of Prisoners returned as expired, Fines, Witnesses on Trials, etc., and Passengers, Civil and Military. See Form No. 12.
13. Return of Supplies required by the Officers and Free Persons on the Settlement approved by the Commandant. See Form No. 13.

The Commandants will also forward as occasions may offer Transcripts of their daily Journal and of the Settlement Order Book.

*Regulations affecting the Officers and free Persons at
Penal Settlements.*

Powers of
commandant.

27. The Commandant is vested with the control of every Department on the Settlement, every person whether free or Bond being subject to his Orders.

Regulations
for officers and
free persons.

28. Officers in Charge of the Several Departments will immediately furnish the Commandant with a Copy of every Order or Instruction they may receive from the Heads of their respective Departments in Sydney.

29. If an Officer in Charge of a Department receive an order from the Commandant, which is contrary to the Instructions of his Office, he is in that case to point out the circumstance to the Commandant. Should it, nevertheless, be considered expedient to enforce the order, it will in that case be the duty of the person in Charge of the Department or Office to obey such order, and to represent the matter to the Head of his Department in Sydney, immediately furnishing the Commandant with a Copy of such representation in order that his explanation may be transmitted by the same opportunity.

30. No Officer or other free person employed at a Penal Settlement shall be permitted to derive any advantage from his Situation, either directly or indirectly, beyond the Amount of his Salary and fixed Allowances. Each Individual will be required to furnish Quarterly a declaration upon honor to this effect to the Commandant, who will certify that the whole of the Officers borne upon the Salary Abstract have furnished the same.

31. No Officer or other free person shall be allowed to cultivate any Ground on his own Account excepting for the purposes of a garden for the exclusive Supply of his own Family.

32nd. No Officer shall be allowed to raise Stock of any description for Sale, or for any other purpose than the immediate use of his own Family; Such Stock to consist exclusively of Pigs and Poultry, which shall be secured within the Premises of the Proprietor.

33rd. No Officer or other person shall be allowed to employ any Convict at any time whatever for his personal advantage, or otherwise than on the Public Account, excepting always such Men as may be appropriated to his Service.

34. No Officer or other free person is on any Account to leave the Settlement without the written sanction of the Commandant.

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35. The Commandant is vested with full authority to remove, at his discretion, any Free person from the Settlement, whose Conduct shall appear to him to render this proceeding necessary for the due maintenance of discipline.

Regulations
for penal
settlements.

Allowances to Officers and other free Persons.

36. It being the wish of His Excellency the Governor that Officers and free persons, employed at Penal Settlements, shall enjoy every Comfort and Convenience consistent with the Maintenance of that strict discipline, which the circumstances of such Settlements render imperatively necessary, The following Scale of Allowances is established:—

Allowances to
officers and
free persons.

The Civil Officers shall be allowed a Ration each, free of Expense. The Commandant and the Military and Civil Officers will be permitted to draw Rations from the public Stores for their Wives and Children according to the Military Scale, paying for the same at the Rate of 3d. per pound for Fresh Meat, and 2d. per pound for Flour. When Salt Meat is issued the Contract price is to be paid.

Any extra Supplies of Meat and Flour, which they may require from the Public Stores, may be issued to them at the discretion of the Commandant, when the State of the Stores admit, paying for the same at the Sydney Market Prices. It is to be observed that this Indulgence is not to be extended to any other Article than Meat and Flour. As all Servants under these Regulations are to be Victualled from the Public Stores, the Number, that each Officer is allowed to take to the Settlement, is limited as follows:—

Military Officers, as fixed by Regulations according to their Rank.

Civil Officers (free of Expense) if Married, not exceeding Two; If Unmarried, One.

When the state of the Stores permit, Rations of fresh Provisions may be supplied from the Commissariat to the Officers and their Families (not including their Servants).

37. The Officers of the Settlement shall also be allowed, from the Government Dairy, Milk and Butter, in such proportions as may be necessary for their Families and can be conveniently spared after the Hospital shall be supplied.

38. Inferior free persons and Married Soldiers will be allowed a small Quantity of Milk when the Supply will admit.

39. The Military and Civil Officers and other Free persons shall be entitled to a portion of Ground to be inclosed for Gardens, as near as possible to their respective residences according to the following Scale:—

Commandant	4 Acres.
Civil and Military Officers	1 do
Inferior free persons	$\frac{1}{2}$ do
Married Soldiers	$\frac{1}{4}$ do

No Grain or other Article of Produce, which is Cultivated on Account of the Public in the Plantations of the Settlement, shall be raised in these Gardens.

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for penal
settlements.

Allowances to
officers and
free persons.

40. The Officers and other free persons shall be allowed to purchase Grain from the Public Stores to maintain the Live Stock they are permitted to keep according to the following Scale:—

Commandant not to exceed five Bushels per Month.
Civil and Military Officers, Three Bushels per Month.
Inferior free persons, One Bushel per Month.

The price to be paid for this Grain shall be, for Maize Two Shillings and Six pence per Bushel. For other Grain, Five Shillings per Bushel.

41. To enable the Officers of the Settlement to Cultivate their Gardens, they shall be allowed to have *Convicts* appropriated to their Service in the following proportion:—

Commandant Three Men.
Military and Civil Officers Two do

These Men are not to be Mechanics or Tradesmen, and are to be allowed in addition to any Servants they may have been permitted to take with them to the Settlement.

42. The Quarters of the Officers of the Settlement shall be furnished according to the following Scale:—

Commandant's Dining Room.—One Side Board, One Dining Table, Twelve Chairs, Fender and Fire Irons.

Sitting Rooms generally.—Two Tables, Eight Chairs, One Book Case (with Cupboard underneath), One Sofa (not including Covers), Fender and Fire Irons.

Bed Rooms.—One Bedstead. One Table. Two Chairs, One Washing Table, One Wardrobe, or Chest of Drawers.

Kitchen.—One Dresser, One Table, Six Common Chairs for Commandant, Four Common Chairs for others, Cupboard and Shelves, One Iron Boiler, Fender and Fire Irons.

Pantry or Store Room to be fitted up with Shelves.

Stretchers to be allowed for the Number of Servants permitted.

Inferior Free Persons.—Two Tables, One Cupboard, Four Chairs, One Dresser, One Bedstead, or more should there be a family.

43. The above Furniture is to be made upon the Settlement, and an Inventory of it shall be kept by the Superintendent of Public Works; it is to be Marked as Public Property, and Half Yearly Inspections made of it, in the same manner as is provided by the Military Barrack Regulations.

44. When the Furniture of any of the Quarters requires to be repaired, the Officer will make a Requisition on the Superintendent of Public Works, who, after inspecting the Articles requiring to be repaired and obtaining the sanction of the Commandant, will cause the Repairs to be effected, and a particular Account of them to be entered in his Daily Journal and Monthly Returns of Mechanical Labour.

45. When Work is required to be done by the Mechanics for the absolute comfort and convenience of any of the Officers on the Settlement, the following Regulations shall be observed.

The Officer to make a written Requisition, which will, if approved by the Commandant, be given to the Overseer of the Mechanics, who will receive the whole of the Materials from the Officer. The Work to be performed in the Lumber Yard during Government Hours. No remuneration of any kind is to be given the Mechanic for his Services. This Indulgence is not to extend to any Article

Furniture
for officers'
quarters.

Labour of
mechanics.

of Furniture, or any thing else that can be dispensed with, or procured in any other manner. A Separate Book is to be kept, and entries made of the Work so done, and Quarterly Returns sent to the Colonial Secretary. It must be understood that no Government Materials even of the most trifling nature will be allowed for any such purpose.

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for penal
settlements.

46. A Sufficient piece of Ground, at the discretion of the Commandant, shall be inclosed for a Garden for the Troops, to be Cultivated by the Convicts; but no unmarried Soldier is to be allowed to cultivate ground on his own account.

Military
garden.

47. All Trafficking and Trading between the Free and Bond on the Settlement shall be strictly prohibited and severely punished.

Prohibition
of traffic.

Regulations affecting the discipline and employment of the Convicts.

48. The Convicts under Colonial Sentence shall be steadily and constantly employed at Hard Labour from Sun Rise till Sun Set, One Hour being allowed for Breakfast, and One Hour for Dinner during the Winter Six Months; but two hours will be allotted for Dinner during the Summer.

Discipline and
employment
of convicts.

49. The Convicts shall be worked in Field Labour with the Hoe and Spade in Gangs of not fewer than fifteen, or more than twenty. No task Work shall be allowed.

50. There shall be an Overseer attached to each Gang, and to every five Gangs a Constable, who shall assist the Overseers in the Superintendence of the Men.

51. The Constables and Overseers are not to push or strike the Convicts, and no punishment is to be inflicted but by the express order of the Commandant.

52. If a Convict should have any thing to represent or Complain of to the Commandant, it shall be the duty of the Constable to bring him before him.

53. No prisoner is to be permitted to receive or to procure any Article of Luxury or any addition to the established Ration of the Settlement.

54. As a Reward of and encouragement to good conduct, the prisoners shall be divided into two Classes, to be called the first and Second Classes respectively.

55. No Prisoner is to be admitted into the first Class, who shall not have served on the Settlement for two Years, if a Prisoner for Seven Years; for four Years, if for fourteen Years; and for Six Years, if for Life. But Convicts, who have been respited from a Capital Sentence, shall in no Case be admitted into this Class until upon the representation of the Commandant their Sentence shall have been mitigated by the Governor.

56. The Commandant will make a Monthly Return to the Colonial Secretary of the Prisoners whose good conduct has induced him to admit them to the first Class; and he will inform the Officer of the Commissariat officially.

57. The Prisoners in the first Class will receive, in addition to the usual Ration, One Ounce of Tobacco Weekly.

58. The Prisoners of the first Class are to be employed in the lighter and least laborious operations; and it is from this Class exclusively that Men are eligible to be selected for Constables and Overseers, to be employed as Clerks, to be assigned as Servants to the Officers of the Settlement, and to be entrusted with the Charge of the Live Stock or Working Cattle, or with any other light employment.

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Discipline and
employment
of convicts.

59. No Convict shall be employed as a Clerk in the Commandant's Office, or have access to any of the Records kept there.

60. No Prisoner, transported for Life or for any heinous or atrocious offence, shall be employed in any other way than as a common Labourer; except, being a Mechanic, his Services may be urgently required. In this case, the Commandant will permit his being *temporarily* employed in his Trade or on any of the Public Works.

61. Prisoners of the first Class, who shall be selected by the Commandant for Constables or Overseers, will be allowed the usual distinction of Dress, and shall receive in addition to their Rations *two* pounds of Flour per Week, and one ounce of Tobacco; but in no case shall any Convict at a Penal Settlement be allowed to receive a pecuniary Reward.

62. As a further encouragement to Constables and Overseers to be faithful and diligent in the discharge of their duty, two Years' Service as a Constable or Overseer shall be considered equivalent to three Years' Servitude on the Settlement; but, in case of misconduct, they shall forfeit all such benefit arising from their Services as Constables or Overseers.

63. As there may be found some Individuals whose Conduct may be deserving of Reward, but who nevertheless may not be qualified to fill the Situation of Overseers, The Commandant will transmit Annually to the Colonial Secretary a Return of the Names of such Convicts who, having served two thirds of the period of their Sentence, may, by a long continuance of good conduct, be considered to merit Indulgence. To this return, there shall be annexed a detached Statement of the circumstances, which have induced the Commandant to recommend the Individuals respectively.

64. A Return will in like manner be transmitted by the Commandant of any Prisoners under Sentence for Life, who shall have conducted themselves to his entire satisfaction for Six Years (or of Capital Respites for ten Years) after their arrival in the Settlement, annexing as before a detailed Statement of the circumstances which have induced him to recommend the Individuals respectively; and, should the Governor be satisfied that they are deserving of reward, His Excellency will mitigate their sentence to that of Seven or fourteen Years from the date of such mitigation, after which the Individuals will of course be eligible to all the Privileges of prisoners of the first Class.

65. The Wife of a Convict shall in no case be allowed to join her Husband, until he shall have been placed in the first Class, and the Commandant shall have recommended him for this Indulgence.

66. The Wives and Children of Convicts shall be allowed Rations and Slop Clothing from the Public Stores.

67. The Wives and Children of Convicts are not to be allowed to Convey Money or Property of any kind to the Settlement, nor to possess any Live Stock or Poultry; and they are strictly to be prohibited from carrying on any Trade or Traffic in the Settlement; but they will be furnished with employment in Spinning Flax, Making Straw Hats or Bonnets, making up Slops, and such other Work as they may be capable of performing, the Materials for which will be supplied from the Government Store. They will receive Credit in the Books of the Settlement at the Market or Factory Prices on such Work being returned to the Stores, and the Amount of their Earnings will be Annually placed in the Savings

Bank at Sydney, to be received by them on their return from the Settlement as a means of support on their arrival.

68. Married Convicts, whose Families have been permitted to join them, shall be allowed to live in separate Huts.

69. A portion of Ground shall be allotted as a prisoners' Garden, the extent of which shall be determined by the Commandant.

70. If any Money or Property shall be found in possession of a Convict (or the Family of a Convict), it shall be seized and forfeited to the Benevolent Asylum.

71. The Labour of all Convicts, excepting only those assigned to the Officers, shall be wholly and exclusively applied to the Service of the Settlement generally, and the Indulgence of working on their own Account, after the usual hours of public Labour shall be strictly prohibited.

72. No Convict shall be allowed to wear any other Clothing than that which is issued to him by the Government, and the Number of each Convict on the Settlement is to be painted on each Article of his Dress, before and behind.

73. The Commandant will see that due attention is paid to the Cleanliness of the Convicts, and that those, whose state of health admit of it, bathe regularly.

74. A Separate Barrack is to be provided for the Female Convicts, and, if employed in Field Labour, they are to be kept separate from the Men.

75. A Washing Gang from among the Female Convicts shall be Appointed to wash and mend the Clothes and Air the Blankets and Paliasses of the Prisoners.

76. The Convicts are not to be allowed to possess Knives or any Sharp Instruments; the Knives, forks and Spoons are to be under the Charge of the Barrack Overseer, and he will be held responsible that they are duly collected from each Convict, before he is allowed to quit his Seat at the Mess Table. This, however, is not to apply to those Married Convicts or Overseers, who shall have been allowed to live in separate Huts.

77. The whole of the Convicts will be mustered on Sunday Morning arranged in their several Gangs, and attended by their respective Overseers and Constables, when they will be inspected by the Commandant. The Wives and Families of the Convicts will also be required to attend the Sunday Morning Musters.

78. The Prisoners will be mustered daily by the Superintendent of Convicts at Sun Rise, before they proceed to Labour, when they return to Meals, and again when the Work for the day is closed.

79. No Convict shall be allowed to receive or transmit any Letter excepting through the Commandant, who is to exercise his discretion in opening such Letters and perusing their contents.

80. The Section regulating the discipline and employment of the Convicts is to be read once in every Month to the Troops and Convicts on the Settlement.

81. These Regulations shall be entered in the Public Order Books of the Settlement, and they are to be strictly and literally adhered to throughout, No deviation being permitted except in cases of very great emergency, which are to be determined alone by the Commandant, who will immediately report in detail his reasons for such deviation to the Governor, in order that His Excellency's sanction to the measure may be obtained.

WM. DUMARESQ.
JAMES BUSBY.
E. DEAS THOMSON.

1829,
13 Aug.

Regulations
for penal
settlements.

Discipline and
employment
of convicts.

[Enclosure No. 2.]

1829.
13 Aug.Report of
board for
preparing
regulations.

REPORT of a Board, appointed by His Excellency The Governor's Minute No. 33, dated 24th March, 1829, for the purpose of preparing and submitting for His Excellency's Consideration a "Code of General Regulations for the Conduct and Discipline of Penal Settlements."

1st. The Board having perused and very attentively Considered the Memorandum and Minutes of His Excellency The Governor, and the various other Documents transmitted to them, with the Colonial Secretary's Letter to Captain Rossi of 25th of March last, have now the honor to submit the accompanying Code of Regulations for His Excellency's Consideration.

2nd. The General objects and principles to be observed in framing these Regulations were so fully embraced in His Excellency's Memorandum, that the Board have found comparatively little to suggest in addition; but they have considered it desirable to classify them as they relate to the general conduct and Management of the Settlements; and as they might more particularly affect the conduct or Interests of Individuals. They have accordingly divided them into three Sections. The first including matters which relate to the General Management of Penal Settlements, and the measures pursued there in furtherance of the objects of their Institution. The second affecting the conduct and duties required of the Officers and Free persons, who may be employed on such Settlements, and the Allowances made and Indulgencies provided by the Government for them; And the third, relating to the Discipline and Management of the Convicts, the classification of their labours, and the means of inciting them to reformation and of rewarding them for good conduct.

Division of
regulations
into sections.

3rd. The first Class of Regulations may accordingly be considered in the light of Instructions to the Commandants, or general Principles for their Guidance, and they have been framed upon the Principle that "The discipline and control of the Convicts, is the primary object to be considered in the conduct of a Penal Settlement," and that their Labours are to be directed more with a view to establish and confirm them in permanent habits of labour, in order that, when restored to freedom, they may have the power of earning their subsistence by honest Industry, than with a view to benefit the Government by the value of their labour, or by a saving of the Expense requisite for their Support and Management.

General
principles of
regulations.

4th. While, however, this has been the leading principle by which they have been guided, and while it will consequently be found to pervade all the Regulations they have framed, the Board are satisfied that the Measures, they have recommended in subservience to this principle, will not prove less profitable in a pecuniary point of view than any others, which might be established with a more direct reference to that object, as they are fully persuaded that, whenever the Discipline of such an Institution shall be sacrificed to objects of economy or profit, the end in view will be ultimately defeated by the very means resorted to for its attainment.

5th. In framing the Regulations which are intended to affect the Officers and Free Individuals employed at Penal Settlements, and with which they are of opinion they ought to be made fully

acquainted on receiving their Appointments, the Board have endeavoured to put them into such a prohibitory form as should check the first beginnings of abuse, and to define a limit which, if it should seem to trench a little upon some of the harmless Allowances of the Officers, might compensate for this inconvenience by the advantage of being always clearly and easily ascertained.

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officers and
free persons.

6th. On the other hand they have endeavoured to compensate for the privations, which the particular Circumstances and necessary regulations of Penal Settlements render inseparable from a residence upon them, by establishing such a scale of Allowances and indulgences as they think should satisfy every Individual, that the restraints, under which he is placed, are such only as are rendered necessary by a proper regard to discipline and to the prevention of abuses.

7th. The Board, however, think it necessary to remark that the present numbers of Milch Cattle and fat sheep at Moreton Bay and Norfolk Island, but particularly at the latter place as shewn by the Returns, are not equal to the Supply of Allowances, according to the Scale they have framed; and they accordingly take leave to recommend that every opportunity should be embraced of making such additions to the Stock as may be requisite for that purpose; and that the Number of Ewes should also as soon as possible be made equal to supply by Natural increase the demands of the Settlement for Fresh Provisions.

Live stock
required at
Moreton bay
and Norfolk
island,

8th. In considering the subject of supplying the wants of the Officers on the Settlement with Milk and Butter, three Modes have Suggested themselves to the Board, Vitz., 1st, that each Individual should be permitted to have a limited Number of Cows, but without being allowed to rear their increase. 2ndly, That Government Cows should be appropriated to them under the same limitations. 3rdly, That which the Board have adopted in the Regulations, and which, while it meets all the necessities of the case, appears to provide for a more equal distribution, to have a due regard to the increase of the Cattle, and to interfere less with the Discipline of the Settlement.

Methods for
supply of milk
and butter.

9th. In recommending that the Quarters of the Officers should be provided with furniture, the Board have considered the inconvenience occasioned to the Public Service by the Space which such Articles occupy in Vessels Sent from Sydney, when officers are required to take them, as well as the loss of private property which they sustain by the breakage and damage of such Articles.

Supply of
furniture.

10th. In the Regulations, which they have submitted relative to the Discipline and Management of the Convicts, they have endeavoured even in the most extreme cases to keep alive the hope of ultimate relief and amendment of their circumstances, as the fruits of Steady and long continued good conduct, and at the same time to arrange a system of employment and superintendence, with the view of allowing no evasion of Labour or Attainment of present ease or Indulgence.

Encouragement
for good
conduct
amongst
convicts.

11th. The Board have considered that the Act of Parliament and Acts of Council will be a sufficient guide for the Commandants in the discharge of their Magisterial duties; but they should hope that a Vigilant Maintenance of the proposed Regulations will leave fewer opportunities to the Convicts of incurring, by Crime or Misconduct, additional punishment.

Magisterial
duties.

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Selection of
overseers and
constables.

12th. It will be observed that the Board have provided that the Overseers and Constables shall be chosen from among the Convicts themselves; but they consider it at the same time to be desirable that prisoners under a first conviction should be induced to Volunteer as Constables and Overseers to the Penal Settlements. Persons well fitted to discharge this duty might, they conceive, be easily obtained by holding out to them the same inducements, as are proposed for those who shall be employed from amongst the Convicts of the Settlements. The Board are also of opinion that this privilege should be extended to Mechanics or others whom it may be found necessary to employ at Penal Settlements, with the view of Maintaining a Marked distinction between such Individuals, and those who have incurred the penalties of a second Conviction. It also appears to the Board that an interchange of Overseers might be advantageously made between the different Penal Settlements, as cases may occur where it is desirable to remove a person, who may have made himself obnoxious to the Convicts by a faithful and Zealous discharge of his duty.

Wives and
families of
convicts.

13th. With regard to the free Wives and Families of Convicts, who may have been allowed to join their Husbands, the Board have thought it absolutely necessary that they should be placed in exactly the same Circumstances as to Rations and Indulgences as their Husbands.

14th. It has not escaped the Notice of the Board that, as this Class of Individuals are lodged, Clothed and fed at the expense of the Crown, there would be nothing unreasonable in making them pay for their support by their labour; but, besides that this would be attended with some difficulty in practice, they consider it desirable that a distinction should be maintained between them and the Convict Women; and they have therefore thought it more desirable that no compulsory labour should be exacted from them.

Washing of
convicts'
clothes.

15th. The Board think it necessary to allude to the regulation, which they have submitted, relative to the Washing of the Convicts' Clothes, as, if adopted, it will be requisite that an Extra Suit of Clothing should be provided in the first instance for each Convict.

Returns.

16th. The several Returns made from the Settlements, the Forms of which have been exhibited to the Board, appear to comprehend all the information required to be furnished to Head Quarters; and it has therefore not appeared to them necessary to propose any alteration; but, in the Department of Public Works, they have substituted two others for those hitherto in use at Penal Settlements.

Departmental
details.

17th. In concluding their Report, the Board beg to observe that, having been directed to prepare a Code of *General Regulations*, they did not consider that it was necessary or consistent with the Spirit of their Instructions to interfere with the established modes of conducting the details of the different Departments at Penal Settlements, conceiving it to be understood that the more minute of those details as established by practical Knowledge and confirmed by experience, so far as they are left untouched by the Regulations now proposed and are consistent with the principles upon which they have been framed, are to be continued and strictly adhered to as before.

Sydney, 1st July, 1829.

WILLIAM DUMARESQ.
JAMES BUSBY.
E. DEAS THOMSON.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per brig Ionia and ship Alice; acknowledged by
under secretary Hay, 6th April, 1830.)

1829,
13 Aug.

Sir, Government House, 13th August, 1829.

I do myself the honor to transmit for your information the enclosed Copy of a Letter from Surgeon Fairfowl, Superintendent of the Female Convict Ship Sovereign, reporting the Death of a Child occasioned as he states by its having been injudiciously weaned at the early Age of three Weeks, in order that the Mother might be enabled to embark. I have felt it my duty to bring this event under the Notice of the Secretary of State, as he may think it necessary to take Steps to prevent a recurrence of such a proceeding.

Death of infant
on female
convict ship.

I have, &c.,
RA. DARLING.

[Enclosure.]

SURGEON FAIRFOWL TO COLONIAL SECRETARY MACLEAY.

Sir, C. T. Sovereign, Sydney, 10th August, 1829.

I beg to inform you that the infant Elizabeth Morris, daughter of Mary Morris Convict, died yesterday forenoon, and the Corpse was sent to the Hospital for interment.

Report by
surgeon.

This is the infant, for whose removal to the hospital I solicited permission, but on my return on board, finding it so far gone that a removal might hasten while it could not avert the fatal termination, I judged it advisable to keep both Mother and Child on board.

The Child's death was from Marasmus, caused by its being most injudiciously weaned at the early age of three Weeks, in order to comply with the letter of an Order from the Right Honble. Mr. Peel that no female Convict should be embarked until she had weaned her Child thirty days. The Child was only eleven Weeks only when it was embarked.

I have, &c.,
GEO. FAIRFOWL,
Surgeon and Superintendent.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 97. per ship Harmony; acknowledged by
Sir George Murray, 7th June, 1830.)

Sir, Government House, 17th August, 1829.

17 Aug.

I do myself the honor to transmit for your information Copy of a Letter addressed to me by Archdeacon Scott and of my reply, on the Subject of the Establishment necessary to enable the Trustees of the Church and School Lands to carry on the business of the Corporation, which has encreased considerably of late in consequence of the transfer of a large quantity of Land to that Body.

Establishment
for trustees of
clergy and
school estates.

Finding that the Trustees had assigned a Salary to the late Treasurer of £250, which was paid with other Charges from the Funds in their possession arising from the Sale of Glebe and

Salary paid to
W. Balcombe.

1829.
17 Aug.

other Lands, I thought it necessary to explain, as you will perceive by Par. No. 4 of my Letter above referred to, that I could advance only such Monies as might be required (the Expences being approved by Myself) over and above the Amount of the Funds at the disposal of the Trustees. The Salary to the Treasurer was consequently discontinued after the death of the late Mr. Balcombe.

Salary for
principal clerk.

I beg leave, in reference to the subject of remuneration to the Principal Clerk, to transmit the accompanying Extract from the Proceedings of the General Court of the Trustees, proposing a Scale of the Duties and Salaries for that Individual and the Surveyor of the Corporation.

I am not aware, as stated in Enclosure No. 2, Par. 5, that any advantage would arise from the employment of the Principal Clerk as Accountant, as the Clerk must always have Ample employment in his own immediate office, part of which, by his assuming the Charge of another Branch, he would necessarily be obliged to transfer to other hands.

Offices of
principal
clerk and
accountant.

The Offices of Principal Clerk and of Accountant will in time be Offices of much responsibility and should be paid in a correspondent manner; The Chief Clerk, as the Organ of the Trustees, and the Accountant, as being charged with the check of all Monies becoming payable and seeing that payments is regularly called for. I think however, allowing that these Offices may be united for a time, that the Salary should not be allowed to encrease beyond £650, being the same as recommended for the Assistant employed in the Office of the Colonial Secretary.

I suggest this merely with a view to economy, until the Funds of the Corporation encrease, being Satisfied it will be necessary by and by that the Department of the Chief Clerk and Accountant be distinct.

Salary of
surveyor.

You will perceive by my Letter (Enclosure No. 2) that I have sanctioned the Appointment of a Surveyor at a Salary of £400 per Annum, being satisfied that a respectable person, competent to the duties and Management of so extensive a concern as the Lands of the Corporation, could not possibly be obtained at a lower rate.

Salaries of
junior officers.

As to the Salaries of an Assistant Surveyor or the subordinate Clerks, whom it may be necessary to employ, I can see no reason why they should not be placed on the footing of the Clerks employed in the Offices of Government, who commence at a Salary of £150 per Annum.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

1829.
17 Aug.

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Corporation Office, 19th April. 1829.

I had the honor of receiving Your Excellency's Letter of the 28th of February, in reply to mine of the 25th of the same Month, which I addressed to Your Excellency with the view of ascertaining for the information of the Trustees how far Your Excellency would feel yourself authorised in advancing Funds to encrease the Department of the Trustees of Church and School Lands to the extent, which has been rendered necessary by the daily increasing Duties, and by a portion of the Lands having been placed at their disposal.

Proposed
increase in
establishment
for clergy and
school estates.

In a subsequent interview which I had with Your Excellency, I took occasion to state that, before any steps were taken, it was my intention to move that a Committee should be Appointed to enquire into the state of the Affairs, and to report upon the necessity of any augmentation.

Your Excellency will have received through the Colonial Secretary an Extract from the Report of the Committee, which was appointed for this purpose, accompanied by an Extract from the Minutes of the last General Court. I am, however, anxious to lay my Opinion before Your Excellency that, if necessary, His Majesty's Government may be acquainted therewith, and myself be relieved from the responsibility, which might arise, were I not to put the Secretary of State in full possession of the case.

At the time the Charter was proclaimed (March, 1826), the Affairs of the Corporation were small; but the transfer of the payment of the stipends of the Clergy (which had been hitherto borne on the Parliamentary Estimates) from the Commissariat, the increased Number of Chaplains and School Masters, the Attention which the Male and Female Orphan Schools required to reduce their Expenditure and provide in detail for the Clothing and Victualling such large Establishments, besides the repairs of the Churches and School Houses, augmented the details very considerably. An Accountant was accordingly Appointed to afford relief to Mr. Cowper, the Clerk and only person engaged with a very inadequate Salary to manage the Affairs; the exertion required for which was far beyond what could be reasonably expected from one Individual. The emolument being £100 per Annum was not sufficient to remunerate the services of a person qualified to undertake the Duties; and, after trying two Individuals who rendered little assist, but left the Accounts very incomplete, the Trustees accepted the offer of Mr. Cowper to undertake the whole Affairs, if he was allowed assistance. The Salary Named for that assistance was £50 per Annum, but only one Individual applied for the Situation, and upon Trial he proved to be unfit. The duties have therefore been performed by Mr. Cowper, who was subsequently allowed the £100 per Annum, with such occasional assistance as he could procure; and, as the Charter requires the Accounts to be ready for Audit between the 31st of December and the first Week in the February following, it required no ordinary exertion to comply with this Instruction.

Increase in
business of
corporation.Appointment
of accountant.Duties of
C. Cowper.

As the Treasurer represented that his Duties had been augmented by the receipt and payment of the Money of the Corporation, and as a doubt was entertained whether, notwithstanding his Appointment

1829.
17 Aug.
Salary paid to
W. Balcombe.

by the Charter, the Security given to the Government was sufficient for the Trustees, he was required to find additional Security for £5,000; in consequence of which the Trustees Voted him a Salary of £250 per Annum; which Sum, however, Your Excellency did not think proper to advance out of the Colonial Revenue, and it has therefore been paid from the Proceeds of the Sale of Lands.

Duties of
treasurer.

It was soon found that the Treasurer rendered little or no assistance in keeping the Accounts, and that his Duties in that respect were confined to a common entry of Receipts and Payments.

Reorganisation
in office.

The long and severe illness of the late Treasurer suspended any immediate alteration; but it has been for some time determined to discontinue that Officer's Salary, and to make some other arrangement for the more efficient performance of the Business. I beg leave to call Your Excellency's attention to the Minutes of the General Court, to which I have before referred, where it will be seen that, at the Death of the late Treasurer, the Trustees were enabled to place the details of the Office on a proper footing, with only a very small addition to the Expenditure.

Responsibility
thrown
on Revd.
T. H. Scott.

I cannot forbear remarking that, as the details and in a great measure the responsibility of the Expenditure of the Church and School Establishments have been thrown by the Trustees on me (for no Member attends but at a Committee or General Court and some of them not at these). I feel it too great to continue and quite inconsistent with my Ecclesiastical Duties and my Station; for not only have I been compelled to attend daily at the Office and do the duty and drudgery of a common Clerk, but, for want of adequate accommodation, I have been in a small room with the Clerk, open to the constant interruption of all who had any the commonest affair to transact.

Assistance
given by
C. Cowper.

In all this I have had the valuable assistance of Mr. Charles Cowper, the Clerk, to whose ability, zeal and fidelity, in a Situation most trying and harrassing, I feel the greatest pleasure in bearing my testimony. He has however not escaped the unmerited and unjust censures of some of the Trustees, who have little knowledge of the Affairs; and I feel compelled to Name the Revd. F. Wilkinson, who in my opinion is not a fit or proper person to be retained in the Trust.

Duties of Revd.
T. H. Scott.

As Vice President of the Corporation and Chairman of the Committee, I do not feel that my duties require me to do more than to give directions and have a general Superintendence; but, for want of sufficient means, I have hitherto done more. And now the duties encrease so much, are so detailed, so complex and so open to influence, that it requires not only a very efficient strength but the highest integrity in the Officers, on whom the Management of the details must necessarily devolve.

Confidence in
C. Cowper.

These Officers are in the election of the whole Body, and it becomes us to be most circumspect in their Selection.

In the tried talent and integrity of Mr. Charles Cowper, whom Your Excellency was pleased to recommend to the Trustees as Clerk, I have had the most convincing proof, during a close and daily intercourse of three Years; and to him I left the detail of almost every matter connected with the Temporalities of the Church, and through whose hands and very accurate circumspection the Annual Expenditure of £20,000 has passed. In no one else, should I feel disposed to place the implicit Confidence which my

situation has compelled me to place in the general Management of the Affairs, and the large pecuniary Trust which necessarily devolved on him.

1829.
17 Aug.

With respect to the Surveyor, I feel persuaded, Your Excellency is too well aware that, without such an Officer, the disposal of the Lands cannot even be commenced upon, and consequently no Funds raised to relieve the Colonial Revenue. It will therefore be for Your Excellency or His Majesty's Government to determine whether such an Appointment should be made, or the Salaries and other Expenses of the Church and School Establishments continue chargeable on the ordinary Revenue.

Necessity for
surveyor.

I am of opinion that the Scale of Salaries recommended by the Committee will not be more than adequate Remuneration for the duties and responsibility, which must be attached to the Appointments. Since the Report of the Committee was presented to the Court, I have made further enquiries on the subject, and the information, which I have Collected, has only confirmed the opinion which I therein expressed.

Salaries
recommended.

I have to apologise to Your Excellency for trespassing so long on your time, but I hope the importance of the Subject, and the responsibility I feel thrown on me, will be my excuse.

I have, &c..

T. H. SCOTT.

[Enclosure No. 2.]

GOVERNOR DARLING TO ARCHDEACON SCOTT.

Sir, Government House, 1st June, 1829.

1. A Variety of very pressing matter has prevented my rendering such early attention to your Letter of the 29th of April, as the approaching general Court of the Trustees of the Church and School Corporation rendered necessary. I now hasten to reply to it, so as to enable you to communicate with the General Court on the subject at its meeting tomorrow.

Letter
acknowledged.

2. I beg to apprise you that I have instructed the Colonial Secretary to inform the Corporation, in reply to their Letters, that it is not in my power to sanction the Expense which would be incurred in the erection of the Several Buildings, proposed for the residences of the Clergy and for School Houses, etc. I have already communicated to you the Instructions I have received, and you will perceive, on referring to them, that nothing is left to my discretion in this respect.

Refusal to
sanction
erection of
buildings.

3. As however the Land, which has lately been transferred to the Corporation, would be unavailable unless a Surveyor were employed to make the necessary Arrangements for its disposal, and as the Government does not possess the means of rendering the Corporation any Assistance in this respect, I shall not object to increase the Amount of the Money to be issued by the Government, so as to meet the Expense Attending the Appointment of Surveyor at the Salary proposed.

Salary to be
provided for
surveyor.

4. But I request it may be understood that I do not feel myself at liberty to issue Money for the Expenses of any particular Branch, but merely to make up such balance generally, as the Trustees may not have the means of paying; the Expenditure being confined as at present to the Stipends of the Clergy, the Salaries and Allowances of the Individuals at present employed, and to the rent and repair of Buildings now Actually hired or belonging to the Corporation.

Money to be
issued by
R. Darling.

1829.
17 Aug.

Salaries
proposed.

5. Considering the increasing business of the Corporation, it appears to me that the Arrangement of employing the Principal Clerk as Accountant could not in any degree answer the purpose intended, as his more immediate duties would suffer in proportion as his attention might be directed to other objects. I shall take an early opportunity of communicating with the Secretary of State on the subject of the Salaries proposed for the Principal Clerk and the Surveyor. But I can see no reason why the Salaries of the Assistant Surveyor and Junior Clerks should not be regulated the same as in the Civil Government.

Letter to be
transmitted
to England.

6. I shall not fail to transmit your Letter to the Secretary of State, in order that he may be fully in possession of your Sentiments with respect to the Arrangements and duties which devolve on the Trustees; and I avail Myself of this Opportunity of assuring you that no one can be more sensible than I am of the Zeal with which you have applied yourself personally to that Establishment, or of the benefit which it has derived from your exertions.

I have, &c.,

RA. DARLING.

[Enclosure No. 3.]

EXTRACT from the Report of the Committee of the Trustees of Clergy and School Lands to the General Court to be held on Tuesday, the 7th April, 1829.

Proposed
appointment
of clerks.

YOUR Committee are of opinion that at present not less than two efficient Assistant Clerks should be Appointed, and their Duties might be divided nearly as follows, Vizt. :—

One. In Assisting to keep the Accounts, properly examined and arranged as they are received at the Close of each Quarter; Registering the Drafts of the Clergy; keeping an Account of the Sales and Rentals of Land; and checking the Weekly Returns.

The Second. In assisting in the Correspondence; the Registry and Management of Letters received; preparing and keeping a Registry of Indentures, complying for Requisitions for Books for Schools, Copying any Papers which may be required.

Both would also be employed in assisting to bring up the Arrears.

Scale of
salaries.

Under the New Arrangements thus proposed, your Committee submit that the following Scale of Salaries be adopted :—

1st. That the Salaries and allowance for Lodging, at present granted to the Clerk and Accountant, be consolidated, and that a Salary of £450 Sterling be given to the Clerk, which shall include every Allowance, and be increased £50 each Year, until it reaches the Maximum of £750 per Annum.

2nd. That the first Assistant Clerk be allowed a Salary of £200 Sterling per Annum and be increased Annually £25, until it reaches the Maximum of £300 Sterling per Annum.

3rd. That the second Assistant Clerk be allowed a Salary of £150 with an Annual Encrease of £25, until it reaches the Maximum of £200 Sterling per Annum.

The increased Expenditure caused by this Arrangement will only amount to £90 per Annum; or, if Mr. Henderson had not remained with the Library, and which it was found could not have been continued, an increase of £40 per Annum.

With reference to the appointment of a Surveyor, and the duties to which he would be required to attend, the Committee recommend that a Surveyor be forthwith appointed, and be directed to commence the Surveys generally of those Lands for which Tenders have been made; and also be directed to make a Report upon the advantages of Situation, the quality and estimated Value of the Soil, and to what extent, within the Quantity prescribed in the Charter, Sales should be made. The Committee are of Opinion that no steps should be taken for the permanent disposal of any Land, until a Surveyor has been appointed and make a Report thereon.

1829.
17 Aug.

Proposed
appointment
of surveyor.

With regard to the scale of remuneration to be granted to the Surveyor, it is recommended:—

- 1st. That the Surveyor should receive a Salary of £400 Sterling per Annum, which should be increased Annually £50, until it reaches the Maximum of £650 Sterling. An allowance for the keep of a Horse at 2s. 6d. per day should also be made and a Ration of Provisions when in the Field.
2. The Assistant Surveyor, whenever it may be necessary to make the Appointment, shall receive £200 per Annum, and an Annual increase of £20, until it reaches the Maximum of £300 per Annum, also 2s. 6d. per day for the keep of a Horse, and a Ration of Provisions when in the Field.

The Archdeacon has requested it to be stated that his opinion is at variance with the other Members regarding the Maximum up to which the foregoing Salaries to the Clerk and Surveyor should increase, as he conceives that, where there is no Pension or retired Pay to any Amount held out, the Salaries should continue to increase according to the Scales proposed for each additional Year of Service.

Opinion
of Revd.
T. H. Scott.

T. H. SCOTT,
ALEXANDER MCLEAY,
SAMUEL MARSDEN,
WILLIAM COWPER,
RICHARD HILL.

True Extract:—CHARLES COWPER, Clerk of the Corporation.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Harmony.)

Sir, Government House, 18th August, 1829.

18 Aug.

I have the honor to acknowledge the receipt of the Several Letters, as stated in the Margin,* from the Under Secretary of State.

Despatches
acknowledged.

I have, &c.,
RA. DARLING.

* *Marginal note.*—30th May, 1828; 3rd June, 1828; 27th June, 1828; 9th July, 1828; 11th July, 1828; 11th July, 1828; 14th July, 1828; — August, 1828; 5th August, 1828; — August, 1828; 12th August, 1828; — August, 1828; 2nd September, 1828; 23d September, 1828; 12th October, 1828; 28th October, 1828; 7th November, 1828; 11th November, 1828; 13th November, 1828; 15th November, 1828; 15th November, 1828; 15th November, 1828; 27th November, 1828; 30th November, 1828; 1st December, 1828; 12th December, 1828; 13th December, 1828; 13th December, 1828; 14th December, 1828; 15th December, 1828; 16th December, 1828; 24th December, 1828; 25th December, 1828.

1829.
18 Aug.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony.)

Sir, Government House, 18th August, 1829.

Despatches
acknowledged.

I have the honor to acknowledge the receipt of the several Letters, as per Margin,* from the Under Secretary of State.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony.)

Sir, Government House, 18th August, 1829.

I do myself the honor to acknowledge the receipt of the several Despatches from the Right Honble. the Secretary of State, as Stated in the Annexed Return.

I have, &c.,
RA. DARLING.

[Enclosure.]

Return of
despatches
received.

RETURN of Despatches received from the Right Honble. The Secretary of State as understated.

“Surry,” 22d January, 1829.—Separate, 5th June, 1828; Circular, 6th June, 1828.
“Swiftsure,” 17th April, 1829.—No. 25, 29 August, 1828; No. 26, 30th August, 1828; Separate, 30th August, 1828; No. 27, 1st September, 1828; No. 28, 8th September, 1828; No. 29, 9th September, 1828.

“Princess Royal,” 9th May, 1829.—No. 30, 10th September, 1828; No. 32, 23d September, 1828; No. 33, 28th September, 1828; No. 34, 30th September, 1828; No. 35, 30th September, 1828; Circular, 15th October, 1828; Circular 36, 25th October, 1828; Circular 37, 26th October, 1828; Circular 38, 27th October, 1828; Circular 39, 29th October, 1828; Circular 40, 31st October, 1828; No. 41, 1st November, 1828; No. 42, 2d November, 1828; No. 43, 3rd November, 1828; No. 44, 4th November, 1828.

“Mellish,” 10th April, 1829.—No. 45, 11th November, 1828.

“Lord Melville,” 6th May, 1829.—No. 46, 11th November, 1828; No. 47, 11th November, 1828; No. 48, 12th November, 1828; No. 49, 12th November, 1828; No. 50, 12th November, 1828; No. 51, 13th November, 1828; No. 52, 14th November, 1828; No. 53, 15th November, 1828; No. 54, 15th November, 1828; No. 55, 14th November, 1828.

“Waterloo,” 10th July, 1829.—No. 56, 26th November, 1828; No. 57, 26th November, 1828; No. 58, 26th November, 1828; No. 59, 26th November, 1828; No. 60, 27th November, 1828; No. 61, 27th November, 1828; No. 62, 27th November, 1828; No. 63, 27th November, 1828; No. 64, 12th December, 1828; No. 65, 12th December, 1828; No. 66, 13th December, 1828; No. 67, 16th December, 1828; No. 68, 17th December, 1828; No. 69, 18th December, 1828; No. 70, 19th December, 1828; No. 71, 20th December, 1828; No. 72, 21st December, 1828; No. 73, 22d December, 1828; No. 74, 23d December, 1828; No. 75, 24th December, 1828.

* *Marginal note.*—“Waterloo,” 10th July, 1829.—4th January, 1829; 9th January, 1829; 11th January, 1829; 16th January, 1829; 31st January, 1829; 3rd February, 1829; 5th February, 1829; 13th February, 1829; 20th February, 1829; 1st March, 1829; 13th March, 1829. “Sovereign,” 3rd August, 1829.—7th April, 1829; 8th April, 1829; 9th April, 1829; 10th April, 1829. “America,” 18th Augt., 1829.—10th January, 1829; 20th March, 1829; 21st March, 1829; 4th April, 1829; 6th April, 1829.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Harmony.)

1829.
18 Aug.

Sir, Government House, 18th August, 1829.

I have the honor to acknowledge the receipt of the several Despatches as per Margin,* from the Right Honble. the Secretary of State. I have, &c.,
RA. DARLING.

Despatches acknowledged.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 98, per ship Harmony; acknowledged by
Sir George Murray, 21st April, 1830.)

Sir, Government House, 20th August, 1829.

20 Aug.

The line of Road† to the Southern parts of the Colony calling for more particular attention than has yet been paid to it, in consequence of the increasing Number of Settlers in that Quarter, I have been under the Necessity of Appointing an Assistant Surveyor to the Charge of the Roads leading to it.

Assistant surveyor appointed to charge of southern road.

I have already had the honor of stating to you that the Officers of the Military Service are required for so many other Duties, those of the Police in particular, that they cannot be Spared for the Roads; and, if the Road Department is to be superintended by the Surveyor General's as proposed in a Despatch which I lately had the honor to receive from you, that Department must be Augmented in proportion, as it is quite impossible that any one Individual could effectually attend to the Duties of both.

The Road to the Southward, of which I have just now spoken, is opened to the extent of 150 Miles and 253 Men are employed on it at present.

Length of roads and men employed.

The Western or Road to Bathurst also occupies a space of 120 Miles from Emu Plains, on which 320 Men are now employed.

On the Road to Hunter's River by Wiseman's on the Hawkesbury, which is not yet completely opened, nearly 400 Men are employed, and 300 more are Working on the different Roads in the District of Hunter's River.

There is an Assistant Surveyor at each of the above Stations, and one at the Head Quarters of the Department at Parramatta,

Assistant surveyors.

* *Marginal note.*—"Waterloo," 10th July, 1829.—No. 76, 1st Jany., 1829; No. 77, 2nd Jany., 1829; No. 78, 3rd Jany., 1829; No. 79, 5th Jany., 1829; No. 80, 6th Jany., 1829; No. 81, 7th Jany., 1829; No. 82, 12th Jany., 1829; No. 83, 13th Jany., 1829; No. 84, 14th Jany., 1829; No. 85, 15th Jany., 1829; No. 86, 22d Jany., 1829; No. 87, 1 February, 1829; No. 88, 2nd February, 1829; No. 89, 4th February, 1829. "America," 18th August, 1829.—No. 90, 15th March, 1829; No. 91, 26th March, 1829. "Sovereign," 3rd August, 1829.—No. 92, 11th April, 1829; No. 93, 12th April, 1829; No. 94, 13th April, 1829; No. 95, 14th April, 1829; No. 96, 15th April, 1829; No. 97, 16th April, 1829; No. 98, 16th April, 1829; No. 99, 16th April, 1829; No. 100, 16th April, 1829; No. 101, 16th April, 1829; No. 102, 16th April, 1829; No. 103, 16th April, 1829; No. 104, 16th April, 1829.

† Note 40.

1829.
20 Aug.

Roads near
Parramatta.

making five in the whole. The latter also assists the Surveyor of Roads in the Office and in Superintending the Parties employed within a Range of 20 Miles of Parramatta, which consist of 530 Men at present, the Parties in this Quarter being Numerous as the Roads all radiate from the above Town.

Men and
assistant
surveyors
employed
on roads.

It therefore appears that 1,800 Men are just now employed, of whom 450 are in Irons. They are divided into 40 Parties and five Assistant Surveyors are employed in their Superintendence, a number which I assure you is barely sufficient, I should indeed be justified in saying is inadequate to the duty to be performed.

I have, &c.,

RA. DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Sarah; acknowledged by
Governor Darling, 1st January, 1830.)

22 Aug.

Sir,

Downing Street, 22 August, 1829.

Error in
indent *re*
P. Hughes.

I am directed by Secretary Sir G. Murray to refer you to Lord Goderich's Despatch of the 20th July, 1827, relative to the case of "Phelim Hughes," a Prisoner of the Crown at N. S. Wales, who, it appeared, had, by an error in the Warrant for his transportation, been banished for Life instead of for the term of seven years; and I am to request that you will state, for Sir G. Murray's information, whether you have taken the necessary steps for giving effect to the Instructions of Lord Goderich, conveyed to you in that despatch.

I have, &c.,

H. TWISS.

P.S.—A Copy of Lord Goderich's despatch is herewith enclosed.

H.T.

[Enclosure.]

[*A copy of this despatch will be found on page 452, volume XIII.*]

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony.)

24 Aug.

Dear Sir,

Government House, 24th August, 1829.

Transmission
of papers *re*
J. Rodd.

Mr. Rodd, the Subject of your Letter to me of the 12th of December last, having intimated his intention of returning Home to press his claims, or to write to the Secretary of State on the Subject, I have been induced to forward for your information the enclosed Copy of the Proceedings of a Board, assembled to enquire into a representation of his having had some Articles of Furniture made Contrary to the Standing Orders in the

Government Establishment at Newcastle, of which he was the Superintendent at the time, and which Articles were forwarded by a Government Dray to his Farm in the Interior, in order that you may be fully apprised of his case when you receive his application.

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Mr. Rodd's resignation of his Appointment was received soon after the Inquiry was ordered, which appeared to render any further proceeding unnecessary.

Resignation
of J. Rodd.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Newcastle, 4th August, 1829.

PROCEEDINGS of a Board assembled in compliance with the Instructions of His Excellency the Governor, conveyed by Letter from the Honble. the Colonial Secretary dated 25th July, 1829, directing the Investigation of the circumstances, mentioned in Mr. Wright's Letter of the 14th Ult. (July) of Mr. Rodd's employing the Government Teams in carrying his Furniture to the Wollombie, and ascertaining, if possible, if any of that Furniture was made in the Lumber Yard.

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J. Rodd.

As also to call Mr. Rodd before us to answer the above Circumstances, or any other charges of malversation, which may come to our knowledge in the course of the investigation.

Captain Aubin; G. Brooks, Esqr., Surgn.; Lieut. Warner; Members.

The Board, having assembled, call on Samuel Wright, Esqr., for confirmation of his Report of the 14th July, which states "and it is of recent occurrence that a Team, consisting of three of the Government Bullocks, was withdrawn from Public Labour, and employed in drawing a Dray with various Articles of Furniture, etc., the Property of Mr. Rodd, to his Farm on the Wollombie," who requested the following Witnesses may be examined.

MR. GEORGE MUIR, Chief Constable, being sworn, states that, on the 2nd of July, he observed a Dray leaving the Settlement with some paling for the Government House at Wallis Plains, which Dray did not return to the Settlement before the 9th of July in the Evening, but does not know of his personal knowledge how the Dray and Bullocks were employed during that period.

Deponent further states that he has frequently observed the Government Working Cattle after their daily Labour turned out in the Evening on the Barren Hills in the Neighbourhood of the Town, and sometimes swam across to a swampy Salt Water Island, when, if they had been driven a little distance, they might have had better pasturage; and that the Police have repeatedly checked the Stockmen for their neglect in keeping their Bullocks within the precincts of the Town, when by going some little distance they could have procured plenty of Food for them. Deponent has also frequently seen the Bullocks during the day when unemployed, kept on the Hills about the Town, and that the Stockmen have been punished in several instances for not taking the Bullocks to better pasturage.

WILLIAM WHITE, Being sworn, states that he is employed as Bullock Driver, and that about three Weeks ago he proceeded with his Dray and Team of 3 Bullocks from Newcastle to Government House at Wallis Plains; that his dray was loaded with paling for

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Government House, Six Bundles of Laths for Mr. Rodd, which he received from Mr. Boucher's Yard, one large Case and two empty five Gallon Kegs also for Mr. Rodd. The first Night he stopped at Wallis Plains where he left the paling for Government House.

The next day, he deponent proceeded by order of Mr. Rodd with his Team to McDonald's Wharf across the Creek at Wallis Plains and received, from the Coxswain of the Government Boat, the following Articles "some Cedar Boards (about four), 2 Book Shelves, four or five Stools, and one Table, which, with the case, etc., already stated, he took up to Mr. Rodd's on the Wollombi, where he halted one day to refresh and rest his Bullocks, that were very much fatigued, and then returned by regular stages to Newcastle, having been absent Seven days from the Settlement. Deponent states that, when he left Newcastle, Mr. Rodd told him that he (Deponent) should not be required to go beyond Wallis Plains with his Team, as he (Mr. Rodd) expected his own Team there. Deponent does not know where the Furniture, which he took up in his dray, was made.

JOHN MOON, being sworn, states that he is Coxswain of the Government Boat, and that, about three Weeks ago, he took up in his Boat the following Articles for Mr. Rodd, one Grindstone, one Cedar Door, two Stools, four Cedar Boards, One Table and one Book Case of two Shelves. The Grindstone he received from the Lumber Yard at Newcastle, and the other Articles from the Cottage Keeper at Nelson's Plains, the whole of which he delivered to William Wight (one of the Government Carters) at Wallis Plains. Deponent does not know where the Furniture was made.

WILLIAM WHITE, being recalled, states that the following Articles were taken up by him to Mr. Rodd's Farm besides the other Articles which he has already stated, Vizt., One Door, One Grindstone, and one small Basket with three panes of Glass.

ANDREW DAWSON, Being sworn, states that he is Principal Overseer of the Government Gangs, and that he recollects a Government Dray with three Bullocks having left the Settlement for Wallis Plains on the 2nd of July; and that 46 Palings and 8 Posts for the Government Cottage at Wallis Plains were sent by the Dray from the Lumber Yard. Deponent also saw some cases and other things put on the same dray from Mr. Rodd's House; the Dray nor Bullocks did not return to the Settlement before the 9th of July. Deponent states that a Bed Board resembling a Door, and two tressels for it to lye on, were made in the Lumber Yard by order of Mr. Rodd to be sent up to Nelson's Plains for him to sleep upon, when he went up there, also a Table which Mr. Rodd desired should not be stamped with the Broad Arrow, as they were to be returned. Deponent adds that he is not certain if the Table was sent up to Nelson's Plains; and that Mr. Rodd did not, at that particular time, desire that the Table should not be marked, but that it was not marked in consequence of Instructions to that effect having been previously received whenever any Articles were made for Mr. Rodd. Deponent further states that, with the exception of an Arm Rack (for two or three Muskets), he is not aware of any other Articles of Furniture having at any time been made in the Lumber Yard for Mr. Rodd; Deponent also states that, about the time the Dray went up to Wallis Plains, Mr. Rodd asked him if there were any Grinding Stones in the Yard, that were not in use; he, Deponent,

replied that there were some new ones, and Mr. Rodd remarked that he wanted one, and desired it to be sent up for him, and that he expected a new one from Sydney which Deponent was to detain in its place; but it has not yet arrived.

Questions from Mr. Rodd to the Evidence. Are you certain that I ever ordered any Table to be made in the Lumber Yard?—*Answer.* No, except by its having been reported to me by the Overseer of Carpenters.

Question. Was there ever any concealment used in making any Articles for me?—*Answer.* No, every thing was done and ordered in the most Public manner.

Question from the Board to the Evidence. Do you consider that the Tethering of Settlers' Horses in the Neighbourhood of the Town could have materially diminished the Food for the Government Bullocks?—*Answer.* No, and I consider the Working Bullocks belonging to Government are generally in better Order than any of the Settlers' Bullocks that came down from the Country, and Mr. Rodd has always shewn the greatest anxiety that the Bullocks should be well taken care of.

JOHN DUNCAN, Being sworn, states that he is Overseer of Carpenters in the Lumber Yard, and that he does not know of any Furniture having at any time been made in the Lumber Yard, for Mr. Rodd's own private use; that he Deponent once made a Table for Mr. Rodd's Quarters, and marked it with the Broad Arrow.

He recollects two bed boards having also been made for the purpose of being sent to Nelson's Plains Government Cottage, and Williams' River Cottage.

Question. Have you yourself, or do you know of any Government Mechanics having at any time been employed by Mr. Rodd, during the usual Hours of Government Labour?—*Answer.* I never have, nor do I to my knowledge know of any others having been so employed by Mr. Rodd.

Mr. Rodd handed to the Board the Accompanying written reply to the above Statements.

P. AUBIN, Capt., 57 Regt.

GEO. BROOKS, Col. Surgeon.

JONATHAN WARNER, Lt., N.S.W. Vetus.

[Enclosure No. 2.]

A REPLY to the Charges preferred against the Superintendent of Public Works for neglecting and improperly employing the Government Working Cattle at Newcastle.

Reply by
J. Rodd to
charges.

THE proper treatment of the Working Cattle has been an object of the Superintendent's most anxious care and solicitude since his taking charge of the Department of Public Works. The most judicious Arrangements, that could be devised by him for procuring them a sufficient Supply of Grass consistent with their being within reach of their Work in the Morning, have been adopted, and, every obstacle that stood in the way, he has assiduously endeavoured to remove by giving notices to persons whose Cattle depastured at large on the grounds in the Neighbourhood of Newcastle, particularly on the flat leading to and in the rear of Farm Cottage. The day and Night Stockmen have been enjoined frequently to be vigilant in their duty, and the least deviation from it was sure to be visited with severe rebuke and punishment. The Cattle have been

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shifted from place to place, as Circumstances required, to obtain the best supply of Grass in the Late Drought, and no expedient omitted to keep them in a good Working Condition. The range of their feed extends nearly Seven Miles from the Light House to the Hills bounding the Flats, on which he has counted 116 Head of Cattle (after he had given the Proprietors notice to remove their Herds). Motives of humanity, as well as public duty, have directed his serious attention to those objects; and, if he is entitled to any Credit for the performance of those duties attached to his public Situation, he claims it particularly for his endeavours to secure the best treatment of those Animals, who by their Labour so essentially contribute to the comforts and necessities of Man.

With regard to the Cattle having been improperly employed by him, he presumes relates to his having sent a Team of three Bullocks and a Dray to his Farm, and which he will endeavour to justify by the following Remarks:—

The Mare he is allowed to Ride, on occasions of Public Duty, was lent to one of the Stock Keepers for the purpose of assisting in bringing in Government Stock at Reid's Mistake; on this Service, her back was galled and an extensive Sore followed, which rendered her useless upwards of Two Months, and he was obliged to borrow one of his Son's Horses to supply her place during that interval. The impression on his mind was that his Son, for having so furnished a Horse for Government Service during two Months, was entitled to the Allowance of 2s. 6d. per diem, and which he would have submitted to the consideration of His Excellency the Governor, had he not employed the Team in the way above stated, and which he considered an equivalent for the Services of his Son's Horse. This Team was started from Newcastle with railing for the Government Cottage at Maitland, and advantage was taken of the opportunity to convey some Articles the property of his Son to that place, and which by previous Appointment was to have been met by his Son's Dray there, but which, from some cause, did not arrive. Embarrassed at the disappointment and remembering the claim he considered his Son to have on Government for the use of his Horse, he ventured to forward the Articles to his Farm, not doubting but that, from the well known liberal disposition of His Excellency, the measure would not be disapproved of.

The Load consisted of a case containing Tea, Sugar and a Water Cooler, Some Laths purchased from Mr. Boucher, A small Dressing Table with two open Shelves to stand on it, a case of Spirits, a Stool bought at Mr. Mackay's Sale, A small Grindstone, a bed Board, resembling a Door, and two tressels to support it, which was occasionally used as a Bed Board at Nelson's Plains, when he visited the Bush Parties in that direction. This bed board and tressels were removed through mistake, and orders have been given to restore them immediately to their former Berth. The small Table above mentioned was in dimensions three feet long and two wide, with two Book Shelves to stand on it, the whole of the Value of 18s. not made in the Lumber Yard, of Board purchased from Mr. Mackay when he left the Department, and out of Government Working Hours. This constituted the whole of the Furniture that was conveyed at the period alluded to. A Grindstone was so much wanted at his Son's Farm from frequent disappointments of receiving one from Sydney, and the most pressing application having been made to him in consequence, that, taking the Principal

Overseer Dawson and Duncan the Overseer of Carpenters with him, and, in the presence of several bye standers, stated aloud that he borrowed the Stone from the Lumber Yard, till the arrival of one expected from Sydney to replace it.

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This expedient to supply the exigencies of a young Settler just shooting into Life, he humbly presumes, from the well known liberality of His Excellency the Governor, will not excite any strong feeling of disapprobation, when it is borne in mind that the transaction was unaccompanied by the remotest sinister motive.

These remarks close with the observation that, since the Superintendent's Residence at Newcastle, not a single Article of any description has been made for his private use by a Government Mechanic, but in his own time, and with materials *bonâ fide* the property of the Superintendent. It would have been the height of folly, with the object he has in view, to have committed himself in the slightest manner during the limited time he has had Charge of the Department of Public Works at this place, and an indelible stain upon the reputation of nearly twenty Nine Years' public Service in various foreign parts of the World, unsullied by a single instance in the Character of a public charge, until the present Investigation. Finally, if he has erred in the present occasion, it is of the head and not of the heart, and he confides his case without emotion to the disposal of His Excellency the Governor.

JOHN TREMAYNE RODD,
Supt. of Public Works.

Engineer Office, Newcastle. 4th August, 1829.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 134, per ship Dunveagan Castle.)

Sir, Downing Street, 25th August, 1829.

25 Aug.

With reference to my Despatch of the 13th Instant I have the honor to acquaint you that I have appointed Mr. Nathaniel Lipscomb Kentish to be an Assistant Surveyor in the Colony of New South Wales.

N. L. Kentish
appointed
assistant
surveyor.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 99, per ship Harmony; acknowledged by Sir George Murray, 20th May, 1830.)

Sir, Government House, 25th August, 1829.

I have the honor to transmit for your consideration, the accompanying Copy of a Letter from Archdeacon Scott respecting a Judgment in the Supreme Court in the case of the King against Hall, the Defendant having contended for his right to a Pew* in St. James' Church, to which it appears by the Verdict he has no Claim.

Transmission
of papers re
prosecution of
E. S. Hall.

I transmit at the same time for your information, a Report of Mr. Justice Dowling's Charge to the Assessors on the above

* Note 41.

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Trial, and I beg to refer you to the Archdeacon's Letter herewith, which explains the grounds on which he has considered it necessary to request your particular attention to this case.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir,

Sydney, 25th March, 1829.

Request for
transmission of
report on trial
to secretary
of state.

I take the liberty of requesting Your Excellency's attention to a Judgment in the Supreme Court in the case of The King against Hall, wherein the Defendant contended for his right to a Pew in St. James' Church, but to which it appears by the Verdict of the Assessors he had no Claim.

As in the Course of the Trial and the Charge of the Judge, a discrepancy appears between the opinion of the Court, and the Terms of the Archdeacon's Patent, as well as the Instructions,* bearing date 24th December, 1824, and finding myself placed in a very unpleasant dilemma, I submit to Your Excellency, the propriety of calling on the Attorney and Solicitor General to make a report of the case, so that it may be transmitted to His Majesty's Government for farther consideration and direction, since under this decision I do not feel myself authorised to interfere with any irregularities which may happen in any of the Churches.

In the Sydney Gazette of the 14th inst., the Judge's Charge appears (and from the manner it is there given) as though by Authority; but I am not aware how far that can be relied on as an Official production, and therefore I have taken the liberty of suggesting another mode of obtaining information.

I have, &c.,
T. H. SCOTT.

[Enclosure No. 2.]

Charge of
J. Dowling to
assessors in
suit, King v.
E. S. Hall.

SUBSTANCE of Mr. Justice Dowling's Charge to the Assessors in the case of The King Versus E. S. Hall, for a Trespass in a Pew in St. James' Church.

Gentlemen Assessors,

In this case, His Majesty is the Plaintiff and Edward Smith Hall is the Defendant. It is an action of Trespass, and the declaration is framed in the Common form applicable to such a mode of proceeding. The declaration alleges that, on the 1st day of July, 1828, the Defendant broke and entered a certain Pew of His Majesty, situate in the Parish Church of St. James', Sydney, and then and there staid for the space of three hours and then and there forced open and broke to Pieces, and damaged the Door of the said Pew, there situate, and wherewith the same was then fastened, of the Value of £10, and other wrongs to His said Majesty, did to the damage of his Majesty of £100. To this declaration, the Defendant has pleaded two pleas; first, the general issue, Not Guilty, thereby denying that he has committed the alleged Trespass; And Secondly, he sets up Title to the Pew by averring that the same belongs to him, and so in substance justifying the alleged Trespass in virtue of his right of Property in the Pew. On these pleas issue is taken.

* Note 42.

The simple and compendious mode of technical pleading allowable by the Rules of practice in this Court has certainly divested this case of much of that formality with which such a question, as is here involved, would have been clothed in the Courts of the Mother Country. The Law Advisers of the Crown have presented this case to you in the most plain and naked Form in which it could have been exhibited in a Court of Justice, and His Majesty condescends to come before you to Complain of a Trespass on his Property in the same way in which any the most humble of His subjects might seek reparation for a temporal injury of the like nature; and you are left to try this case as if it was a cause of Action arising between subject and subject. The Defendant by his second plea does not distinctly set forth his title to the Pew in which the alleged trespass has been committed; but, as no objection has been taken to the plea on that ground by the Law Advisers of the Crown, we must consider it as a substantive claim of right to the Pew on which he rests his defence.

I apprehend, therefore, the substantial question at issue on this record to be, whether at the time of the alleged trespass the Defendant had such a legal Title to the Pew, as against His Majesty, as would excuse him in taking possession of it in the manner of which complaint has been made.

Gentlemen, I cannot refrain from expressing my deep regret that such a question should have been presented to the consideration of a Court of Justice, considering the occasion it has given for much animadversion elsewhere before it has been submitted to the temperate and legal adjudication of the highest Tribunal in the Colony. It is, however, Gentlemen, no part of our duty on the present occasion to pass any Opinion upon the motive influencing the conduct which has produced this proceeding, nor to question the spirit in which resistance has been opposed in one solitary instance to the Arrangement alluded to in the course of this Trial for the general accommodation of Persons frequenting St. James' Church for religious worship. Our duty is to administer justice with temper and calmness, taking the Law for our guide, and our consciences as the guardians of our judgment. I persuade myself that Gentlemen of your Station in Society will feel no difficulty in dismissing from your minds any impressions, which you may have received out of doors upon this subject, for, although pains may have been taken elsewhere to produce a bias inconsistent with judicial investigation, yet it is imperative on us in this place to take care that our determination shall be governed solely by the means I have suggested. We are not to give way to any external influences on the one side or on the other, but discharge the duties of our present vocation with a sacred regard to what we owe to Justice.

Gentlemen, the case now submitted to our judgment is one of a very singular nature, and I venture to say that it is unprecedented in any Court of Justice in which British Law is administered. Certainly I have been unable to find any parallel instance of the kind. It is to me perfectly *sui generis*. This singularity may be attributable to the peculiar foundation of the Church Establishment in this Colony, which appears to me to be in no degree analagous to the religious institution of the Church Establishment in the Mother Country, so far as the disposition of Pews or Seats in a Church are concerned. Finding no precedent upon the subject, we are necessarily compelled to resort to principle in determining a case which

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appears to me must be tried on its own merits. I apprehend, as at present advised, that this case resolves itself into a question of Contract or convention between the Crown or its Representatives on the one hand, and the Defendant on the other.

Before, however, you take my directions upon the Law applicable to the Case, it is fit that I should point out to your attention some of the particulars, in which a Church in the Mother Country differs from that of the Church of St. James' in this Infant Settlement with respect to the occupation of Seats or Pews therein.

In Gibson's Codex tit. 6 C. 4 a under the Head of "Rules of common Law concerning the repairing and ordering of Seats," it is said "of common right the Soil and freehold of the Church is the Parson's; the use of the body of the Church and the repair of it Common to the Parishioners, and the disposing of the Seats therein is the right of the Ordinary; and generally, where the Parishioners repair, the ordinary shall dispose. These heads are every where laid down in the cases on this subject and have never been disputed." In Fuller v. Lane, 2 Adams eccle rep. 419, Sir John Nicholls lays down the general Law upon this subject very fully and correctly. "By the general Law and of common right," he says, "all the Pews in a Parish Church are the common property of the Parish; they are for the use *in common* of the Parishioners, who are all entitled to be seated orderly and conveniently, so as best to provide for the accommodation of all. The distribution of Seats rests with the Church-Wardens, as the Officers, and subject to the control of the Ordinary. Neither the Minister or the Vestry have any right whatever to interfere with the Church Wardens in seating and arranging the Parishioners, as often erroneously supposed; at the same time the advice of the Minister, and even some times the opinions and wishes of the Vestry may be justly invited by the Church Wardens, and, to a certain extent, may be reasonably deferred to in this matter. The general duty of the Church Wardens is to look to the general accommodation of the Parish, consulting, as far as may be, that of all its Inhabitants. The Parishioners, indeed, have a claim to be seated according to their rank and Station; but the Church Wardens are not, in providing for this, to overlook the claims of all the Parishioners to be seated, if sittings can be afforded them. Accordingly they are bound in particular not to accommodate the higher Classes beyond their real wants, to the exclusion of their poorer Neighbours, who are equally entitled to accommodation with the rest, though they are not entitled to equal accommodation supposing the Seats to be not all equally convenient."

Such then is the general mode in point of Law of Seating and Arranging the Parishioners in the Parish Churches of the Mother Country.

Then what is the foundation of the right to hold and enjoy Pews in the Churches of the Mother Country?

By the general Law, the right to a Pew in a Church in the Mother Country is matter of temporal easement connected with and annexed to a House or Tenement, situated within the Parish in which the Church is. The Inhabitants in general have no other right to a Pew, and, as soon as their occupation of the house ceases, their right to the Pew ceases, for the pew as matter of temporal easement goes with the House to the next Inhabitant. This principle may be collected from a great Number of Cases and Authorities.

T. Barr Eccl. Law 360. Rogers v. Brooks, T.T.R. 431. Stocks v. Booth, T.T.R. 428. Watson's Clergyman's Law, P. 39. May v. Gilbert, 2 Bulst 150. Brabyn v. Tradum, Popham 140. Gibson's Codex 197-8. Kenrick v. Taylor, 1 Wils. 326. Griffiths v. Mathews, 5 T.R. 296. Corven's Case, 12 Rep. 105. Langley v. Chute, Sir T. Raym 246. Mainwairing v. Giles, 5 Barn. and Ald. 356 and Byerly v. Windus 7. Dowl and Ryl 564-5, Barn. and Cres. 1 S.C. The only exception to this rule is, where a non-parishioner has a right to a pew by a faculty, by prescription or immemorial custom. In the recent case of Byerly v. Windus, which was very elaborately argued and considered, Mr. Justice Bayley, in delivering the Judgment of the King's Bench, says "it is perfectly clear that a non parishioner can have no right to a pew in the body of the Church, except by prescription. There is no doubt about that in point of Law, and it is strictly accordant to justice; for, as the non parishioner contributes nothing either towards the repair of the Church or the support of the Minister, it would be extremely unreasonable that he should have accommodation to the exclusion of those who do contribute to both. The body of the Church belongs to the Parish and Parishioners at large, and the ordinary has no power to dispose of Seats there to persons who do not reside in the parish. It is upon the same principle that it has been held that the faculty of a Pew to a *Man and his Heirs* is bad, because, by those means the Pew may, in time, come to belong to an individual who is not a parishioner. There are many Authorities both ancient and modern upon this point."

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Having thus generally pointed out to your attention the mode of distributing pews, and the principle on which the right to Pews in the Parish Churches of the Mother Country is founded, Let us now consider the circumstances of this case.

In the first place, I do not find that this part of the Territory of New South Wales has been regularly divided into Parishes, or that this Church has ever been dedicated to the use of the Inhabitants of any particular District. Indeed, in a Colony like New South Wales, considering the origin and purpose of its foundation, it would be unreasonable to expect that it should, at once and from its commencement, assume in its Institutions the Order, regularity and symmetry of a Country, whose system of municipal and Ecclesiastical Government has been the result of ages. Much must, of course, be left in so young a Settlement to the wisdom of the Legislature in providing such measures, as experience of its wants and necessities may render expedient.

It follows, as a consequence, from there being no parochial Divisions in this part of the Settlement (which in the Mother Country are purely of Ecclesiastical origin) that none of the well known incidents of parochial Government in England apply to this Country. We have here no Church Wardens, properly so called, no Church Rates, no tithes, in short none of the institutions, which have been adopted and exist in the Mother Country for the maintenance of the Church and its ministration. The whole foundation of our Church Establishment has been adapted to the maiden condition (if I may so express myself) of this newly found Country. What then is the actual state of the present case. We find that the Church in question has been built at the expense of the Crown, and maintained by the Home Treasury and consequently the Soil and Freehold of the Church is in The King. It was doubtless erected

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for the accommodation of the Inhabitants in attending the Celebration of Divine Worship, subject to such regulations as should be thereafter prescribed in the distribution of Pews. We find that it was consecrated for religious worship on the 11th February, 1824, but there is nothing before us to shew that it was ever dedicated to the general uses of a Parish Church, properly so called, or was ever vested in any persons, whose Office and duty was analagous in all respects to the office and duty of Churchwardens. All we find is that, on the 17th December, 1823, Sir Thomas Brisbane the late Governor issued a Proclamation, appointing the Revd. R. Hill, J. Oxley and James Bowman, Esquires, a Committee with power to contract with any of His Majesty's Subjects for the hire of Pews or Seats in the said Church at reasonable Rents by the Year. This Proclamation appears to have been acted upon by Pews having been let from time to time at Yearly Rents to the Inhabitants of Sydney, who have been let into possession as Yearly occupants without any regard to the question, whether a House Holder or not. I need hardly observe that there is no precedent for this course of proceedings recognised by Law in the disposition of Pews in any Parish Church in England. On the contrary, the current of Authorities in the Ecclesiastical Courts at Home is against the principle of letting pews, A principle forcibly discommended by Sir W. Scott in a late case in the Consistorial Court. This, however, was an expedient necessarily resorted to in consequence of the peculiar state of this Colony, and the circumstances under which the Church in question was erected. The case therefore must, as I have already hinted, stand entirely on its own singular circumstances without drawing any analogies from the mode of disposing of Pews in the Mother Country. Under these circumstances thus disclosed, I apprehend I am bound to consider this mode of letting in the nature of a mere temporal Contract, and in some (though in a very slight) degree, in principle, analagous to a letting between Landlord and Tenant. The King has the Soil and freehold in the Church by his representative in the Government of this Colony; he delegates to certain persons a power of contracting to let pews in his Church, by the Year to the Inhabitants, as yearly Tenants, paying an Annual Rent. Contracts are accordingly made on this footing, and persons are let into possession at Annual holdings.

But, Gentlemen, there is this singular feature in this mode of Letting, which distinguishes it from the ordinary case of a demise by a Landlord to a tenant (assuming that I take a correct view of the case in directing that these contracts are to be so construed) namely, that in many instances there has been a Stipulation that the Rent shall be paid in advance either in quarterly, half yearly or Annual payments, and such stipulation has been complied with. This certainly is a singular circumstance, and a term wholly unknown in the usual Contract between Landlord and Tenant. For you well know that the Landlord's rent is not due or payable until the Tenant has actually had the beneficial enjoyment of the Teneement demised. Now, Gentlemen, there may have been very good reason for this stipulation. The Reverend Mr. Hill has given you one reason, namely, that, without those payments in advance, there would be no means of meeting the current expenses of the Year. But, Gentlemen, other as cogent reasons may be suggested. From the fluctuating character of the population, change of residence of the Inhabitants or other casualties, it may have been thought

expedient to impose upon the occupiers of Pews the obligation of paying the rent in advance, in order to guard against the trouble and difficulty of recovering the Rents after occupiers should have given up possession. Again, assuming the relation of Landlord and Tenant to subsist by reason of these Contracts, and that The King as Landlord had a summary remedy under the Statute of 11th Geo. 2, C. 19, by distress on the Premises, what would it avail him in a case where there are no Effects on which a distress could be levied. This stipulation may therefore have been imposed in order to avoid this course of proceeding, or of seeking a remedy by the circuitous and expensive process of an action at Law for the Rent. Taking this general view of the subject, I apprehend in point of Law that, if this condition was imposed in the present case and not complied with, the party had no right to retain possession of the Pew in question longer than he paid for it in advance, and that, failing to comply with the stipulation, as a condition precedent, he had no legal title to the pew, and was a Trespasser in taking possession of it on the day laid in the declaration. You will observe that the power of letting given to the Committee is not "from Year to Year" but "by the Year," which, I apprehend, means a letting merely for a Year and no longer. This seems to be a reasonable interpretation from the very nature of the subject of the letting, and considering that a paramount control must exist somewhere for regulating the Conditions on which Pews shall be held.

Before, however, you come to the consideration of the question for what time this Pew was let, there is a preliminary question raised by the Defendant's special plea, which may or may not conclude the case altogether. You will observe that, in substance, the Defendant claims title to this pew by virtue of a letting to himself alone. Now the first question for your determination is whether there was a Letting originally to the Defendant alone or jointly with some other person. If you are of opinion upon the Evidence that it was a joint letting to the Defendant and some other person, then his plea fails in proof, for he sets up an exclusive Title. Assuming that it was a Letting to the Defendant, solely and exclusively, then comes the question as to the terms on which the letting took place. This is a mixed question of Law and fact. As a question of fact, it is for you to say was this Pew, in June, 1827, let to the Defendant for a Year certain and no longer upon the precedent condition that he should pay the rent in advance, or was it understood between the contracting parties that the tenancy was to continue at all events notwithstanding the failure in paying Rent until the end of the Year. The condition of paying Rent in advance, if imposed, was in my Judgment not an unreasonable condition for the reasons I have already suggested. It is for you to say upon the Evidence, whether such a condition was in fact imposed. If you think it was, and that it was broken by non payment of the rent until the Year expired, then in point of Law, as the condition failed, I hold that, in June, 1828, the Defendant's Title was at an end, and he was a trespasser in taking possession of the Pew in the manner alleged. If, on the other hand, you are satisfied upon the Evidence that it was understood and agreed between the parties that the tenancy was to continue beyond the Month of June, 1828, notwithstanding the non-payment of the rent in advance, then the Defendant would not be a Trespasser and the tenancy could not have been determined without a reasonable notice. What that

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notice ought to have been, we are not now called upon to consider. It has been decided by Lord Mansfield (*Right v. Dachs* T.T.R. 162), in the case of an ejection, that, if there be a Lease for a Year and by consent of both parties the Tenant continues in possession afterwards, the Law implies a tacit renovation of the Contract; they are supposed to have renewed the old Agreement which was to hold for a Year. But then it is necessary for the sake of convenience that, if either party should be inclined to change his mind, he should give the other half a Year's notice before the expiration of the next or any following Years. The question here is whether there was a recognition of the Defendant as Tenant of the Pew after the expiration of the Year ending in June, 1828, if it was then determined. According to the Evidence, there was no such recognition; on the contrary, there was an express refusal to allow the Defendant to retain the Pew any longer. It may be true that he offered to pay half a Year's Rent for the Year 1828-9 in advance; but I hold that those, who let the pew, had an option in such a case as this to determine whether they would or would not continue the Tenancy, in this or in any other instance, after the preceding letting had terminated, if you are of opinion that it did terminate. It must not be forgotten that this is a place dedicated to the sacred purposes of Divine Worship, and there may be very judicious and proper reasons for exercising a discretion in the letting of particular pews to particular Individuals, without the imputation of undue or improper motives. I agree that, where such a discretion is to be exercised, it should be exercised honestly and in good faith; but no good citizen of whatever religious denomination he may be, can entertain a doubt for a moment that Authority must be vested somewhere, in order to preserve due decorum and decency in every place devoted to religious worship. Suppose the case of a person habitually misconducting himself during Divine Service to the annoyance of the Congregation and the violation of the sanctity of the house of God, is there any doubt that such a person might be wholly excluded from the Church? Such a case is not very likely to occur, but, as it possibly might, it shews the necessity of vesting a discretion somewhere, as to the duration of Contracts of this nature. We are not called upon to determine whether, in this particular case, the discretion was properly or judiciously exercised in refusing to allow the Defendant to rent this particular pew any longer; but sitting here, in a temporal Court, I am bound to give you my honest judgment, in point of law, which is, that those, who have the letting of pews in this Church, had a right to exercise a discretion, whether they would or would not continue the letting to a particular individual after a previous tenancy had expired. The question for your consideration is, whether that previous tenancy had expired. This is a mixed question of fact and Law, as I have already pointed out, and, in determining it, I have now to invite your patient attention to the Evidence bearing on that particular question.

[The learned Judge then minutely recapitulated the whole of the Evidence, bearing first upon the Defendant's plea of exclusive title and then upon the nature of the letting to the Defendant, on the assumption that the letting had been to him exclusively; and then proceeded.]

Although I have said in the outset that I apprehend this case to be resolved into a mere question of Contract or Convention between

the persons appointed to Contract for the letting of pews and the Defendant, yet I am by no means to be understood as suggesting any thing in derogation of the power and authority of the Venerable the Archdeacon in virtue of His Majesty's Commission appointing him to be Commissary to The Right Revd. The Bishop of Calcutta. The decision of this case, which ever way it may be, will in no degree trench on the effect of that Commission, for it appears to me that this case turns upon a point quite beside the Archdeacon's Ecclesiastical Authority, inasmuch as this Church has never yet been placed on a footing, which would superinduce his Jurisdiction as Commissary in matters of this nature, which in the present case, for the reasons I have so fully stated, involves a mere temporal right, to be determined by a Court of Common Law. As Commissary of the Bishop of Calcutta, the Venerable The Archdeacon supplies the place of the Bishop in the exercise of jurisdiction over all causes of Ecclesiastical cognizance in this Territory. As Archdeacon, he is to be considered as Ordinary, having judicial and ministerial Authority to take cognizance of causes spiritual in his own right and not by deputation. By the Law of England, in the case of a parish Church, no doubt the distribution of Seats among the *parishioners* rests with the ordinary. The Church wardens are the Officers of the ordinary: they are to place the parishioners according to their rank and Station; but they are subject, upon complaint, to the control of the ordinary (*Pettman v. Bridger*, *Phill. 323*). The control here spoken of I take to be in the ordinary's judicial capacity in determining disputes and composing differences between the Church wardens and the Parishioners in the disposition of Seats. In this case, however, as I have already pointed out, the Church of St. James has never yet been placed upon the like footing with a Parish Church in England, so as to give scope for the Jurisdiction of the Archdeacon as Ordinary. The time I hope is not far distant, when it will occur to the wisdom of the Local Legislature to place this and all other Churches in the Colony on a more certain foundation, with respect to the disposal of Pews, in order to prevent the recurrence of disputes of this nature.

Gentlemen, in conclusion, I repeat, that I apprehend the first question for your determination in this case is, whether, upon the Evidence submitted to you, the letting of this Pew in June, 1827, was to the Defendant solely and not jointly. If it was a joint letting, then the Defendant's plea fails altogether, for he relies upon a letting solely to himself, and consequently, at all events, the Crown would be entitled to a Verdict. But if you think it was a sole letting, then comes the question as to the terms upon which the letting took place. Was this an absolute letting for a single Year upon the condition of paying the Rent in advance, or was it a general and unqualified letting without regard to any given time for the duration of the tenancy. If you are of opinion that it was an absolute letting for One Year only, on the condition alluded to, and that condition was broken, then I hold, in point of law, that the tenancy terminated at the end of the Year 1827-8, and that the Defendant was a trespasser by taking possession of the pew again contrary to the wishes of the Plaintiff or his Representatives: in which case you will find a Verdict for the Plaintiff with such reasonable and moderate damages as shall satisfy the justice of the case; but, if on the other hand, you are of opinion that it was a

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Verdict of
assessors.

general unconditional letting, then in point of Law the tenancy could not have been determined without reasonable notice, in which case you will find your Verdict for the Defendant. Gentlemen, I now leave the case in your hands, satisfied that you will exercise a sound and discriminating judgment, before you deliver your Verdict upon a matter of no less importance to the Public than it is of interest to the Defendant.

The Judges and Assessors retired for a considerable time, and on their return, Mr. Justice Dowling announced, that the Assessors had found their Verdict for the Crown, Damages, One Shilling, and were of Opinion, upon the Evidence before them,

1st. That the Defendant had failed to prove his special plea, inasmuch as they thought it a joint Letting of the pew in question to him and another person.

2nd. That the Letting of the Pew was only for one Year certain. A motion was afterwards made, at the instance of the Defendant, for a new trial, but refused by all the Judges.

I hereby certify that the above is a correct report, in substance, of my charge to the Assessors on the trial of the Action of Trespass at the suit of the King against Edward Smith Hall.

Given under my hand at Sydney, this 18th day of July, 1829.

JAMES DOWLING,

One of the Assistant Judges of the Supreme Court.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 100, per ship Harmony; acknowledged by Sir George Murray, 21st June, 1830.)

Sir, Government House, 25th August, 1829.

The family of the late Mr. Panton, Post Master, which is very numerous, having been left at his death destitute of the means of support, I was induced to bring under the consideration of the Executive Council the Subject of the Seizure made by him when employed in the Naval Officer's Department in the year 1824, and I beg leave to refer you to my Letter, dated the 21st of December, 1828, which I addressed to the Under Secretary on this subject.

I have now the honor to transmit an Extract from the Minute of the Proceedings of the Executive Council on this case, together with a Copy of the Report of the Board previously appointed to enquire into it, and to acquaint you that, in pursuance of the recommendation of the Executive Council, I have authorized the issue of £227 9s. to the Estate of the late Mr. Panton, conceiving that the want of the necessary Laws in the Colony for the protection of the Revenue should not be allowed to operate to the entire exclusion of an Officer from the just reward of his exertions. Had there been the same power here as in other Colonies to have condemned the Vessel and Cargo, Mr. Panton's Share of the Seizure would have Amounted to a large Sum.

Financial
distress of
family of
G. Panton.

Payment made
on account of
seizure of brig
Ann.

I beg, Sir, to receive your Authority for charging the Sum of £227 9s., advanced to the Estate of the late Mr. Panton on account of the Seizure in question, in the Public Accounts of this Government.

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authority for
payment.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

EXTRACT from Minute No. 34 of the Proceedings of the Executive Council on the 19th August, 1829, when there were present:—

HIS EXCELLENCY The Governor; The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Col. P. Lindesay.
“The Council, having fully considered the Report submitted to them, are of opinion, when the effect of the vigilance shown by Mr. Panton is considered in preventing similar frauds, that his Estate is fully entitled to the Sum proposed by the Board, more especially as it falls so much short of the Amount to which, as if in other Colonies the Law had Authorised the Condemnation of the Vessel, in which the Brandy was imported, he might have reasonably expected.”

Payment recommended by executive council.

A true Extract:—E. DEAS THOMSON, Clerk of the Council.

[Enclosure No. 2.]

REPORT of a Board Appointed by direction of His Excellency the Governor, conveyed in the Honorable the Colonial Secretary's Letter of 20th July, 1829, to investigate the claim of the Late Mr. Panton on account of a Seizure of Brandy, made by him as Wharfinger in the Year 1824.

Report by board on claim of G. Panton for seizure of brandy ex brig Ann.

1. Before proceeding to the more immediate object of our Report, we consider it will not be irrelevant to premise the view, which we have been led to form of the facts of the case, and of the grounds on which the Late Mr. Panton's Claim has been preferred, as collected from the several Documents which have been transmitted for our Information.

2nd. From the Certificate of Deputy Commissary General Wemyss, dated 1st January, 1828, it appears that, in the Month of December, 1824, the Late Mr. Panton, having ascertained that a Number of Cases landed or in the course of being landed as cases containing Wine from the Brig “Ann,” Captain Grimes, on which they had been imported from the Mauritius, actually contained French Brandy, made a seizure of the same, and, with the assistance of Mr. Wemyss, lodged them in the Bonded Stores then under the charge of the latter.

3. From the same Document, it appears that the Quantity of Brandy thus seized consisted of—

86 Cases of two dozen each	Dozen.	172
96 do of one do		96

In all 268 dozen

Bottles or 643 Gallons; and that the Duty, chargeable on the said Brandy at the date of its being taken out of Bond, Amounted to £241 5s. Sterling.

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4. By a Letter from the then Colonial Secretary Major Goulburn to the Late Mr. Panton, of the 24th December, 1824, the latter is informed that his Application of the 13th of the same Month for a proper remuneration for the seizure should be considered, when the case of the "Ann" should be disposed of; and, in reference to this communication, Mr. Panton, in a Letter dated 28th July, 1825, apprises him that, as the "Ann" had returned from a second Voyage to the Mauritius, and was about to Sail on a third Trip, he was in hopes that the Reward for his Services in making the seizure would not be longer withheld.

5. Subsequently to this renewed Application of Mr. Panton, three Letters appears to have been addressed to him by Major Goulburn on the subject of his claim; one, dated 15th August, 1825, calls upon him for every Document connected therewith; Another of the 5th September requests him to state by what Law he considers the Seizure of the Ann to be Authorized; and the third, dated 3rd October following, requests him to refer to the Attorney General for an Answer to a Letter of 6th September preceding, alluding to the 18th Article of the Port Regulations.

6. Mr. Panton's replies to these communications, dated 16th August, 6th September, and 3rd October, 1825, are the only means, with the exception of Mr. Wemyss's Certificate above referred to, which we possess of ascertaining the grounds on which he rests his claim for remuneration; and, from them, we collect these grounds, to have been substantially as Follows:—

1. That he detected that 186 Cases, imported by the Brig "Ann" from the Mauritius and Sworn to on the Manifest as containing Wine, actually contained French Brandy; and that he, in consequence, seized both Ship and Cargo, then Valued as he states at between £6,000 and £7,000 Sterling.
- 2nd. That he considered himself borne out in making the seizure by the 18th Article of the Port Regulations of the 6th February, 1819, published under the Authority of Governor Macquarie.
3. That he rested his claim for a Reward for making such seizure on the Laws of England, on the practical Application of these Laws to the British Colonies, on what he states to have been the uniform practice in the Colony of bestowing the whole of the seizure on the Seizing Officer, and on the circumstances of such accidental seizures and his usual Fees being the only Remuneration for his Services as Wharfinger.

7. In support of his claim on these grounds, Mr. Panton adduces the Opinion of Captain Rous, who states, in a Letter dated 10th October, 1828, "that he would have had no hesitation in making the seizure with the most perfect confidence that the Brig Ann would have been condemned both Hull and Cargo."

8. Of the Documents submitted to us, those, of which the purpose has been given, appear the only ones material to the consideration of Mr. Panton's Claim; the remainder, consisting merely of a Letter addressed from the Colonial Secretary to the Acting Collector of Customs, Captain Rossi, calling upon him for information as to the Amount of Duty on the Brandy seized, Captain Rossi's answer, in which he states his inability to communicate any satisfactory information on the Subject, and a Report of a Board, dated 9th

October, 1828, Appointed to investigate his case, in which they state that Mr. Panton having declined entering into the grounds of his claim for the seizure of the Brandy, which alone had been submitted for their opinion, separately from his general claim on the Vessel and Cargo, they were precluded from entering into any Proceedings on the Subject.

9. From the Documents submitted to us, we can entertain no doubt of the fact of the Seizure of the Brandy by Mr. Panton, while in the course of being Landed, under circumstances which obviously disclose the intention to evade the payment of the duties; or of Mr. Panton having been instrumental in frustrating this intention; but we are not able to discover that Mr. Panton has established any legal grounds by which his claim can be determined.

10. Admitting that he was fully borne out in making the Seizure by the 18th Article of the Port Regulations, which provided that any Goods landed, without being duly specified in the Manifest, might be seized, and that the Vessel and Cargo should be forfeited to the Crown for such Offence; yet, as these Regulations do not specify what or indeed that any Reward should be made to the Seizor, it would remain to be shewn that such Reward was provided for by some other Law or Regulation.

11. It may, we think, be fairly assumed that, if there was any such Local Law or Regulation, Mr. Panton was unaware of its existence, as, tho' called upon to do so, he does not in his correspondence refer to any such as the grounds of his claim; but, on the contrary, he states, in his Letter of 3rd October, 1825, that he rests it entirely on the Laws of England as far as relates to Seizures of this kind and the uniform practical application of these Laws to the British Colonies.

12. We do not think he is borne out in assuming the general proposition of the practical application of the English Laws of Seizure to the British Colonies, such Laws, we believe, having been generally framed specifically, and on the principle of special application.

13. It is to be considered, besides, that he cites no particular Statutes, by reference to which the Correctness of his Claim, as thereon founded, could be ascertained; and, from the general impression which We have of the tenor of the Laws of England in regard to seizures, we are led to think that it would be found that Mr. Panton's Title under them, even admitting their applicability in the Colony at the time, would be found defective. To have established a Legal claim under the Laws referred to, we are persuaded it would have been requisite either that he should have prosecuted the Seizure to Condemnation; or, if ordered to have been given up by Competent Authority, that the same Authority should have stipulated for satisfaction being made to the Seizor by the Parties interested in the Property seized, as the Condition of its being restored.

14. It is obviously to be inferred, however, that no prosecution for Condemnation took place, and that the seizure must have been relinquished without any stipulation for satisfaction to the Seizor; the one or other of which would probably have been indispensable to a positive legal title to Reward for the seizure under the Laws of England.

15. We are of opinion therefore that Mr. Panton must be considered as having failed to establish any positive legal claim to any specific Reward under these Laws.

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seizure of
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brig Ann.

16. The only other grounds of his Claim, which remain to be considered, is that stated in his Letter of 16th August, 1825, wherein he avers it to have been the uniform practice in the Colony of bestowing the whole of the Seizure upon the Seizing Officer, and gives it to be understood that he considered the produce of accidental seizures to form a portion of the Remuneration of his Services as Wharfinger.

17. We are not able from any information in our possession to say whether the Late Mr. Panton was sufficiently justified by facts, in stating it to have been the usual practice to bestow the whole of the Seizure upon the Seizing Officer; but we are disposed to think that he would not have hazarded so broad an assertion, which, if untrue, must have been well known to the Colonial Secretary, without at least some instances having occurred to warrant the averment.

18. That Rewards were given in some instances by the Government to Seizors of Spirits attempted to be smuggled, the Annexed Copy of a Letter from the Superintendent of Police to the Private Secretary, wherein it is stated by the former that the Sum of Fifty Pounds was granted to the Military of the Garrison for the Seizure of two Puncheons of Rum from the Ships Greenock and Triton in the same Year, in which the Seizure of Brandy was made by Mr. Panton, leaves no room for doubt.

19. While, therefore, we are not able to discover from the Documents before us that Mr. Panton has established a positive Legal claim to any specific Reward for the seizure made by him, We cannot help thinking that considerations of equity and expediency will be viewed as giving his case a claim to favorable attention.

20. We ground this opinion on the circumstance of a Reward having been granted for similar circumstances in the instances above alluded to; of the tacit admission of his claim to some Remuneration, which we infer from the tenor of the Colonial Secretary's Answers to his Applications; of the nature of the transaction, which led to the Seizure being such as to leave no room to doubt that its object was a fraudulent evasion of the payment of the Established Duties; and of the provision made for rewarding Seizors under such circumstances, not only by the Laws of England, but also, we believe, by those of almost every Civilised State, thus affording, by the universality of such Provisions the most satisfactory proof of the generally admitted expediency of Rewards being conferred for Services of this description.

21. While, however, of opinion that the Services of Mr. Panton in making the seizure were deserving of Remuneration, under the circumstance of its having been relinquished, we are not aware of any established principle or scale, according to which the Amount of such Reward admits of being easily determined, as in fact it is obviously a special case, the decision of which must depend in a great measure on the discretion of those who are competent to pronounce on its merits and to award an appropriate Amount of Remuneration.

22. In mentioning any Amount therefore, we wish to be understood rather as throwing out a suggestion for consideration than as intending to propose a Reward, which we are satisfied to be duly and adequately apportioned to the Service rendered.

23. We think there can be little doubt that, by the vigilance of Mr. Panton in making the seizure of the Brandy on the occasion, he was the means of placing at the disposal of the Crown the difference between the Duty on the Brandy seized, and the Duty on the same Quantity of Wine, under which latter denomination it was attempted to be introduced into the Colony.

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24. The Amount of Duty chargeable on the Brandy was, as per Mr. Wemyss's Certificate £241 5 0
 The Advalorum of 5 per cent. on the same Quantity of Wine may be estimated at about 1s. a Dozen, or 13 8 0
 £227 9 0

leaving a difference of Duty, which by Mr. Panton's exertions was made available to the Public Treasury of about £227 9s.; and, when we consider the effect of this vigilance in preventing future attempts of a similar nature, we are disposed to think that the awarding of this difference as Remuneration might not be considered as exceeding the Amount which a just appreciation of the Service rendered might point out to be reasonable; though it would no doubt fall much short of the expectation of benefit from the Seizure, which the Late Mr. Panton seems evidently to have entertained.

M. C. COTTON, Collector.
 WM. LITHGOW, Auditor General.

Sydney, 12th August, 1829.

[Sub-enclosure.]

MR. D. WENTWORTH TO MAJOR OVENS.

Sir, Police Office, 24th February, 1825.

I have the honor to inform you, in answer to your Letter of the 23rd inst., that no Seizures have been made in this Department in the course of the Year 1824, whereby any Fines have arisen, except the Sum of Fifty Pounds on Account of two Puncheons of Rum seized from the Ships Greenock and Triton, which Sum was appropriated to the benefit of the Seizors under an Official Order from this Government, and which Seizors were attached to the Military then doing Garrison Duty here.

Reward paid for seizure of rum.

D'ARCY WENTWORTH,
 Supt. of Police.

A True Copy:—WM. LITHGOW, Auditor General.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
 (Despatch No. 135, per ship Dunveagan Castle.)

Sir, Downing Street, 26th August, 1829.

26 Aug.

With reference to my despatch of the 13th instant, I have the honor to acquaint you that I have appointed Mr. Mortimer William Lewis to be an Assistant Surveyor at New South Wales.

M. W. Lewis appointed assistant surveyor.

I am, &c.,
 G. MURRAY.

1829.
26 Aug.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 101, per ship Harmony; acknowledged by
Sir George Murray, 13th April, 1830.)

Sir, Government House, 26th August, 1829.

Transmission
of memorial.

I have the honor to forward the enclosed Petition, addressed to you by Mrs. Panton, Widow of the late Post Master.

I can have no hesitation in stating that Mrs. Panton, who is a respectable person, and her eight children have been left in a situation of extreme distress, and that her Husband, who was employed by the Government for a period of nearly ten years, appears to have acquitted himself on all occasions with the utmost zeal and integrity.

I have, &c.,

RA. DARLING.

[Enclosure.]

MEMORIAL OF MRS. G. PANTON.

Memorial from
widow of
G. Panton
soliciting a
pension.

To the Right Honourable His Majesty's Principal Secretary of State for the Colonies, the Humble Memorial of Maria Panton, relict of the late Mr. George Panton, Postmaster for the Territory of New South Wales, most respectfully sheweth.

That the late Mr. G. Panton, the Husband of Your Memorialist, arrived in the Colony of New South Wales on the first of January, 1819, with a strong recommendation from the Right Honourable Earl Bathurst to His Excellency Governor Macquarie, His Lordship having recommended to His Excellency to appoint Mr. Panton to some respectable situation under the Colonial Government.

That Mr. Panton was accordingly appointed Coroner for Sydney on the first of September, 1819, in which situation he continued till the (14th) fourteenth of November following, when His Excellency was pleased to appoint him Postmaster for the Territory.

That, as the emoluments of the latter Office were very inconsiderable at the Period referred to, His Excellency Governor Macquarie was pleased to appoint Mr. Panton, in March, 1820, to the office of Wharfinger, the duties of which office were to be discharged alternately* by Mr. Panton and another individual, who had a previous claim to the appointment, and who, in consequence of that claim, was to receive one half of the Salary; and that Mr. Panton discharged the duties of his office with satisfaction to Government till the Establishment of a Colonial Custom House in the year 1827.

That, up to the period of Lieutenant Governor Colonel Stewart's assumption of the Government of this Colony as acting Governor in November, 1825, Mr. Panton received the sums collected in the Post Office in lieu of a Salary; but that, on the understanding that Mr. Panton should thenceforward receive a fixed and adequate Salary, the rates of postage were at that period reduced one half with a view to the general benefit of the mercantile public.

That, in consequence of various other arrangements having occupied the attention of Government in the mean time, the Post Office Establishment remained unfixed for upwards of Two Years thereafter, during which period Mr. Panton continued to receive, in lieu of the fixed Salary contemplated by Colonel Stewart as acting

* Note 43.

Governor, the sums collected in the Office, his emoluments being thus reduced one half in comparison with their amount under the former arrangement.

1829.
26 Aug.

Memorial from
widow of
G. Panton
soliciting a
pension.

That, a Board having been formed by order of His Excellency Lieutenant General Darling, in the Year 1828, for the purpose of remodeling the Establishment and fixing the Salaries to be paid in future, a Salary of £400 (Four Hundred Pounds) per annum was fixed for the Postmaster under the Sanction of His Excellency, and that, in pursuance of this arrangement, Mr. Panton received from Government from the first of March, 1828, when the Salary aforesaid commenced, till the period of his death on the 24th April, 1829, the sum of £460 5s. 1d. (Four Hundred and Sixty Pounds, five shillings and one Penny).

That, while Mr. Panton was thus a faithful and assiduous Servant of Government for nearly Ten Years, he was unable during that period, in consequence of the unremitted attention which his office required and the very moderate emoluments he derived from it, to make any provision for his large family in the event of his death; and that Your Memorialist is therefore left by that melancholy event with a family of eight children (the two eldest of whom are females under seventeen Years of age, and the youngest only six months old) wholly unprovided for.

Your Memorialist therefore humbly prays that her case may be taken into consideration by His Majesty's humane and beneficent Government, and that an annuity be allowed her from the Colonial Fund to assist in the maintenance and education of her large family.

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

MARIA PANTON.

Sydney, New South Wales, 20th Augt., 1829.

[A certificate from five merchants in Sydney was attached to this memorial.]

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch marked "Private." per ship Harmony.)

My dear Sir, New South Wales, 26th August, 1829.

I have been favored with your Letter of the 12th October last, enclosing the Extract of one you had received from Lord Clarendon, respecting Mrs. Ward, and I beg to assure you, that every attention has been paid to that Lady's interests, as regards the Land which was granted to her Children by the late Governor Macquarie.

Despatch
acknowledged.

You will perceive by the enclosed Copy of a Note from the Surveyor General that Mrs. Ward has been permitted to select the Land in such situations, as she has considered desirable, although the Regulations prohibit such a proceeding, and enjoin that all Grants be taken in contiguous Allotments. I presume that Lord Clarendon must have been misinformed with respect to Mrs. Ward's supersession at the Orphan School by a Clergyman sent out from England, as the Gentleman now in charge of

Special
concessions
given to
Mrs. Ward.

1829.
26 Aug.

the Establishment came here at the request of Archdeacon Scott to replace a Wesleyan Missionary, who had been dismissed from that Society in consequence of some misconduct.

His Lordship may depend on every attention and protection being afforded to Mrs. Ward, which her Situation calls for.

I have, &c.,
RA. DARLING.

[Enclosure.]

SURVEYOR-GENERAL MITCHELL TO MR. T. DE LA CONDAMINE.

My Dear Sir,

Friday, 12th June, 1829.

Lands granted
to Mrs. Ward.

Mrs. Ward has 500 Acres in the Parish of Castle Hill on the New Windsor Road; this Land has been measured and described as forming part of 1,000 Acres granted by Governor Macquarie for the benefit of her Children. The remaining 500 she was permitted to select lately (Vide H.M. K. 15/31 July, 1828, No. 102), as an additional Grant in lieu of that Authorised by Governor Macquarie; the Selection has been Approved, but the Land, being on the East Bank of Paterson's River, has not been yet measured.

Mrs. Ward has also 640 Acres granted by Governor Brisbane, and charted to her on the West Bank of Paterson's River, the Lines of Boundary as Mr. White states that he found as marked by Mr. Dangar, but there is no description of this measurement to be found in the Office.

I remain, &c.,
T. L. MITCHELL.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 136, per ship Dunveagan Castle: acknowledged by Governor Darling, 20th April, 1830.)

27 Aug.
Despatch
acknowledged.

Sir,

Downing Street, 27th August, 1829.

I have to acknowledge the receipt of your despatch of the 8th November, 1828, with its accompanying papers from Chief Justice Forbes and its other enclosures.

I have no observation to make to Your Excellency upon the merits of the principal question to which they relate, viz., the conduct of the Chief Justice in the investigation of the charges against Dr. Douglass. But it is incumbent on me to observe, with reference to the imputations on the Chief Justice contained in the Government Gazette, that in my opinion nothing can be more unbecoming or more prejudicial than that the personalities of the Colonial Press should appear, at any time, to derive the smallest countenance from the Government. Such countenance, I fear, they will always be thought to enjoy, if they shall be conveyed through the Government Gazette, the conductor of which or his Successor is not only in the receipt of an allowance of £150 a year for Proclamations, Advertisements, Copies, etc., but has

Imputations on
F. Forbes in
Sydney Gazette.

probably also been honored by this time with the Title of "His Majesty's Printer" in pursuance of the authority communicated to you by my despatch of 11th November, 1828.

1829.
27 Aug.

You will, therefore, warn this gentleman that, although the discussion of all Public measures will remain open to him as to any other Member of the Community, yet, if his Paper shall hereafter be made the channel of attacks upon private character or of indecorous imputations upon His Majesty's Officers, the title and emoluments, which he now receives from Government, must necessarily be transferred to some other Printer.

Warning to
editor of
Sydney Gazette.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 137, per ship Dunveagan Castle.)

Sir, Downing Street, 28th August, 1829.

28 Aug.

I have the honor to acknowledge the receipt of your despatches of the 4th of September and the 22nd December last, marked Separate.

Despatches
acknowledged.

Having, in my despatch of the 25th of May last, approved of the arrangement, which you had proposed of granting to the Daughters of Clergymen a Marriage portion in land, I should not have thought it necessary to have adverted to the despatch in which you mention having assigned a Grant of 1,280 Acres to the daughter of the Revd. Mr. Cooper, but for the purpose of signifying my approbation of the proposal, which it also contains, for extending the measure to the Daughters of all respectable persons, whose conduct may have given them a claim to the support of the Government.

Approval of
land grants as
marriage
portions.

Accordingly, I have to approve of the grants, consisting of two square Miles or 1,280 acres, which you have authorised to be made to the Misses Wilde and Blachford on their marriage, and of your proposal that these lands, and all others similarly granted, should be settled on the Ladies, intended to be portioned in such a manner as to ensure to them during their lives the benefits of their respective Grants.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch per ship Dunveagan Castle.)

Sir, Downing Street, 28th August, 1829.

I have received the King's Commands to signify to you His Majesty's Pleasure that, in future, you do not grant leave

Limitation of
leave of
absence for
officers.

1829.
28 Aug.

of absence to Civil Officers serving under this Department for a period exceeding twelve Months, to be computed from the day of the Officer's departure from the Colony till the day of his return to it.

I have, &c.,
G. MURRAY.

SIR ROBERT PEEL TO GOVERNOR DARLING.

(Despatch per ship Katherine Stewart Forbes.)

Sir,

Whitehall, 28th August, 1829.

Despatch
acknowledged.

I beg leave to acknowledge the receipt of your letter of the 18th Augt., 1828, and to return you my thanks for the very interesting Document respecting the Commerce, Agriculture, and Manufacturing Industry of the Colony of New South Wales, by which it is accompanied.

I have read that Document with great satisfaction.

I have, &c.,
ROBERT PEEL.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Harmony.)

My dear Sir,

New South Wales, 28th August, 1829.

Land grant to
G. Frankland.

I am quite ashamed that Your Letter of the 9th of June, last Year, should have remained so long unanswered. The Case of Mr. Geo. Frankland's Grant of Land, to which Your Letter relates, was referred to the Solicitor General so far back as October last, and I beg to forward a Copy of his Answer.

The original Deed of Grant is in the Surveyor General's Office, and can be delivered, if desired, to Mr. Robt. Campbell, Senior, a very respectable Merchant here, and who it appears is Agent for the late Mr. Frankland.

Believe me, &c.,
RA. DARLING.

[Enclosure.]

SOLICITOR-GENERAL SAMPSON TO COLONIAL SECRETARY MACLEAY.

Sir,

Court House Chambers, Sydney, 15th June, 1829.

Inheritance of
land grant.

With reference to the question proposed to me in your former Letter dated 6th December, 1828, respecting the Legal disposal of a Grant of Land on Hunter's River, given to a Gentleman named Frankland, who died in this Colony on the 1st December, 1825, having made a Will, previous to his leaving England, disposing of all his property for the benefit of his Wife and Children, and requiring to be informed if this Land can be applied according to the provisions of Mr. Frankland's Will, or whether the same must descend to the eldest Son, subject to Mrs. Frankland's dower; In reply, I

have the honor to state that, as the Land in question was acquired by Mr. Frankland after the making of his Will, no part of the same can pass by such devise, unless that Gentleman either expressly or by construction republished his Will subsequent to receiving his Grant. The Land will consequently descend to the eldest Son, subject to the claim of Mrs. Frankland to Dower.

I have, &c.,

JOHN SAMPSON, Solicitor General.

1829.
23 Aug.

Inheritance of
land grant.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 138, per ship Dunveagan Castle; acknowledged by Governor Darling, 4th May, 1830.)

Sir, Downing Street, 29 August, 1829.

29 Aug.

I have the honor to acknowledge the receipt of your despatch No. 137 of the 12th December last, notifying the arrangements which you had made for discontinuing certain of the Agricultural Establishments, and for remunerating the Superintendants of those, the maintenance of which for the present you consider to be indispensable.

Despatch
acknowledged.

Before I can give a definite sanction to the arrangements which you have directed, I must be furnished with the Report of the two Commissioners, whom you sent to Port Macquarie, with any other report or information, upon which you may have acted in this matter. Meanwhile the allowance to the two Commissioners and to Colonel Morrisset, reported in your despatch, are sanctioned.

Request for
further reports.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 139, per ship Dunveagan Castle.)

Sir, Downing Street, 30th August, 1829.

30 Aug.

I have had the honor to receive your despatch No. 74 of the 14th of May, 1828, addressed to the Right Honble. W. Huskisson, submitting an arrangement by which the Public Buildings, occupied as Residences by some of the Principal Officers of your Government, may at some future period be made available to public purposes.

Appropriation
of official
residences.

The plan, which you have proposed for the appropriation of the Houses occupied by the Chief Justice, the Colonial Secretary, the Surveyor General, and the Superintendent of Police, is one from which much convenience may arise. It has long been the desire of His Majesty's Government to put an end to the unequal advantages enjoyed by particular Officers in this respect; and it was with that object that Lord Bathurst's Circular despatch was

1829.
30 Aug.
Appropriation
of official
residences.

addressed to you, dated the 14th October, 1825. The opportunity of executing your proposal will, therefore, be taken, when the situation either of Chief Justice or of Colonial Secretary shall become vacant, whichever may first occur. The remaining one of those two Officers, and the Surveyor General (if the gentleman now filling that Office shall continue to hold it) may then receive the compensations you propose, instead of the Houses of which they will thus be deprived; but it is not my intention that these compensations shall be extended to any one who may hereafter be appointed to any of the Offices in question.

The house attached to the Office of Superintendent of Police may also, I apprehend, be advantageously disposed of as you suggest. But, as that measure is not connected with the other arrangements, and as it is desirable to avoid all expenses on the score of compensation, you will not proceed to take this step until the Office shall be actually vacant.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 140, per ship Dunveagan Castle.)

31 Aug.
Acknowledgment
of rules of
supreme court.

Sir, Downning Street, 31st August, 1829.

I have had the honor to receive your Despatch, dated the 6th of December last No. 116, enclosing various Rules made by the Chief Justice of the Supreme Court of New South Wales for the conduct of business in that Court.

It does not appear to me to be necessary to make any observation upon any of these Rules.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 142, per ship Dunveagan Castle; acknowledged by Governor Darling, 12th July, 1830.)

1 Sept.
Unsatisfactory
despatch from
R. Darling.

Sir, Downning Street, 1 September, 1829.

Your Despatch of the 7th April, 1829, No. 36, is not satisfactory. The Lords Commissioners of the Treasury having directed each of their Officers to report to His Majesty's Government upon the practicability of any saving in his respective Department, it was not for the Governor of any Colony to decide upon the value of any report so required, but simply to furnish such Information respecting it as he might be able to obtain, leaving the decision upon the whole question to be pronounced by their Lordships, when they should be provided with all the materials necessary to form their judgment. You will therefore,

after fully conferring with Mr. Maddox, acquaint me, for the information of His Majesty's Government, in what particulars and for what reasons this report may be defective or erroneous, and will furnish what you consider as the necessary corrections of it.

1829.
1 Sept.

Further report
required.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 143, per ship Dunveagan Castle.)

Sir, Downing Street, 2d September, 1829.

2 Sept.

I have to acknowledge the receipt of your Despatch of the 22nd of September last, No. 119, with its enclosures on the subject of Marriage Licences.

Despatch
acknowledged.

Referring to all the delicate and difficult considerations with which this subject is connected, I think that the most convenient course of proceeding will be to persevere in the practice which has hitherto obtained, both as to Convicts and as to Free Persons, without suggesting any doubt as to its legality. Should any question of that nature arise, it will be open to you to propose to the Legislative Council the enactment of a Law authorising the Governor to grant Licences, if upon mature consideration it shall be your opinion and theirs that it is necessary or desirable under the peculiar circumstances of the Colony to require the previous sanction of any Public Officer. It is, certainly, not fit that this power should be entrusted to the Bishop of Calcutta or his Commissaries. In none of His Majesty's Colonies, has this Office been entrusted to the corresponding Ecclesiastical Officers, and these are obvious inconveniences, to which it is needless particularly to refer, which must result from delegating to the Heads of the Church in His Majesty's Possessions abroad a function so entirely remote from their peculiar and most important Province.

Instructions
re marriage
licences.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 144, per ship Dunveagan Castle.)

Sir, Downing Street, 3d September, 1829.

3 Sept.

I have received your Despatch Marked "Separate" of the 28th of August, 1828, with its enclosures, relating to an attack made on the Natives at the Settlement of Fort Wellington in the month of December, 1827, by a Party from the Garrison at that place, in which three of the Natives are reported to have lost their lives.

Report *re*
attack on
natives at Fort
Wellington.

1829.
3 Sept.

Censure on
participants
in attack.

I cannot too strongly express my reprobation of the behaviour of all the Persons concerned in this inexcusable transaction.

An unofficered expedition of private Soldiers, and, as it should seem, of Convicts also, undertaken against the Natives upon a promise of a pecuniary reward for the capture of one or more of them, could scarcely tend to any other than the lamentable result, which actually followed; and the conduct of Captain Smith, in sending forth or sanctioning it, appears to me to be so very reprehensible, both as relates to the unfortunate people, whose lives have been taken away, and to the honor of the British name, that I have thought it my duty to transmit a Copy of your Despatch, with its enclosures, to the Horse Guards for the information of the General Commanding in Chief.

Warning
against further
aggressors.

With respect to the Individuals who composed the expedition, I am of opinion that, after the length of time which has elapsed since the occurrence of these events, and the subsequent recall of His Majesty's Troops from the Settlement, where they occurred, it may be proper to acquiesce in the decision of the Council that the matter cannot with advantage be further pursued; but I beg you to make it distinctly and generally understood that, if any outrage should hereafter be perpetrated in any degree resembling that, on which I have now been addressing you, it is the determination of His Majesty's Government to proceed with the utmost severity against every individual who shall be a partaker, either as principal or as accessory in its commission.

I have, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 145, per ship Dunvegan Castle.)

4 Sept.

Claim of
J. Mackaness
to land grant.

Sir,

Downing Street, 4 September, 1829.

I have the honor to acknowledge the receipt of your Despatch of the 29th of November last, enclosing a letter addressed to me by Mr. Mackaness, the late Sheriff of New South Wales, respecting your refusal to him of a Grant which he solicited in lieu of certain Land directed by Sir Thomas Brisbane to be measured and reserved for him.

Warrant
granted by
Sir T. Brisbane.

At the time when Sir Thomas Brisbane gave these directions, there was an Instruction that Land should not be granted to the Civil Servants of Government, and therefore, in order to comply with the Letter of this Instruction, the actual passing of the Grant under the Seal of the Colony is postponed by Sir Thomas Brisbane's Warrant until the Grantee shall have ceased to be in the employ of the Crown; yet the Warrant is so framed as to

avoid the substantial effect of the instruction by the insertion of a direction to place the Grantee in possession. If this had been done at the time, it would have been an infraction of the Instructions, and the Warrant for that infraction cannot now be set up for the foundation of a Claim.

1829.
4 Sept.

Warrant
granted by
Sir T. Brisbane.

I do not know however that the allowance or the disallowance of the Claim, founded on the Warrant, makes any real difference in Mr. Mackaness's situation. The instruction forbidding Grants to Civil Servants has been relaxed and Mr. Mackaness, at all events, is a Servant of the Crown no longer.

If the claim, which he seeks to found on the Warrant, had been allowed, it could have been only on proof of sufficient Capital, and, if proof of sufficient capital be produced, he may now require, like any other Settler, a Grant of 2,560 Acres. Whether he be or be not the possessor of a Capital adequate to such an allotment is a question which the Land Board alone should decide; and, not only the question put to him by Mr. Wilnot Horton's letter of the 22nd of June, 1827, but all other questions fairly tending to ascertain the amount of the property remaining to him after paying or securing his Debts will, very properly, enter into the examination of the Land Board respecting his pecuniary competency for such a grant as he solicits, although they are questions which it would be by no means expedient for the Secretary of State to entertain.

Instructions *re*
land grant for
J. Mackaness.

The conduct of Mr. Mackaness has not been such as to entitle him to any Indulgence but to the extent of his really available Capital; he therefore should be treated like any other person proposing to become a Settler.

I have, &c.,

G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony.)

Sir, Government House, 4th September, 1829.

I have the honor to transmit the accompanying Copy of a List of Six Men transported from Ireland, who state that the period of their Sentence has expired. Those Men have in consequence been released from restraint, until the necessary information can be obtained respecting their several cases, and I request you will cause enquiry to be made accordingly.

Claim of
convicts to
freedom.

I take the liberty at the same time to draw your attention to my Despatch, dated the 5th of April, 1828, No. 65, pointing out the inconvenience which was experienced from the very imperfect nature of the Documents received with the Convicts from Ireland. It appears as I have recently had the honor to inform

Necessity for
details *re* Irish
convicts.

you that the Surgeon Superintendents have not in the cases brought under your notice, received any information respecting the convicts embarked, and the List sent out to this Government contains very little useful information besides the Names of the Individuals.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This return stated the particulars of the arrival, the place of trial, the sentence, and the claims to freedom of six convicts.*]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Dunveagan Castle.)

5 Sept.

Sir,

Downing Street, 5 September, 1829.

Mr. Mackaness having addressed a communication to the Secretary of State concerning the Salary of Provost Marshal, which he claims in addition to the Emoluments received by him as Sheriff, and concerning other allowances claimed by him in respect of his late Office, I am directed by Secretary Sir George Murray to transmit, for your information, a Copy of Mr. Mackaness's Letter, together with a Copy of the Answer which I have been directed to return to it.

I am, &c.,

HORACE TWISS.

[Enclosure No. 1.]

MR. J. MACKANESS TO RIGHT HON. W. HUSKISSON.

Sir,

Sydney, N. S. Wales, 30 August, 1828.

I think it a duty, I owe myself, to inform you, as Secretary of State for the Colonies, That His Excellency Lt. General Darling has directed an information in the Supreme Court to be filed against me, a Copy of which with my plea and a Copy of my Account as expended and my affidavit filed in the Supreme Court Office, I take leave to enclose.

The Item of £91 5s. being my Salary as Provost Marshall, I consider I am still entitled to, when offered the situation of Sheriff by My Lord Bathurst in August, 1823. I went to enquire of Mr. W. Horton into the nature of the office and the advantages to be derived, when he referred me to Mr. George Bayley as more conversant with the affairs of the Colony, and more capable of giving me every information respecting the appointment offered me. Mr. Bayley told me, independent of the Salary of Sheriff, there were advantages belonging to the office of Provost Marshall, to which I should be appointed as well as Sheriff, and I certainly saw my name in the Rl. Court Calendar as Sheriff and Provost Marshall, though I left England without any appointment to either office. I have acted as Provost Marshall and received from the Commissary General the sum of £45 12s. 6d. half yearly by a Bill on H.M.'s Treasury by virtue of an order from the House of Commons, until an order arrived here from H.M.'s Government that all the Civil Officers should be paid from the Colonial fund, in consequence of which, on the 31 Decr., 1826, I received from His Excellency

1829.
4 Sept.

Necessity for
details *re* Irish
convicts.

Transmission
of claims
made by
J. Mackaness.

Information
filed against
J. Mackaness.

Claim to salary
as provost
marshal.

Lt. General Darling a Warrant on the Colonial Fund for the Sum of £45 12s. 6d., being as therein stated my Salary as Provost Marshall from 1 July to 31 Decr., 1826. Not receiving any Warrant at the end of the following half year, I applied for one and was answered I must produce my appointment or I would not be paid; I consider His Excellency General Darling has no more right to refuse my Salary as Provost Marshall than he had to reject the authority of my Lord Bathurst's Letter of the 22 Janry., 1824, which directs that the Governor shall take care to reappoint me Sheriff on the 1st Monday in Janry. yearly without any further instructions; And the Charter expressly states that the Governor shall conform himself to such directions in the appointment of Sheriff, as he shall from time to time receive from His Majesty or his heirs or Successors thro' one of the Principal Secretaries of State.

1829.
5 Sept.

Claim to salary
as provost
marshal.

I rely therefore, Sir, on your directing that His Excellency shall pay me my Salary as Sheriff and allow the Salary of Provost Marshall to be deducted out of the Fees I received. By the 14 of Richard the 2d, the Sheriff is directed to pay to every justice 4s. a day and 2s. a day to his Clerks, while attending the Sessions, out of the Fees and Fines he receives. In England, it is usual for the Sheriff to give to each Justice 8s. the 1st day after dinner, and I with Sir Thos. Brisbane's approbation adopted the same rule here. Lieut. General Darling however considers I have no right to deduct the Money so paid; indeed he has on all occasions considered me as a Subaltern Officer under his commands. I consider the Sheriff an high and important officer, and that he has duties to perform totally independent of His Excellency.

Request for
salaries as
sheriff and
provost
marshal.

With respect to My travelling expenses, I object to a Clerk in an office determining the propriety of them, and humbly conceive my Accounts can be examined only by the Supreme Court, as in England the Sheriff's Accounts in the Court of Exchequer. I have always thought it my duty to travel with a Servant and two horses, the expenses of which are 30s. a day, and I am certain that I always spent in attending the Quarter Sessions more than I have charged in my Accounts. Although I have no fear of the result of this unique action, yet, as I must be put to considerable expense in my defence, I have thought it right to give you, Sir, the above particulars, and, remaining confident you will give such directions as may be just.

Travelling
expenses as
sheriff.

I have, &c.,

J. MACKANESS.

[Sub-enclosure No. 1.]

DEFENCE FILED BY J. MACKANESS.

In the Supreme Court of N. S. Wales.

Defence filed by
J. Mackaness.

Third Term.

In the 9th year of the Reign of Our Sovereign Lord George 4th. N. S. WALES to wit. Be it remembered that Alexander Macduff Baxter, Esqre., H.M.'s Attorney General for the Colony of N. S. Wales, who prosecutes for His Majesty in this behalf, being present in the Supreme Court of N. S. Wales now here on the 1st day of August in the Year of Our Lord 1828, at Sidney in the Colony aforesaid, informs the said Court that John Mackaness, Esqre., late Sheriff of the said Colony, is indebted to His said Majesty in the Sum of £1,000 of good and lawful Money of Great Britain, and thereupon the said Alexander Macduff Baxter, on behalf of His

1829.

5 Sept.

Defence filed by
J. Mackaness.

Said Majesty, Complains For that, whereas heretofore, to wit on the 1st day of January in the year of Our Lord 1827 at Sidney aforesaid, in consideration that His Majesty the King, at the special instance and request of the said John Mackaness, would appoint him the said John Mackaness to the office of Sheriff of the said Colony of N. S. Wales, he, the said John Mackaness, undertook and then and there faithfully promised His said Majesty justly and truly to execute the Office of such Sheriff, and to render a true and just account to His Majesty of the several fines, fees, dues, and Sums of Money received by him, the said John Mackaness as such Sheriff, and to pay over the same without any deduction or abatement whatsoever annually on the 1st day of January in each year and every year; And, altho' His Majesty, confiding in the undertaking and promises of the said John Mackaness, did afterwards, to wit on the day and year last aforesaid, at Sidney aforesaid in the Colony aforesaid, Appoint him the said John Mackaness to the Office of Sheriff of the said Colony of N. S. Wales, and altho' the said John Mackaness did afterwards, to wit on the day and year last aforesaid at Sidney aforesaid in the Colony aforesaid, receive and take divers fines, fees, dues and Sums of Money, amounting in the whole to a large Sum of Money, to wit the sum of £1,000 of lawful Money of Great Britain, in his capacity of Sheriff as aforesaid, and altho' His said Majesty afterwards, to wit on the 1st day of January in the year of Our Lord 1828 at Sidney aforesaid in the Colony aforesaid, Commanded and required the said John Mackaness to render a true and just account of the fines, fees, dues and Sums of Money, so received by the said John Mackaness in his capacity of Sheriff as aforesaid, and also to pay over the same to His said Majesty, yet the said John Mackaness, not regarding his said promises and undertakings, but cunningly and craftily intending to deceive and defraud His said Majesty in this behalf, hath not rendered to His Majesty just and true Accounts of the several fines, fees, dues and Sums of Money, received by the said John Mackaness as such Sheriff as aforesaid, nor has he the said John Mackaness paid over the same without deduction or abatement; but the said John Mackaness hath hitherto wholly refused and still refuses so to do; And also in the Sum of £1,000 for so much money had and received by the said John Mackaness to and for the use of His said Majesty, and also in the Sum of £1,000 upon an Account stated between the said John Mackaness and His said Majesty. Yet the said John Mackaness, not regarding his said last mentioned promise and undertaking, hath not, altho' often requested, yet paid the said several Sums of Money or any part thereof, but to pay the same to His said Majesty hath hitherto wholly neglected and refused and still doth refuse, To the damage of His said Majesty of £1,000; and therefore the said Attorney General on behalf of His said Majesty brings this suit.

And the said John Mackaness, in his own proper person, comes into Court and defends the wrong and injury where to, and says that he did not undertake and promise in manner and form, as His Majesty's Attorney General on behalf of His said Majesty hath complained against him, and of this he puts himself upon the Court.

Take notice that I, the above named Defender, will on the trial of this cause give in evidence and insist that, on my appointment as Sheriff of the Colony of N. S. Wales, I entered into a recognizance

to His Majesty for the due and faithful execution of such office of Sheriff, as by law I was required to enter into, which recognizance, now being in the custody and possession of the officers of His Majesty appointed for that purpose, I cannot bring the same into Court on such reference thereto; and that I did, on my determination of such my office of Sheriff of the Colony aforesaid, well and faithfully account to His said Majesty for all fines, fees, dues and Sums of Money, received by me as such Sheriff as aforesaid; and that I did pay into His said Majesty the Sum of £130 12s. 10d., being the balance due to His said Majesty on such Account, as, by the said recognizance, I did become bound unto His said Majesty to do; by means whereof and according to the true intent and meaning of the said recognizance, I the said Defendant became and was then and there wholly released, exonerated and discharged, as well of and from the said recognizance, so entered into by me as aforesaid, as also of and from all and every the promises and undertakings in the said information above alleged, and also of and from all damages and Sums of Money thereupon due, owing or accrued, to wit at Sidney aforesaid in the Colony aforesaid; and this I am ready to verify; wherefore I pray judgment of the said Attorney General on behalf of His said Majesty ought to leave or maintain this suit. And take further notice that, on the trial of this accusation, will give in evidence and insist that His said Majesty, at the time of the commencement of this suit, was and still is indebted to me in the Sum of £1,000 of lawful Money of Great Britain for arrears of Salary, due to me as Sheriff and Provost Marshall of the Colony aforesaid, and, for any work, labor, care, diligence or attendance in and about the said office of Sheriff and Provost Marshall, and at his request and for Money by me before that time paid, laid out and expended and at his request, and for money by His said Majesty had and received by and for my use, and also for money due and owing to me on an account, made out and stated between His said Majesty and me; and that I will allow and set off to His said Majesty, on the trial of this cause, so much of this Sum of £1,000, so due and owing from His said Majesty to me, against my demand of His said Majesty to be proved on the said trial, as will be sufficient to satisfy and discharge such demand according to the form of the ——— in such case made and provided, dated this 8th day of August, 1828.

JNO. MACKANESS.

[Sub-enclosure No. 2.]

STATEMENT OF ACCOUNTS.

I, JOHN MACKANESS, Esqre., late Sheriff of N. S. Wales, maketh oath and saith, that the Accounts annexed are a full and true statement of all fees, received and to be accounted by me to the 31st Decr., 1827, and also of all Fees, due and owing to me as Sheriff and Provost Marshall from the respective Attornies of the Supreme Court to the same period, amounting to the sum of £562 14s. 7d.; and I the said Jno. Mackaness do further make oath and say, I have expended and laid in the necessary expenses of my office as Sheriff the Sum of £340 16s. 9d., as per account hereunto annexed; and also that there is a further Sum of £91 5s. due to me for my Salary as Provost Marshall from 31 Decr., 1827, to 1 Janury., 1828, Making together the Sum of £432 1s. 9d., which deducted from the Sum of £562 14s. 7d. leaves a balance of £130 12s. 10d., which said Sum of £130 12s. 10d., I have paid into the hands of the Collector of internal revenue as per receipt annexed.

Affidavit by
J. Mackaness
re accounts.

JNO. MACKANESS.

Sworn before the Supreme Court on 5 April, 1828, DOWLING.

RECEIVED on 1st day of April, 1828, from Jno. Mackaness, Esqre., the Sum of Receipt for
£130 12s. 6d. Stirling, on account of fines and fees received by him as Sheriff during payment.
the quarters ending 30 June and 31 Decr., 1827, £130 12s. 10d. Sterling.

J. BUSBY.

1829.
5 Sept.
Statement of
accounts by
J. Mackaness.

STATEMENT of Travelling and other Expenses, incurred by John Mackaness, Esq., Sheriff of New South Wales, from the 1 January, 1827, to the 1 January, 1828, and for Salary as Provost Marshal to the same period, and for Rent of Office and Salary to his Under Sheriff to the 26 Feby., 1828.

1827.		£	s.	d.	£	s.	d.	
Mar. 31	.....	Paid Dinner Fee to 4 Magistrates at Liverpool Quarter Sessions held in January last @ 8s. ea.	1	12	0		
		Paid Mr. Garvin for use of a Room for the above Sessions	5	5	0			
		Paid Dinner Fee to 5 Magistrates at Windsor Qr. Sessions held in Jany. last	2	0	0			
						8	17	0
		Paid Binding the Gazettes for the year 1826 for the use of the Office	1	0	0			
		Paid Horse Hire and travelling Charges in Executing 2 Malefactors at Liverpool in February last	3	0	0			
						4	0	0
		Paid this Sum for travelling Charges to and from the different Quarter Sessions at Liverpool, Paramatta and Windsor from November, 1824, to the above period, 22 Journies averaging £8 each	176	0	0			
		Ditto to open the Quarter Sessions at Newcastle in August, 1826	16	0	0			
						192	0	0
June 30	.....	Paid Dinner Fee to 4 Magistrates at Paramatta Qr. Sessions in April last at 8s. each	1	12	0		
		Average rate Travelling Expences to and from Ditto	8	0	0			
		Paid Dinner Fee to 6 Magistrates at Newcastle Quarter Sessions in May last	2	8	0			
		Paid Travelling Expences to and from ditto and during the stay there	16	0	0			
						28	0	0
		Paid William Bailey for Expences incurred by him, as Special Bailiff to attend the Execution of Chipp and Stanley at Port Stephens in April last, but who were afterwards reprieved	2	0	0			
		Do. for a Ream of Fools Cap Paper for use of the Office	2	15	0			
		Do. for 3 Load of Wood for Firing in the Supreme Court	0	15	0			
						5	10	0
Augt. 31	.....	Paid Dinner Fee to 9 Magistrates at Newcastle Qr. Sessions held this Month	3	12	0		
		Pd. My Under Sheriff his Expences to and from and during his stay there	7	0	0			
		Pd. binding the Gazettes for use of the office from 1 January, 1827, to 30 June last ..	1	2	6			
		Pd. for use of a Room at the Sydney Hotel to accommodate the Jury The King vs. Piper	2	2	0			
		Pd. Carr'e of Parcels and Letters to and from Liverpool, Windsor, Paramatta and Newcastle	0	15	6			
						14	12	0
Sepr. 30	.....	Pd. Dinner Fee to 3 Magistrates at Liverpool Qr. Sessions held this Month	1	4	0		
		Pd. Mr. Moore for a Room to accommodate the above Sessions	5	5	0			
		Pd. Travelling Expences to and from Liverpool and Windsor Qr. Sessions held as above £8 ea.	16	0	0			
						22	9	0

STATEMENT of Travelling and other Expenses, etc.—*continued.*

1828.		£ s. d.	£ s. d.	1829. 5 Sept.
Jan. 1	Paid Dimer Fee to 5 Magistrates at Paramatta Qr. Sessions held in October last Ss. ea.	2 0 0		Statement of accounts by J. Mackaness.
	Paid Do. to 5 Magistrates at Liverpool held this day	2 0 0		
	Paid travelling Expenses to and from Paramatta and Liverpool averaging £8 ea. . .	16 0 0		
	Paid Mr. Gowen for Hire of a Room at Liverpool Quarter Sessions	5 5 0		
	Paid Postage of Letters and Parcels to and from the respective Stations of the Bailiffs	0 15 6		
	Paid Binding a Book for entry of Writs, etc.	0 7 6		
		<hr/>	26 8 0	
	To my Salary as Provost Marshal for 12 Months from the 1 January, 1827, to the 1st of January, 1828, both days inclusive .....	.....	91 5 0
	Paid Office Rent from 1 inst. to 26 of February, a period of 57 days at £50 p. annum	7 6 1		
	Paid my late Under Sheriff for the same period to make up the Accounts and returns of Office to 31 December, 1827 ...	31 4 8		
		<hr/>	39 0 9	
			<hr/>	
			£432 1 9	

[Enclosure No. 2.]

UNDER SECRETARY TWISS TO MR. J. MACKANESS.

Sir, Downing Street, 4 September, 1829.

I am directed by Secretary Sir George Murray to acknowledge the receipt of your Letter of the 30th of August, 1828, addressed to the Right Honorable William Huskisson, complaining that the Salary of Provost Marshal, which had been paid to you, in addition to your Salary as Sheriff, for a certain time after your arrival in the Colony, had been subsequently withheld from you by the orders of General Darling.

Letter acknowledged.

Sir George Murray has inquired into the circumstances connected with those two appointments. He finds that, when the Office of Sheriff was established, its duties included those, which had theretofore been discharged by the Provost Marshal, and the functions of the latter Officer consequently ceased. Sir George Murray, therefore, so far from admitting your claim to a Salary on account of an Office, which was abolished, cannot but consider you extremely fortunate in having received some early payments of Salary, which were made to you in mistake.

Denial of claim for salary as provost marshal.

With respect to the allowances which you claim, in your Letter, a right to deduct from the Fees of your Office, Sir George Murray is of opinion that, as they appear to have been made the subject of judicial inquiry, it is unnecessary for him to notice them in this communication.

I am, &c.,
HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 102, per ship Harmony.)

Sir, Government House, 7th September, 1829.

7 Sept.

I have the honor to forward to you, at the desire of Archdeacon Scott, the accompanying Letter and Enclosure, which he

1829.
7 Sept.
Transmission of
letters *re* Revd.
C. P. N. Wilton.

has addressed to me in reference to the Communication, transmitted with my Despatch of the 17th of May last, No. 58, on the subject of the Reverend Mr. Wilton.

I have further the honor to enclose the copy of another Letter from the Archdeacon, in consequence of which I desired the Colonial Secretary to call on Mr. Wilton, as requested by the Archdeacon, to substantiate his charge against him, the present appearing the most convenient time for the purpose, the parties being all on the spot.

Mr. Wilton having declined to enter into the matter at present, as will be seen by the enclosed Letter to the Colonial Secretary, I communicated his Letter to Archdeacon Scott, from whom I have received a Letter in reply, a Copy of which I have also the honor to forward at his desire. These several Letters go so much at length into the subject under reference, that I do not feel it necessary or that I could in fact add any thing in explanation of the matter.

The Letters, alluded to in Archdeacon Scott's last Letter, with Copies of which he has requested you may be furnished, have been forwarded* as follows:—

Mr. Wilton's Letter, dated 28th March last, to the Ecclesiastical Board was sent in Original.

Archdeacon Scott's Letter of the 3rd April last was forwarded with my Despatch to you of the 17th of May, No. 58.

The three, subsequently enumerated in his letter, accompanying this communication.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir,

Sydney, 23rd June, 1829.

On the 3rd of April last, I had the honor of transmitting to your Excellency, a Letter dated 28th May, 1829, addressed to the Ecclesiastical Board for the Colonial Church by the Reverend C. P. N. Wilton, one of the Chaplains in this Colony.

In that Letter, the Reverend Gentleman has entered into an explanation of the circumstances, which led him to accept or endorse fictitious bills,† amounting to (£1,100) Eleven hundred pounds, to enable his friend and Attorney, Mr. Unwin, to pay for some shares he had purchased in the New South Wales Bank; but which explanation your Excellency is aware (as the matter came before the Executive Council) is far from correct.

In the same Letter, and towards the latter end, the Reverend Gentleman takes another ground, still more serious; and, although I feel little anxiety as to my own personal reputation, the integrity of my Office and the dignity of the Church Establishment here demand a more than slight notice. For those passages, I beg to refer your Excellency to the enclosure marked A.

Incorrect
explanations
by Revd.
C. P. N. Wilton.

* Note 44.

† Note 45.

I could not but feel considerable surprise on reading such charges, and, as soon as my other duties would allow me, I addressed a Letter to the Reverend Gentleman, on which a correspondence, marked B, C, D, E, F, G, H, I, K, passed between us.

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7 Sept.

The substance of these several enclosures is: First, That I had been engaged in the same sort of transactions as himself, that is, lending my name to fictitious bills; Secondly, That I was a shareholder in the Bank of Australia; Thirdly, That I was a shareholder in the Australian Agricultural Company; Fourthly, That I was a Member of the Committee of that Company in this Colony; Fifthly, and Lastly, That I supported a Party in this Colony, more dangerous to the Church than even the Dissenters; of attempting to ruin him on account of his strict Church Principles, and of depriving him of privileges enjoyed by his predecessors; and for having heaped upon him indignities, since his arrival in the Colony.

Charges
against Revd.
T. H. Scott
by Revd.
C. P. N. Wilton.

To save the Reverend Gentleman some trouble, I admitted the Second and Third Charges; and I stated I had paid for those shares in money and not by fictitious bills; my name had, during my absence, been put down at the formation of the Bank for some shares, but, not approving of it, as soon as the deed allowed a transfer (in six months), I disposed of them at some loss.

Admissions
by Revd.
T. H. Scott.

Mr. Wilton in his Letters, marked D, insists that I only adverted to a part of the sentence in his Letter to the Ecclesiastical Board and had not taken the context.

It is only necessary for me to remark that the most ordinary reader can put but one construction on the passage, and that he betrays the greatest inconsistency by observing that "the more I looked at the entire sentence the more I became convinced that persons of ordinary attainments could give but One meaning"; and the coarse sarcasm a little farther on, "I submit with all deference to *your superior* penetration that the sentence, you have complained of, needs no further support or explanation from me, and *that the truth of it is fully established on your own admission.*"

Inconsistent
statements
by Revd.
C. P. N. Wilton.

I never was a Member of any Committee, although pressed by the Directors of the Australian Agricultural Company to become one. I declined it at the desire of the Secretary of State in 1824, before I left England. Nor does my name appear in any report from that Body.

Refusal to join
committee of
A. A. company.

In his Letter marked K, after being pressed by me to produce his facts or proofs of my support to, or the existence of this Anti-Church party in the Colony, he concludes with these words, "But I should be wanting in regard to truth and my own character, if I did not state distinctly that, whatever I have alleged in my Letter to their Lordships, I shall be ready to substantiate at a *proper time.*"

Reply to request
for proof of
charges.

I believe the Reverend Gentleman's motives are or he is advised to take this course, in consequence of my reproof to him for his conduct at the Female orphan School, and for squandering money on the Institution without Authority. This will appear by the Several Letters written by order of the Committee of the Clergy and School Lands, copies of which are annexed marked L, and which contain no less than *Six reproofs* for this conduct. The questions to which he alludes, I put to him, when examining into the state of the school and the progress the Children had made in the last six

Motives
of Revd.
C. P. N. Wilton.

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7 Sept.

months, and which I am bound to do; but this he appears to consider as exceeding my powers, unless these questions "emanated from the Authorities at home."

Education of
children at
orphan school.

I am bound to say the Children are very backward, and most of all in their religious instruction. Mr. Wilton avows that he gives no more time to their education than One hour and three quarters in the morning, from which he is sometimes withdrawn by other engagements.

Opportunity for
investigation.

As my return to England must soon take place, I trust your Excellency will agree with me that no time can be *more proper* than the present, whilst all parties are in the Colony; and if, after all the opportunities I have offered Mr. Wilton to meet these accusations, he persists in his present course, and which it appears from his last Letter to me he is determined on doing, I trust these Letters may be transmitted to the Secretary of State, who will then appreciate the character of the Reverend Gentleman.

Reasons for
non-suspension
of Revd.
C. P. N. Wilton.

Should it appear a matter of surprise that this Gentleman has been suffered to remain in his situation, I must beg to observe that, in the year 1825, I proceeded to suspend a Master* of the same school for far more aggravated offences, who applied to the Supreme Court, when Mr. Chief Justice Forbes decided I had no such power. On this I twice appealed to His Majesty's Government, and received for answer it should be laid before the "King's Advocate"; but up to this time I have had no further notice taken of my letters, and I cannot in justice to myself incur the responsibility of again being subjected to so much litigation, so many severe and unfounded animadversions from the Bench, and such serious expence.

I have, &c.,
T. H. SCOTT.

[Sub-enclosure A.]

EXTRACTS from a Letter addressed by the Revd. C. P. N. Wilton to the Ecclesiastical Board for the Colonial Church, dated 28th March, 1829.

Increase of
capital by bank
of N.S.W.

"THE Proprietors of the Bank of New South Wales, having determined to increase the capital of the Bank, resolved to create an additional number of Shares which were to be paid for by instalments, the subscribers giving their Notes of Hand† with their endorsement for the Amount of subscription, which shares were not to be delivered, till the sums due on the notes were paid. The notes were in fact given as a matter of commercial regularity, for no advantage could possibly accrue to the share holders till the full amount of subscription was paid up in Cash. My friend Mr. Unwin subscribed for some shares and requested me to indorse his note. Most willingly did I lend him my name, for I entertained the highest respect for the Character of this Gentleman. I trust your Lordships will observe that I obtained no advantage whatever in this transaction, but that my offence consists in becoming security for my friend (a person of considerable Property and unimpeachable honor).

Bills of
F. W. Unwin
endorsed
by Revd.
C. P. N. Wilton.

Charge
against Revd.
T. H. Scott.

"I could not but feel this accusation came with a very bad grace from the Archdeacon, who has himself been engaged in the same sort of transactions, with this difference however, that I was in no way interested in nor derived any profit from mine, whilst the

* Note 46.

† Note 45.

Archdeacon himself took shares both in the New Bank and in the Australian Agricultural Company, of which latter speculation he was a Member of the Committee."

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"He (the Archdeacon) felt that circumstances had given him an opportunity of removing a Clergyman, whose strict Church Principles were in opposition to those of the Party whose views he had favored; he was determined to pursue the advantage he had gained over me, 'Even to my Ruin.'"

Alleged
persecution
by Revd.
T. H. Scott.

[Sub-enclosure B.]

COPY of a Letter from the Venerable Archdeacon Scott to the
Revd. C. P. N. Wilton.

Revd. Sir,

Sydney, 5th May, 1829.

In your letter of 28th March, addressed to the Ecclesiastical Board and which I forwarded to the Governor as you desired, after relating the circumstances under which you indorsed bills for Mr. Unwin, I observe the following passage:—

Demand for
proof of charges
from Revd.
C. P. N. Wilton.

"I could not but feel that this accusation came with a very bad grace from the Archdeacon, who has himself been engaged in the same sort of transactions; with this difference however, that I was in no way interested in nor received any profit from mine."

This charge is of a grave nature against me, for, if, being placed at the head of the Church in this Colony, I could descend to such practices as lending my name to fictitious Bills, and then find fault with those over whom I have control, I should indeed be unfit to hold that office one moment longer.

I therefore now call on you to substantiate your charges by direct proof, in order that it may be transmitted thro' the Governor to the Secretary of State.

I am, &c.,
T. H. SCOTT.

[Sub-enclosure C.]

FROM ARCHDEACON SCOTT TO THE REV. C. P. N. WILTON.

Revd. Sir,

Sydney, 16th May, 1829.

I addressed a Letter to you dated the 5th Instant, calling on you for proofs of the assertion you have made in your public letter to the Ecclesiastical Board, that I had been engaged in transactions similar to those in which I thought it necessary to represent you had been concerned. As I have received no reply, altho' ample time has been afforded you, I must again request you will forward them, or I shall be under the necessity of resorting to those steps pointed out to me in the Secretary of State's Instructions, and oblige you to produce them, or to abide by the consequence, if you fail in doing so.

Second demand
for proof of
charges.

I am, &c.,
T. H. SCOTT.

[Sub-enclosure D.]

FROM REV. C. P. N. WILTON TO ARCHDEACON SCOTT.

Revd. Sir,

Female Orphan Institution, 19th May, 1829.

I beg to acknowledge the receipt of your Letters of the respective dates of the 5th and 16th Ult. and, in reference to your request contained in them, I beg leave to call your attention to a trifling circumstance, which seems to have escaped your notice, otherwise I am satisfied you would not have deemed explanation

Letters
acknowledged.

1829.
7 Sept.

Alleged neglect
of context of
letter.

necessary. If you will have the goodness to revert to the Public Letter you have alluded to, you will find that you have not merely overlooked the context, but have made an extract from a sentence, a sentence which explains itself; and, in place of transcribing to a period, you have made a full stop at a comma! This I can attribute to an oversight only, and not to want of candour, and certainly not to an intentional omission on your part. I therefore respectfully claim your revisal of what you have been pleased to denominate my assertions; and, should you, on completing the sentence, pronounce them incorrect and consequently consider proof and explanation indispensable, I shall then feel bound, however singular and unpleasant the task imposed upon me, to submit to the necessity of establishing the fact of your having held shares in the profitable establishment of the Australian Agricultural Company, and the still more profitable one of the Bank of Australia.

Proofs *re* shares
to be submitted.

Any assertion, I have ever made in allusion to yourself, and in illustration of my own conduct, has not proceeded beyond this, and more than this; therefore I suggest with the greatest deference that I cannot reasonably be called upon to substantiate. What I have now written in reply to your letters, the first of which I regret I did not answer with greater punctuality, I trust will be regarded by you as perfectly satisfactory.

In this hope

I have, &c.,
C. P. N. WILTON.

[Sub-enclosure E.]

COPY of a Letter from the Venerable Archdeacon Scott to the Reverend C. P. N. Wilton.

Rev'd. Sir,

Sydney, 21st May, 1829.

Letter
acknowledged.

Your Letter of the 19th Instant I received yesterday afternoon, not by the Ordinary Post but delivered by a private person at my house.

Explanation
unsatisfactory.

After taking thirteen days to consider of a very simple matter, you have at length had resource to an explanation by stating I had overlooked the context and construction of the sentence of your letter, addressed to the Ecclesiastical Board, dated 28th March.

Distinct charges
made by Revd.
C. P. N. Wilton.

In reply, I beg to state that I am not satisfied with this explanation; your letter contains Four distinct charges. First, after stating the nature of your transactions with Mr. Unwin and the Bank of New South Wales, you say that I have been "engaged in the same sort of transactions." 2nd. That I took shares in the Bank of Australia. 3rd. That I took shares in the Australian Agricultural Society. 4th. That I was a Member of the Committee of that Company.

Shares held in
bank of
Australia and
A.A. company.
Demand for
proof of
charges.

To save you trouble, I admit that I bought shares in the Bank of Australia and Australian Agricultural Society, and these I paid for in money not by fictitious bills.

I now shortly call upon you to prove your first, and last charge, and you may add your proofs of the 2nd and third if you please. As the matter will be referred to a superior authority to judge of, I beg to inform you that I shall not continue this correspondence, but request your immediate reply, which with the other papers I shall transmit thro' the Governor to the Secretary of State.

I am, &c.,
T. H. SCOTT.

[Sub-enclosure F.]

1829.
7 Sept.

Copy of a Letter from the Reverend C. P. N. Wilton to the
Venerable Archdeacon Scott.

Rev'd. Sir, Female Orphan Institution, 26th May. 1829.

I acknowledge the receipt of your letter of the 21st Ult., and whatever pain a recurrence to a subject, upon which I had as I supposed been amply and satisfactorily explicit, may have occasioned me, I confess the concluding portion of your communication has rejoiced me; and I rest easy in your assurance that you will "not continue this correspondence," and that unbiassed minds will become our judge.

Letter
acknowledged.

I believed that I had completed my duty, when I shewed that you had, as I thought unwittingly, called upon me to explain a mutilated paragraph of a letter, and I really imagined that nothing more could be required of me, especially as the more I looked at the entire sentence, the more I became convinced that persons of ordinary attainments could give it but one meaning, the meaning which it was intended it should bear. The sentence clearly consists of two parts: first of an assertion, and secondly of a meaning to that assertion. However comprehensive, or however limited are the words of the first part, it is clear that the words of the second part fix their meaning with the utmost precision. You read the sentence differently. We are therefore at issue. Who then can better decide between us than that "Superior Authority" to which you allude; for I can but iterate what I have already advanced, and it would be needless for me to say any thing of the intention of the writer, in face of the different construction, which you seem to have placed on the Sentence, and of course I cannot be driven into a vain endeavour of supporting what I have not alledged.

Interpretation
of previous
letter.

I write and read according to the experience of a common matter of fact man, not expecting an acuteness to be applied to discover, not what is the serious meaning of certain words in the opinion of the writer, but what positive meaning certain words will bear. Applying this observation to the present case, I submit, with all deference to your superior penetration, that the sentence, you have complained of, needs no further support or explanation from me, and that the truth of it is fully established on your own admission. If there be any error in distinguishing you as a Member of the Committee of the Australian Agricultural Company, it is an error, which has been proclaimed to all the world, and by whom? By the Directors, by the Proprietors, by the Company of which you formed one. Your Name as a Committee Man occupies a conspicuous place in the list of the Published name of the Committee, and may be seen on reference to the published report of that Body.

Statement
re Revd. T. H.
Scott and
A.A. company.

I have agreeable to your request made this reply "immediately," and I repeat my regret at allowing eight days to elapse on a late occasion before answering your letter of the 5th Ult.; you accuse me of taking "thirteen days," but the truth is, I did not receive your Letter of 5th Ult. until the afternoon of the 8th and, deducting Sundays, it will appear that eight days and not thirteen days intervened between receiving and replying to it. I should indeed have answered your letter at a more early date; but I could not imagine that the object of a few days could be considered by you material, particularly, as I was to believe you were in no haste,

Delay in reply
to previous
letter.

1829.
7 Sept.

you having allowed upwards of thirty days to elapse from the time of your receiving my letter addressed to the Ecclesiastical Board, and your calling on me for explanation of a passage it contained.

I have, &c.,

C. P. N. WILTON.

[Sub-enclosure G.]

COPY of a Letter from the Venerable the Archdeacon to the Reverend C. P. N. Wilton.

Revd. Sir,

Sydney, 1st June, 1829.

Demand for
proofs of
further
statements
from Revd.
C. P. N. Wilton.

In your Letter to the Ecclesiastical Board, dated March 28th, I observe the following expressions, "had I joined myself with a party, who in my opinion are more dangerous to the Established Church than even the Dissenters, I might have lived in the enjoyment of all the privileges possessed by the former Masters of this School, and escaped the indignities which have been heaped upon me, since my arrival in this Colony." Towards the conclusion you farther state:

"He (the Archdeacon) felt that circumstances had given him an opportunity of removing a Clergyman, whose strict Church principles were in opposition to those parties whose views he had favored; he was determined to pursue the advantage he had gained over me 'Even to my Ruin.'"

As these are attacks upon the principles of the Church over which I am placed in this Colony, the Doctrines and Discipline of whose Clergy, you must be aware, are subject to my review, I consider it necessary to require of you, first, your proofs of the existence of "the party" "more dangerous to the Established Church than even the Dissenters."

2. The nature of the principles and the Names of that party, whose principles are in opposition to those of yourself as being strictly of the Church; and in what cases I have favored their views.

3. Of the indignities heaped upon you since your arrival in this Colony.

4. The privileges of which you have been deprived at the Female Orphan School, enjoyed by former Masters.

This Letter and your reply I shall transmit thro' the Governor to the Secretary of State.

I remain, &c.,

T. H. SCOTT.

[Sub-enclosure H.]

COPY of a Letter from the Revd. C. P. N. Wilton to the Venerable the Archdeacon.

Revd. Sir,

Female Orphan Institution, 4th June, 1829.

I beg to acknowledge the receipt of your letter dated 1st of June.

Visit of Revd.
T. H. Scott
to female
orphan school.

You intimated last week your intention of visiting this Establishment Officially, and you did, as Archdeacon of the Colony and King's visitor, attend here last Saturday. Upon that occasion, immediately upon your entering the house, you produced from a portfolio a string of written interrogatives, to which you required my reply on the spot. I was led in the first instance to believe that these were inquiries directed to be made by the Authorities at home, and in that belief I answered them frankly and, to the best of my belief,

truly. I gathered from what passed towards the conclusion of this interview that these Queries had no such origin. It is far from me to suppose that your conduct was not ingenuous and candid, and I can only regret the error under which I laboured. I am free to confess that, had I not imagined that these inquiries had emanated from home, I should have declined answering them in so hasty a manner; and I am convinced that you will readily admit that questions, which required to be so deeply considered as to be reduced into writing, would require equal consideration and care in their answer.

1829.
7 Sept.

Visit of Revd.
T. H. Scott
to female
orphan school.

The tenor of the questions in your letter of the 1st Ult., to which you require me to furnish proof, appearing to me to have connection with the queries you proposed on Saturday last, I beg leave to request, before I make any further answer, that I be furnished with a Copy of those interrogatives and my replies.

Request for
copy of
questions and
answers.

I have, &c.,

C. P. N. WILTON.

[Sub-enclosure L.]

Copy of a Letter from the Venerable the Archdeacon to the
Revd. C. P. N. Wilton.

Revd. Sir,

Sydney, 8th June, 1829.

The questions I sent to you in my Letter of the 1st Inst. arose, as I distinctly stated, out of your letter to the Ecclesiastical Board, in which you prefer Charges of too grave a nature to be passed over.

Demand for
reply to letter
by Revd.
T. H. Scott.

To these questions, I require a distinct reply; nor shall I trouble myself on this subject after this letter, but transmit the correspondence to the Secretary of State.

I am, &c.,

T. H. SCOTT.

[Sub-enclosure K.]

Copy of a Letter from the Reverend C. P. N. Wilton to the
Venerable the Archdeacon.

Revd. Sir,

Female Orphan Institution, 9th June, 1829.

I beg to repeat my request to be furnished with a copy of the written questions, which you put to me on your official visit to this Establishment on the 30th of May Ult., with my replies, which you at the time took down in writing. It appears to me that these questions are connected with the enquiries, you make in your letter of the 1st of June Ult.; at all events they were official questions put to me as Master of the Female Orphan Institution by you, as Archdeacon and King's Visitor, and to a copy of which I conceive myself both by right and courtesy entitled.

Request for
copy of
questions and
answers.

I must take leave to observe that I have brought no Charge against any One. It became necessary for me, in stating my case to the Ecclesiastical Board, to advert to a variety of circumstances, and to mention a number of facts, with which you are connected, in my own justification; and, in so doing, I have avoided as much as possible any accusations whatever. But I should be wanting, in regard to truth and my own character, if I did not state distinctly that, whatever I have alledged in my Letter to their Lordships, *I shall be ready to substantiate at a proper time.*

Denial of
bringing
charges.

I have, &c.,

C. P. N. WILTON.

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7 Sept.

[Sub-enclosure L.]

[No. 1] EXTRACT from a Letter, addressed by the Clerk of the Corporation to the Reverend C. P. N. Wilton, dated Corporation Office, 27th June, 1827.

"As some alterations are about to be made in the instructions relative to drawing upon the Treasurer, the Committee request that you will certify the correctness of all accounts against the Female Orphan School, and refer the claimants to this office for liquidation. Or that you will receive them, and attend here any Wednesday for a Draft for their amount. This is conceived to be the simplest way of settling them, and is adopted to prevent confusion."

[No. 2] COPY of a Letter, addressed by the Clerk of the Corporation to the Revd. C. P. N. Wilton.

Revd. Sir, Corporation Office, 4th July, 1827.

I am directed to request that you will not in future make any purchases for the Female Orphan Institution, but, whenever you may be in want of supplies or Articles of any description, that you will send a Requisition for the same to the Committee. If it is approved, Steps will be taken to have it complied with.

Sufficient time should be given to allow the Articles contained in the requisition to be purchased by advertisement.

To enable you to settle the Accounts of the Institution to the 31st March, 30th June, 30th September, and 30th December in each year, you will at these periods respectively make an accurate Schedule of all outstanding Claims, and, upon sending down the same to the Committee, an Order upon the Treasurer will be given for the Amount, when you will procure Receipts for all monies paid and transmit them as early as possible to this office in the same form as at present.

I have, &c..

CHS. COWPER,

Clerk of the Corporation.

[No. 3] EXTRACT from a Letter, addressed by the Clerk of the Corporation to the Reverend C. P. N. Wilton, dated

Revd. Sir, Corporation Office, 5th July, 1827.

The Committee have directed me to request your attention to the last Paragraph of my Letter of the 27th Ult., which pointed out the mode in which they were desirous the Female Orphan School Accounts for the past Quarter should be settled. They have likewise directed me to return the Cheques Nos. 2, 3 and 4, drawn by you in favour of Mr. Ellis, who has been granted in lieu thereof a Draft upon the Treasurer for £150 on account of the Expences of the Female Orphan School.

On Wednesday next, a meeting of the Committee will be held, when, upon presenting a Schedule of all outstanding claims against the Institution up to the 30th June, an Order will be given you for the Balance.

The Book of blank Drafts enclosed to you as Chaplain of the Field of Mars was intended to be used only for that Service.

I have, &c..

CHS. COWPER,

Clerk of the Corporation.

Payment of
accounts of
female orphan
school.

Supplies to be
requisitioned
for female
orphan school.

Quarterly
settlement of
accounts.

Payment of
accounts.

[No. 4] Copy of a Letter addressed by the Clerk of the Corporation to the Reverend C. P. N. Wilton, dated,

1829.
7 Sept.

Revd. Sir, Corporation Office, 28th August, 1827.

With reference to your Letter stating that you had paid Mrs. Wigley for some Bonnets furnished by her to the Institution, I am again directed to beg your attention to the Instructions of the Committee, contained in Letters Nos. 380 and 382, and to return you the Draft, which was presented at this office for signature. Instructions
re accounts.

Upon a perusal of those letters, you will perceive that the Masters of the Orphan Institutions are instructed not to draw upon the Trustees, and that the Book of Drafts is only to be used by you as Chaplain.

Much inconvenience has arisen in Settling the accounts of the Institution during the preceding Quarter, which the Regulations here referred to were adopted to obviate.

I have, &c.,

C. COWPER,

Clerk of the Corporation.

[No. 5] Copy of a Letter, addressed by the Clerk of the Corporation to the Reverend C. P. N. Wilton, dated,

Revd. Sir, Corporation Office, 10th Oct., 1827.

In your Abstract of Vouchers presented for payment by the Committee, I am directed to acquaint you that the following appear, for which no authority has been received:— Unauthorised
expenditure.

	£	s.	d.
T. H. Grose, Tea and sugar	25	17	0
Henry Harvey, Sundries	11	13	8
John Shyong, do	8	0	9
Thomas Buttersby, do	2	14	0
A. Polack, do	6	8	0
William Lemont, Shoes	2	3	4
James Bridges, Tin Ware	0	14	8

And I am also directed to request you to state under what circumstances these Accounts have been contracted without the sanction of the Committee, particularly with reference to letter No. 380; and, until satisfactory explanation is received, the payment of them is deferred.

I have, &c.,

CHS. COWPER,

Clerk of the Corporation.

[No. 6] EXTRACT from the proceedings of Committee of Trustees of Clergy and School Lands, dated Sydney, 4th July, 1828.

At an adjourned Meeting of the Committee. Present:—The Venerable Archdeacon Scott, Chairman; The Honble. Patrick Lindesay, Esq., Colonel; The Honble. Alexander Berry, Esq.; The Reverend William Cowper; The Reverend Richard Hill.

1st. The Accounts of the Female Orphan School, from 1st April to 30th June, 1828, were submitted to the Committee and examined, when it was resolved: That Mr. Wilton's attention be again called to the instructions of the Committee, contained in Letters, dated 27th June, 4th July, 5th July, 28th August, and 10th October, 1827; Resolutions of
committee re
accounts of
female orphan
school.

1829.
7 Sept.

Resolutions of
committee *re*
accounts of
female orphan
school.

and that he be called upon to explain why the expences charged in the following accounts have been incurred without the sanction of the Committee or even a Requisition having been made, viz. :—

	£	s.	d.
John Shyong	42	12	6
Henry Harvey	17	14	8
William Ellis (having exceeded the £25 allowed by the Corporation)	40	13	0
J. Hall	6	8	2
George Hopkins	20	1	9
William White	11	17	6
Thomas Haines	10	11	7
M. Cooke	8	14	3

£158 13 5

They beg particularly to call for his explanation of the charge for 99 Bushels of Lime; the white washing and coloring of the house; the repairs of the Cart, dray and boat; and also the expence for cutting fire wood, which far exceeds the Amount of any preceding quarter.

2. It was also resolved, That a statement be made upon the back of the weekly return of Receipts and Issues shewing every extra expence incurred during the period comprised in the return; and that the same be signed by the Store Keeper and countersigned by the Master of the Institution.

3. Resolved: That a Column be added to the weekly statement of receipts and Issues, of the Number of Loads of fire wood received and consumed at the Institution during the Week; and that the Number of fires be restricted to the following, viz. :—

For the Master, 3.

.. Assistant Matron, 1.

Those for the Institution according to the directions of the Surgeon.

4th. Resolved: That a communication be made to the Store Keeper, acquainting him with the foregoing instructions, and directing him to apply to Mr. Wilton for them, and that Mr. Wilton be requested to communicate them to the Store Keeper.

[Enclosure No. 2.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir,

Sydney, 17th August, 1829.

Charge made
by Revd.
C. P. N. Wilton.

I take the liberty of calling your Excellency's attention to a Letter I had the honor to address to you on the 23rd June last, in which I adverted to a charge made against me by the Revd. C. P. N. Wilton "for supporting a Party in this Colony more detrimental to the interests of the Church than even the Dissenters." in his Official Letter to the Ecclesiastical Board, dated the 28th March last, and transmitted by me to your Excellency.

Request for
proofs of
charge.

As the Reverend Gentleman has replied in a Letter, dated the 9th June last, to my application for the proofs of his assertion that "whatever he has alleged he shall be ready to substantiate at a proper opportunity." I again most earnestly entreat Your Excellency to call on him to lose no time in furnishing his proofs, for it is my intention, on my arrival in England, to bring this matter before the

Secretary of State, and through him to the Archbishop of Canterbury, and, as my departure cannot be far distant, I hope your Excellency will pardon my importunity in urging that the Reverend Mr. Wilton be enjoined to comply immediately.

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He has demanded of me a Copy of questions I thought necessary to put to him on examining into his duties and the state of the School; but, as these have nothing to do with the matter in question, and being put when visiting the Institution, I have not complied with his demand.

Refusal to supply questions.

I have, &c.,

T. H. SCOTT.

[Enclosure No. 3.]

REVD. C. P. N. WILTON TO COLONIAL SECRETARY MACLEAY.

Sir, Female Orphan Institution, 21st August, 1829.

I beg to acknowledge the receipt of your Letter of the 18th inst. communicating to me the request of His Excellency the Governor that I would now substantiate the Allegations respecting the Proceedings of the Archdeacon, as adverted to in the Correspondence between myself and that Reverend Gentleman.

Refusal by Revd. C. P. N. Wilton to submit proofs.

I must take the liberty of repeating, what I have before declared to the Archdeacon, that I have made no charges, nor brought forward any accusations against him. I have been compelled in my own defence to lay before the Ecclesiastical Board a Statement of the circumstances, which induced my resignation; and, in so doing, it has been my anxious desire to avoid any imputation on the Archdeacon. I considered myself hardly treated, and the only proper course left open to me, the only quarter to which I could look for protection and redress, was the Board appointed especially for the Management and control of the Ecclesiastical Affairs of the Colonies, and to that Board, as the proper Tribunal, I addressed my Memorial. I beg leave very respectfully to suggest, for the consideration of His Excellency, whether, after having made this legitimate appeal to that Tribunal which has been appointed by my clerical Superiors for that purpose, I should be acting with proper respect to Their Lordships, the Members of that Board, were I, after having laid my case before them, until I receive their order and directions to enter into proofs, and in fact refer my case to another Authority. I cannot but consider that, in so doing, I should be acting contemptuously and indecorously to that dignified Body.

I feel confident that His Excellency will not call upon me to take any steps, which will place me in a Situation disrespectful towards that high Authority, which both my duty and inclination lead me to reverence and esteem.

I have, &c.,

CHARLES P. N. WILTON.

[Enclosure No. 4.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Sydney, 3rd September, 1829.

I had the honor of receiving Your Excellency's Letter of the 1st inst. enclosing a Copy of the Revd. Mr. Wilton's reply, dated the 21st August, to the Colonial Secretary, who, at Your Excellency's instance, had called on the Reverend Gentleman to substantiate the allegations he has made against me in his Letter to the Ecclesiastical Board, dated the 28th March last.

Letter acknowledged.

As Mr. Wilton, by that answer, has declined to do so whilst I am in the Colony, and as I consider this so very serious an attack on

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7 Sept.

me, both as to the Situation I hold here, and as a Minister of the Church Establishment, I earnestly request Your Excellency will have the goodness to forward to the Secretary of State, Copies of the Letters on this subject.

Request for
transmission
of letters to
England.

They consist of Mr. Wilton's Letter to the Ecclesiastical Board, dated March, 1828, in duplicate.

My Letter to Your Excellency in reply to the above, dated April 3rd in duplicate.

do. dated 23rd June and enclosures A to L in duplicate.

do. dated 17th August.

Mr. Wilton's Letter dated 21st August.

I do not think it necessary to trouble Your Excellency further on this subject, inasmuch as my Letters of the 3rd and 23rd April* contain a Summary of the whole matter; but I trust the Secretary of State will see I have given Mr. Wilton every possible opportunity of coming forward with his proofs, if he has any, but which he declines doing, until a time shall arrive when I can have no means of rebutting them.

I have, &c.,

T. H. SCOTT.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony; acknowledged by
under secretary Hay, 9th May, 1830.)

9 Sept.

Sir, Government House, 9th September, 1829.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your Letter of the 14th December last, relative to a Prisoner named John Hill, and beg to enclose herewith the Copy of a Letter from the Principal Superintendent of Convicts, in reply to enquiries I caused to be made respecting him.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Pl. Supt. of Convicts' Office,

2nd September, 1829.

Sir,

With reference to your Letter of the 3rd ult. 29/692 (which has been received in Duplicate) I have the honor to inform you that I have been unable to trace the Individual, therein enquired after. His Name does not appear in any of the Returns from Raffles Bay received at this Office, nor in the Slop Clothing accounts of that Settlement: neither does it appear among those of the prisoners who were sent thither at its formation.

I have, &c.,

F. A. HELY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 103, per ship Harmony; acknowledged by
Sir George Murray, 9th April, 1830.)

15 Sept.

Sir, Government House, 15th September, 1829.

Despatches
acknowledged.

I have the honor to acknowledge the receipt of your Despatches, dated the 15th of November, 1828, No. 54, and of the 15th of January last, No. 85, and, having caused the necessary

communication to be made to the Inspector of the Civil Hospitals, I have further the honor to transmit for your information, Copy of a Letter from that Gentleman, enclosing the Returns required by your Despatch No. 54, above referred to.

1829.
15 Sept.

Returns transmitted.

I beg to observe that, in accounting for the expenditure of Stationary, the Inspector of Hospitals has omitted to state that twelve detached Hospitals have been supplied, independent of the Principal Hospital at Sydney. The circumstance to which he alludes in the last Paragraph of his Letter of the Stationary, sent out for the Hospital Department, having been applied to the Service generally, has been occasioned by the extremely irregular manner in which the supplies are forwarded from Home, on which subject I propose writing specially to the Under Secretary of State.

Expenditure of stationery.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. J. BOWMAN TO COLONIAL SECRETARY MACLEAY.

Sir, Parramatta, 21st August, 1829.

In conformity with the Instructions conveyed in your Letter of the 3rd of June last, accompanying a Despatch and its Enclosures from The Right Honble. Sir George Murray, I have the honor to transmit to you, for the information of His Excellency the Governor, a Return of the Number and description of persons, admitted into the Colonial Hospitals during the last Year, and another giving the average for the last five Years, Both likewise shewing the Number of Patients, not Inmates of the Public Hospitals, to whom Medical Aid has been afforded.

Return transmitted.

I deem it necessary to state, at the same time, that there are other calls on this Department for Medicines, which do not appear on the face of these Returns. These are Supplies to all the Colonial Vessels; To the King's Ships on this Station; Until lately, to the Troops proceeding to India; Sometimes to the Inhabitants of the South Sea Islands; to several Road Parties under Resident Magistrates, Families of Civil Officers, and Clergy; and to the Natives of New South Wales, especially at the out stations.

Distribution of medicines.

With regard to the large demand for Stationary alluded to in the Despatch from England, the number of Returns and Reports, that have been hitherto required on account of the Prison Population, may have occasioned a greater Expenditure of that Article than might have been required in a well constituted Military Department of the same extent. I beg to observe, however, while alluding to this subject, that the last supply of Stationary for this Department, instead of being as usual sent direct to the Hospital Store, was taken in charge by the Commissary and I understand issued to other Departments. I would, therefore, beg to suggest that the future supplies of Stationary for this Department be transmitted directly to the Medical Store, where I can most efficiently witness its due appropriation and expenditure.

Expenditure of stationery.

I have, &c.,
J. BOWMAN.

[Sub-enclosures.]

1829.
15 Sept.
Return of
persons under
medical
treatment.

[These returns detailed the persons under medical treatment as in-patients and out-patients at Sydney, Parramatta, Liverpool, lunatic asylum, Windsor, Bathurst, Newcastle, Port Macquarie, Wellington valley, Emu plains, Melville island, male orphan school, female orphan school, female factory, Morton bay, Norfolk island, King George's sound, Western port, Gaol and hulk, and Raffles bay.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch per ship Dunveagan Castle.)

18 Sept.
Recommendation of claim
of J. Webber.

My dear Sir,

Downing Street, 18 Sept., 1829.

I beg to transmit to you the Copy of a Letter, which I have received from Viscount Strangford, in favor of his relation, Mr. James Webber, whose object is to obtain an additional Grant of Land at New South Wales. At Lord Strangford's request, I have much pleasure in recommending Mr. Webber's claim to your notice, and shall be glad if you will shew him any attention in the objects he has in view and which may be consistent with the established Regulations for the disposal of Land.

I remain, &c.,

G. MURRAY.

[Enclosure.]

VISCOUNT STRANGFORD TO UNDER SECRETARY HAY.

My dear Hay,

Harley Street, 9 Sept., 1829.

Request for
extended land
grant for
J. Webber.

The Gentleman, whom I took the liberty of recommending through you, to Sir George Murray for a farther grant of land in New South Wales, is my first Cousin, Mr. James Webber, son of General Webber, who is married to my Mother's Sister. He is a most respectable person in every sense of the word, is not only independent but in opulent circumstances, and has been for several years a resident in the Colony where he has expended large Sums on his Estates, and is disposed to lay out the remainder of his capital, which is, I am assured, very considerable.

His property is situated on the Hunter River about 60 Miles from Sydney. He obtained, on his arrival, a Grant of 2,000 Acres, to which he added 2,000 more by purchase; and he now seeks to obtain an additional *grant* of 2,000 or 2,500 acres. He has complied with all the necessary Conditions and regulations, as is stated by his Father, Genl. Webber, in the enclosed letter to me. In short I can conscientiously recommend him, as being just the *sort* of *Settler* whom it is for the advantage of Government and of the public to encourage.

Should Government be pleased to comply with this request, perhaps I might still further trespass on your kindness by begging you to let me have a *Duplicate* of the Instructions which may be sent to Genl. Darling, authorizing the new grant. It would be highly gratifying to the family of my young kinsman to transmit it to him by the earliest opportunity, and it might perhaps reach Sydney before the Government Dispatches.

Ever, &c.,

STRANGFORD.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

1829.
19 Sept.

(Despatch per ship Dunveagan Castle.)

Dear Sir, Downing Street, 19 September, 1829.

I have had the honor to receive and to lay before Sir George Murray your private Letter to me of the 12th of November, 1828, respecting the mode of paying the Salary of the Chief Judge and the Claim set up by Mr. Forbes, in behalf of the other Judges, that they should be placed upon the same footing in that respect as himself.

Despatch
acknowledged.

Sir George Murray does not feel disposed to extend to the Assistant Judges an advantage, which is not enjoyed by the other Officers of your Government, and which in all probability would not have been allowed to the Chief Judge, if provision had not been made in the Charter upon that subject. The observations however of the Chief Justice, regarding the inconvenience, resulting to the Judges from the Regulation, which requires the insertion of their names in the general Abstract of Judicial Salaries (to which the Registrar's Signature is attached) before their respective Salaries can be issued, have had considerable weight with Sir George Murray, who is of opinion that it will be proper to dispense with this form in their case; nor does he see any objection to the Colonial Treasurer being directed to issue the Salaries of the Judges at regular fixed period on their making application for that purpose; the chief Judge receiving in addition to his Salary the premium, to which he is considered entitled according to the arrangement already agreed upon, the other Judges obtaining no such advantage.

Instructions re
payment of
salaries to
chief justice
and judges.

I remain, &c.,
HORACE TWISS.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A circular despatch per ship Dunveagan Castle.)

My dear Sir, Downing Street, 22d September, 1829.

22 Sept.

A Zoological Society has lately been established in London, and a few acres of ground in the Regent's Park have been laid out as a Garden for the reception of curious beasts and birds from all quarters of the world, in imitation of the Jardin des Plantes at Paris.

Formation of
zoological
gardens at
London.

It is hoped, even if this Establishment should not materially advance the purposes of science, that at least it will become an object of public interest as a place of amusement, and indeed to this extent it has already succeeded far beyond the expectations of the original Promoters.

1829.
22 Sept.
Request for
shipment of
animals.

Having stated thus much, I feel satisfied that you will forgive me for asking your assistance in procuring and sending home any rare animals, which may be worthy of a place in this rising Establishment.

The Funds of the Society cannot afford to incur a great expense, but any moderate charge, to which you may be subject in obtaining these Animals, will of course be defrayed by the Society, and they had better be addressed to N. Vigors, Esqr., the Secretary, to whom a letter of advice, transmitted thro' this Department, should also be written.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

25 Sept.
Letter of
introduction
for — Burgh.

My dear Sir, Downing Street, 25 Sept., 1829.
This Letter will be presented to you by Lieut. Burgh, R.N., who is about to return to Van Diemen's Land, where he has some property. At the request of Mr. Burgh's friends, Sir George Murray has directed me to recommend him to your protection and good Offices.

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

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 104, per ship Harmony; acknowledged by Sir George Murray, 21st April, 1830.)

Transmission
of letter.

Sir, Government House, 25th September, 1829.
I have the honor to forward, at the desire of the Deputy Surveyor General, the accompanying Letter which he has addressed to you, applying for an allotment of Ground in the neighbourhood of Sydney for the purpose of erecting a House for the residence of his Family.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. S. PERRY TO SIR GEORGE MURRAY.

Request by
S. A. Perry
for town
allotment.

Sir, Sydney, 21st September, 1829.
I beg leave to represent to you that, in consequence of the Regulations which prevent the Governor of this Colony from granting Land to the Civil Officers of the Government, I am subjected to the inconvenience of paying, for a very incommodious house, a rent far exceeding a fair proportion of my income; and, having in England a small capital in trust for my wife and children, I could employ it in providing a suitable residence for my family here, if I might be allowed ground for that purpose.

Under the circumstances, I take the liberty of requesting your permission to occupy (under the usual conditions of Grant) one of the allotments of land, which are reserved by the Government for the purposes of building, in the neighbourhood of Sydney.

I have, &c.,
S. A. PERRY,
Dy. Surveyor General.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 146, per ship Dunveagan Castle.)

1829.
26 Sept.

Sir, Downing Street, 26th September, 1829.

I have received and laid before the King several Acts Approval of
acts of council. passed by yourself and the Legislative Council of the Colony of New South Wales in the Months of March and June, 1828. I inclose a List of the titles of these Acts with their Numbers.

I am to signify to you that His Majesty has been graciously pleased to approve and allow these Acts. I have, &c.,

G. MURRAY.

[Enclosure.]

LIST OF ACTS OF COUNCIL.

No. 1. An Act for adopting certain acts of Parliament, passed during the Seventh and Eighth years of His present Majesty King George the Fourth, for the amendment of the Law and the improvement of the administration of Justice in Criminal Cases. Titles of acts.

No. 2. An Act for adopting a certain Act of Parliament, passed in the Seventh and Eighth Years of His Majesty King George the Fourth to regulate the Practice of Arrests.

No. 3. An Act to enable the Proprietors of a certain Banking Company heretofore carried on at Sydney under the name and Designation of the Bank of New South Wales, commonly called the Old Bank* of New South Wales, to sue and be sued in the name of the President for the time being of the said Bank; And also to enable the Proprietors of a certain Banking Company to be established in Sydney under the Name, Style and Firm of the Bank of New South Wales, commonly called the New Bank of New South Wales, to sue and be sued in like manner in the name of the President for the time being, and for other purposes therein mentioned.

No. 4. An Act for ascertaining the number, Names, and condition of the Inhabitants of the Colony of New South Wales; and also the Number of Cattle and the quantity of located cleared and cultivated Land within the said Colony.

No. 5. An Act for the better regulation of the Hulk or Floating Prison in Sydney Harbour and for establishing Houses of Correction in the Colony.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Dunveagan Castle.)

Sir, Downing Street, 26 September, 1829.

With reference to your Despatch, marked "Separate" of the 20 Nov., 1828, forwarding a Letter addressed to the Secretary of State by Mr. Wemyss, Depy. Commissy. General, with a Pamphlet written by Dr. Lang, a Minister of the Scots Church at Sydney, I am directed by Sir George Murray to request that you will convey to Dr. Lang the expression of his regret that a Clergyman should have allowed himself to engage in a controversy of a personal and hostile kind. Sir George Murray Censure
on Revd.
J. D. Lang.

* Note 48.

1829.
26 Sept.

trusts that in future Dr. Lang will confine himself to his proper function of furthering the principles and practice of that peaceful religion, of which he has been chosen the Minister.

I have, &c.,

HORACE TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 147, per ship Dunveagan Castle.)

27 Sept.

Despatches
acknowledged
re post office

Sir, Downing Street, 27 September, 1829.

I have the honor to acknowledge the receipt of your Despatches No. 126 of the 11th November, 1828, and No. 51 of the 27th of April, 1829, the first Despatch accompanied by the report of a Board appointed to enquire into the expence, Revenue and present arrangements of the Post Office, with a view to determine to necessary Establishment and the amount of Salary which it may be proper to allow to the principal Post Master in Sydney; the Second Despatch reporting the appointment of Mr. Raymond to the situation of Principal Post Master, vacant by the Death of Mr. Panton, under whose charge you had placed that Department in the first instance.

Salaries for
country post-
masters.

With reference to the rate of per Centage, which the Post Masters in the Country Districts are to be allowed to charge on their collections, I am not unwilling to allow them such a sum as would be equal to 20 per Cent. on their receipts for the year 1828; but the sum so received by each respective Post Master must be fixed as the permanent amount of his Salary, and is not to be increased with any future augmentation of those receipts.

On the other arrangements proposed, I have no observation or objection to make.

Letters
exempted from
postal charges.

Observing, by the Regulations at present in force respecting the Postage, that there are certain Letters exempted from any charge, I have to desire that among those privileged Letters should be included all which may be sent in any Bag from this Office, marked as free by the Principal Secretary, or either of the Under Secretaries of State for Colonial Affairs, or franked by the proper Officer of this Department, in His Majesty's Service.

Appointment of
J. Raymond
confirmed.

You will inform Mr. Raymond that I have confirmed him in the Office of Principal Post Master, with a Salary of £400 a year; and you will allow him to receive his full Emoluments from the date at which he may have entered upon its duties.

Salaries for
temporary
appointments.

I am sensible that there may be some inconvenience, in other cases, as there would have been in that of Mr. Raymond, from the rule of allowing only half Salary to persons employed in temporary Appointments; but I cannot therefore consent to disturb

the general arrangements made by Lord Bathurst's Despatch of the 11th September, 1826; to which you will therefore adhere (except in the instance already mentioned of Mr. Raymond), unless you can satisfy me, by producing actual cases of difficulty, that the present inconvenience is absolutely insurmountable. Under no other circumstances could I agree to any advance upon the remuneration already allowed.

I have, &c.,
G. MURRAY.

1829.
27 Sept.
Salaries for
temporary
appointments.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 148, per ship Katherine Stewart Forbes.)

Sir, Downing Street, 28 September, 1829.

28 Sept.

I have received your Despatch No. 129 of the 14th November, 1828, reporting on the imperfect state of the Military Defences of the Colony under your Government.

Despatch
acknowledged.

It is undoubtedly of much importance that the Town of Sydney and the Colony in general should possess the means necessary for its protection and security; but, as I cannot hold out to you any expectation that His Majesty's Government will have it in their power to send out an Engineer Officer from this Country, I trust you will be able to accomplish all that may be necessary for that object, without any assistance beyond what the resources of the Colony may furnish.

Inability to
appoint
engineer officer.

I have, &c.,
G. MURRAY.

P.S.—Although any expence which it may become necessary to incur for the above purpose will be to be provided out of the funds of the Colony, you will understand that you are not to incur any expenditure for Military Works without first transmitting to me regular Plans and Estimates, and obtaining the sanction of His Majesty's Government to the commencement of such Works.

Approval
required for
proposed
military works.

G.M.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 105, per ship Harmony.)

Sir, Government House, 28th September, 1829.

I have the honor to refer to you herewith the Copy of a Letter addressed to me by the Chief Justice on the Subject of the Laws or Ordinances of the Governor and Council, which are sent to the Judges in conformity with the Act of 9th Geo. 4th, chap. 83d, for the purpose of being enrolled and recorded in the Supreme Court, being retained in the Court. I have stated in my

Transmission
of letter from
F. Forbes.

1829.
23 Sept.

reply to the Chief Justice that there will be no objection to their remaining in possession of the Court, until I have the honor to receive your Orders on the Subject.

I have, &c.,

RA. DARLING.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Supreme Court Office, 23rd September, 1829.

Procedure for
enrolling and
recording acts
of council in
supreme court.

I have the honor to acknowledge Your Excellency's two Letters of the 11th and 17th inst. respectively, enclosing three Laws or Ordinances of the Governor and Council, Numbered 3, 4, and 5, for the purpose of being enrolled and recorded in the Supreme Court. As the Act of Parliament, in pursuance of which Your Excellency transmitted the above Laws or Ordinances to the Supreme Court, has not particularized the course to be adopted, I beg leave to bring the subject under your consideration, in order that some arrangement should be made upon the subject.

It rather appears to me to have been the intention of Parliament that the original Laws should be deposited in the Supreme Court for safe custody and public reference. Should they be returned to Your Excellency, they must be placed in some office of public reference; and, if they be, I do not understand the object of having them enrolled and recorded in the Supreme Court. While the original Laws might be consulted, any Office Record would be but a Copy, and, as such, not admissible under the general Rules of Evidence. The Act of Your Excellency in transmitting any Law or Ordinance to the Supreme Court authenticates such Law or Ordinance to the Court, and to all others concerned up to the time of such Act; beyond this, the Statute is silent; and, if the Law or Ordinance afterwards pass through any other hands, its authenticity may become the subject of question, and require specific proof of the identity of the Law.

If the view which I have taken be correct, then the original Laws or Ordinances will be enrolled in the Supreme Court Office, like judgments and other Records, open to public inspection and reference. But, if Your Excellency takes a different view, I will transmit the Laws or Ordinances back to you, suggesting that the matter should be brought under the consideration of His Majesty's Principal Secretary of State.

I have, &c.,

FRANCIS FORBES,

Ch. Justice.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Katherine Stewart Forbes.)

29 Sept.

Sir,

Downing Street, 29 September, 1829.

Application
from H. Bayly
for land grant.

I am directed by Secretary Sir George Murray to transmit to you, for your consideration, the accompanying Copy of an application from Mr. H. Bayly for a Grant of 10,000 Acres of Land in New South Wales, in addition to that which he already possesses; and I am to acquaint you that Mr. Bayly has been

informed that Sir George Murray could do no more than instruct you to make to him such a Grant of Land as his Capital may entitle him to under the established Regulations.

I am, &c.,

HORACE TWISS.

1829.
29 Sept.

[Enclosure.]

MR. H. BAYLY TO SIR GEORGE MURRAY.

Sir, 15 Token House Yard Bank, 28th Septr., 1829.

The undersigned most respectfully begs permission to lay before you a statement, which he hopes will be the means of his obtaining in the Colony of New South Wales the same indulgence that has been allowed to enterprizing industry and respectability in all cases that have been made out to the satisfaction of the Right Honorable the Colonial Secretary.

Application by
H. Bayly for
extended land
grant.

The undersigned is the eldest son of the late Nicholas Bayly, who was formerly a Captain in the 102 Regt. when stationed in New South Wales, and is the Nephew of Lieut. General Bayly, 8th Regt. of foot, and, being the sole Guardian of a large Family born in New South Wales, has brought his two younger Brothers to England for education, where he intends leaving them for a series of Years; his Father retired from the Army and at an early period of the Colony became a Settler there and expended on the improvement of His small Estate of 2,500 Acres (the only quantity granted to him by the Government) a sum ten times that which was realized by its Sale after his decease.

Memorialist respectfully begs leave to state that he has expended in various improvements on a small Grant of 500 Acres upwards of £4,000, and finds that the Capital, which he has thus sunk, does not realize a revenue equivalent to the interest of such an outlay, and, having to provide for the support and education of his Brothers and Sisters, has formed the resolution of applying his attention to grazing operations; his present stock of Horned Cattle consists of upwards of 400 Head, independent of Horses, Sheep, etc., the depasturing of which under his present circumstances incur considerable expense and inconvenience and their rapid increase will require a large tract of Land.

Memorialist has purchased in England two valuable blood Horses, which he purposes taking with him on his return to New South Wales by one of the first vessels proceeding to that Colony, and begs to observe that his present property is worth £8,000.

Memorialist most respectfully begs to draw the attention of the Right Honorable the Colonial Secretary to the above statement, and humbly solicits that, in consideration of the circumstances therein set forth, he will be pleased to cause the Governor of New South Wales to be instructed to locate to him a Grant of 10,000 Acres in a part of New South Wales adapted to the purpose stated.

Memorialist can give reference to many Gentlemen, some of whom have held the most important Offices in the Colony of New South Wales, viz., Frederick Goulburn, Esqr., late Colonial Secretary, John Thomas Bigge, Esqr., late Commissioner of Enquiry, and William Wemyss, Esqr., late Deputy Comsy. General.

I have, &c.,

H. BAYLY.

1829.
29 Sept.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(A circular despatch per ship Dunveagan Castle.)

Sir, Downing Street, 29 September, 1829.

Report *re*
cultivation of
bitter cassava.

I am directed by Secretary Sir George Murray to forward to you the accompanying paper, which has been received from Sir John Sinclair, respecting the cultivation of the Bitter Cassava; and I am to acquaint you that any communication, which you may have to make regarding a more extensive cultivation of that Vegetable in your Colony, may accompany your next despatches, and be addressed to the Right Honble. Sir John Sinclair, Bart., who will transmit to you any additional information, which he may be able to collect upon that subject.

I am, &c.,
HORACE TWISS.

[Enclosure.]

[A copy of this letter is not available.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch per ship Katherine Stewart Forbes.)

30 Sept.

Sir, Downing Street, 30 September, 1829.

Exemption of
customs officers
from service
in militia or
parochial
offices.

The Lords Commissioners of His Majesty's Treasury having transmitted to me a Report of the Commissioners of Customs, with the Copy of a case laid before the late Solicitor General as to the liability of the Officers of that Revenue to serve in the Colonial Militias, I have the honor to acquaint you that the provisions of the 2d Section of the 9 Geo. 4, Cap. 76, which exempt Revenue Officers from the Militia, are considered to extend to His Majesty's possessions abroad.

The 9th Geo. 4 refers to the Act passed in the 6th Geo. 4, and must, therefore, receive a construction as of an Act made *in pari Materia*, and, as the 6th Geo. 4 expressly extended in its operation to Foreign Possessions of the Crown, and, as the same reasons would apply for exempting Custom House Officers from Parochial Offices in Foreign Possessions (when there are such Offices) as makes them exempt from serving such Offices at home, the act of the 9th Geo. 4th would be held to extend to His Majesty's Possessions abroad, when the provisions of that Act are capable of applying.

I am, therefore, to acquaint you that Custom House Officers cannot be legally required in the Colony under your Government to serve in the Militia or in Parochial or other local Offices, from which they are exempt by the 2d Section, 9th Geo. 4, Cap. 76.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Katherine Stewart Forbes; acknowledged by Governor Darling, 1st July, 1830.)

1829.
30 Sept.

Sir, Downing Street, 30 Sept., 1829.

I am directed by Secretary Sir George Murray to transmit to you the Copy of a Letter from the Commissioners of the Navy, applying for information relative to the Rates chargeable for Piloting His Majesty's Ships and Vessels into the Harbours of New South Wales; and, as that information is not contained in the Blue Book, I am to request that you will send home a List of those rates to enable Sir George Murray to furnish the Navy Board with the information upon this subject which they have desired.

Report required
re rates for
piloting
H.M.'s ships.

I am, &c.,

HORACE TWISS.

[Enclosure.]

THE NAVY COMMISSIONERS TO UNDER SECRETARY TWISS.

Sir, Navy Office, 16 Sept., 1829.

As claims are occasionally made for the pilotage of H.M.'s Ships and Vessels into the Harbours of New South Wales, and, as we are not aware of the Rates usually allowed for such Services, we request to be furnished with such information upon the subject as may be in the possession of the Secretary of State for the Colonies.

We are, &c.

R. SEPPINGS.

R. G. MIDDLETON.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 149, per ship Katherine Stewart Forbes.)

Sir, Downing Street, 1 Oct., 1829.

1 Oct.

I have received your Despatch No. 42 of the 18th April, in which you propose the allotment of 1,000 acres of Land to Mr. Campbell in addition to the Grant, which was consigned to him in part compensation* for the loss, which he sustained by the wreck of the Ship "Sydney"; and, as it appears to me unobjectionable, I have to convey to you my authority for making to Mr. Campbell an additional Grant to that extent.

Land grant for
R. Campbell.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 106, per ship Harmony; acknowledged by Sir George Murray, 21st April, 1830.)

Sir, Government House, 1st October, 1829.

Considerable embarrassment having been experienced by the loss of Oxen attached to the Road and other Establishments occasioned by the long and severe Drought which has prevailed,

Loss of oxen
through
drought.

* Note 49.

1829.
1 Oct.

I have been under the necessity of making an arrangement for the better management of the Government Cattle generally, and to ensure the Bullocks being trained in time, so as to be available when required.

Inability to
sell government
cattle.

I have made several attempts to dispose of the Cattle, but without effect. The distress of the People is so general that no one has the means of purchasing, and those, who bought some time ago, are without the means of making payment.

I have mentioned this that it may not be supposed I have any desire to keep up a stock of cattle. I am quite satisfied it would be injudicious to do more in this respect than may be sufficient to supply the demands of the Government Establishments for Draught Oxen.

Control of
cattle at
Wellington
valley.

The principal part of the Cattle has been kept at Wellington Valley under the charge of Mr. Maxwell, the Superintendent of that Establishment. But, the situation being very remote, nearly 300 Miles from Sydney, I have brought Mr. Maxwell to Emu Plains, and sent Mr. Kinghorne from thence to Wellington Valley, so that the former may be enabled to have a proportion of the spare oxen at hand trained and available whenever required to be embarked for the distant settlements, or to relieve others attached to the Government Establishments as they require rest.

Oxen to be
trained at
Emu plains.

Management
of cattle at
Wellington
valley.

It has been necessary in consequence of this arrangement to appoint a Person to the charge of the Cattle kept in the neighbourhood of Wellington Valley, independent of the Superintendent of that Establishment, to be under the immediate direction of Mr. Maxwell, who will instruct him as to the Cattle to be selected for the various purposes required, and the course to be pursued in handling them preparatory to their being broke in.

I brought the measure under the consideration of the Executive Council, and do myself the honor to enclose an Extract from the Minute of its Proceedings thereon, by which it will be seen that an Expense of 4s. per Diem will be incurred in carrying it into effect.

I have, &c.,

RA. DARLING.

[Enclosure.]

Minutes of
executive
council re
management
of cattle.

EXTRACT from the Proceedings of the Executive Council on the 28th September, 1829, Minute No. 41.

PRESENT:—His Excellency the Governor; The Venerable the Archdeacon; The Honble. The Coll. Secretary.

“ His Excellency then represented the difficulty which has existed in respect to the proper care and management of the Government Stock, and the procuring of Oxen properly broken for the public works, in consequence of the peculiar wildness of the Cattle of this Country; and further stated that he therefore considered it

advisable to put the whole of the Stock under the management of Mr. John Maxwell, who, in the situation he has held as Superintendent at Wellington Valley, has proved himself competent to the charge.

“Under this arrangement, Mr. Maxwell will reside at Emu Plains; and it will, therefore, be necessary to appoint a person to the charge of the Stock at Wellington Valley; and His Excellency proposed that Mr. Henry A. B. Bennett should be appointed to the situation, with an allowance of four shillings per diem, an arrangement in which the Council fully concurred.”

A true Extract:—E. DEAS THOMSON, Clk. Col.

1829.
1 Oct.

Minutes of executive council *re* management of cattle.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony.)

Sir, Government House, 1st October, 1829.

I have the honor to transmit the accompanying Copies of a Letter and Enclosure from the Principal Superintendent of Convicts on the subject of two Men,* one holding a Conditional Pardon and the other a Convict, who are supposed to have made their escape from the Colony and gone to England.

Transmission of report *re* convicts.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Pl. Supt. of Convicts' Office.

26th September, 1829.

Sir,

Having reason to believe that the two Convicts named in the Margin† have absconded from the Colony, I deem it my duty to make a special report of their cases for the information of His Excellency the Governor.

Report *re* escape of J. H. Vaux and G. Stewart.

The first named is the notorious James Hardy Vaux,‡ who, although holding a Conditional Pardon, must now be considered, in having voluntarily quitted the Colony, as having reverted to his former condition as a Convicted Felon under sentence of transportation for Life.

The other George Stewart held no Indulgence from the Government at the time he withdrew himself from the Colony. He absconded from the Roads apparently without the knowledge of any of the Functionaries attached to that Department, as his absence was never reported, and (mainly by the instrumentality of his Wife whom he married in the Colony) was enabled to get away unnoticed. His Wife having sailed for England immediately after in the Ship Lang, I have reason to believe that Stuart's destination was England.

It has been stated that Lowe or Vaux has gone towards India.

I transmit detailed Descriptions of these Prisoners, and

I have, &c.,

FREDK. A. HELY.

* *Marginal note.*—James Lowe, alias James Hardy Vaux, George Stewart.

† *Marginal note.*—James Lowe, Indian; George Stuart, Larkins. ‡ Note 50.

1829.
2 Oct.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 150, per ship Katherine Stewart Forbes.)

Sir,

Downing Street, 2nd Oct., 1829.

I have received your Despatch No. 43 of the 20th April, 1829, reporting the promotion of Mr. Rogers to be an Assistant Surveyor in the room of Mr. Florance who has resigned, and the appointment of Mr. Darcy to be a Draftsman in succession to Mr. Bruin, who has relinquished that situation; and, as the account, which is given in your Despatch, of the merits and qualifications of these Gentlemen is very satisfactory, I have much pleasure in approving the appointments, which you have conferred upon them respectively.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 107, per ship Harmony; acknowledged by Sir George Murray, 21st April, 1830.)

Sir,

Government House, 2nd October, 1829.

The Bushrangers have been so troublesome of late that I have been obliged to add a few Men to the Mounted Police, so as to enable me to Station a Party in the County of Argyle for the purpose of protecting the Settlers to the Southward and communicating with the Police in the Bathurst District.

I do myself the honor to enclose for your information copies of two Letters, which have been addressed to me with several others by the Magistrates of that part of the Country, so that you may be aware of the state of alarm of the People in the Quarter alluded to.

For my own part, I entertain no apprehensions, as I am satisfied the Government can always put down these People, as We fortunately have done, whenever it may be necessary to make an exertion; but I have not been quite so prompt as some of the Settlers would wish, feeling that many of them require being taught that they should exert themselves and not depend entirely on the protection of the Government.

Mr. MacAllister, who is a very active Magistrate in Argyle, has set his Brother Settlers in that part of the Country a good example by pursuing in person, with some of his own servants, a party of Bushrangers, who had created great alarm in his neighbourhood. He remained out five days on the occasion alluded to and brought in three of the Party, who have since been executed.

Approval of appointments in surveyor general's office.

Mounted police stationed in Argyle.

Alarm caused by bushrangers.

Active measures adopted by L. Macalister.

Mr. MacAllister being a Lieut. on Half Pay, I have appointed him to the charge of the Mounted Police in Argyle, trusting it may encourage others to follow his example, and feeling satisfied that his appointment will ensure the tranquillity of that part of the Country.

1829.
2 Oct.

Mounted police
in charge of
L. Macalister.

I have authorised Lieut. McAllister receiving the same allowances as other Officers in charge of the Mounted Police; that is, 4s. per diem as extra pay, and 2s. 6d. in lieu of Forage for a Horse, in addition to which, being on Half Pay, I have granted him 3s. per diem, to place him on a footing with a Lieut. on full pay, making the full amount of his Allowances 9s. 6d. per diem.

Allowances for
L. Macalister.

I have further the honor to report that I have been under the necessity of appointing a Mr. Antill, who was Major of Brigade in the time of General Macquarie, to the charge of the Police at a place called the Stone Quarry Creek. The establishing a Bench of Magistrates at that place had become necessary, the Bench at *Cawdor*, which is seven miles from the above station, having been discontinued.

Appointment of
H. C. Antill to
charge of police
at Stonequarry
creek.

I have granted Mr. Antill an Allowance of £150 per Annum, which would be totally inadequate, as he holds no other appointment, did he not reside near the Stone Quarry, where I should observe there has been for some time past a "Lock up House" and regular constabulary.

I trust, Sir, you will be satisfied that, in making these arrangements, I have done nothing more than is necessary to the tranquillity of the Country, and that every possible economy has been observed in carrying them into effect.

I beg leave to add that, in the case of Mr. McAllister's appointment and that of Mr. Antill, the Executive Council was consulted; and I do myself the honor to transmit an Extract from the Minutes of its Proceedings for your information.

Appointments
approved by
executive
council.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. D. REID TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 19th May, 1829.

I have this morning received an express from Argyle, informing me that the whole Country is infested by Gangs of Armed Bushrangers, who are traversing the Country and robbing the different Stations, among which the following are mentioned:—Mr. Dale's, Mr. Galbraith's, Mr. McKillar's, Mr. Hall's, Mr. Style's, and my own Sheep Station, where they make the Men grind the Wheat for them, and in fact take what they please; and I suppose the next thing they will do will be to kill the Sheep. My Overseer William Lister informs me that, on his way down, he fell in with six

Prevalence of
bushrangers
in county of
Argyle.

1829.
2 Oct.

Prevalence of
bushrangers
in county of
Argyle.

or 7 men all Armed, and that they were daring enough to send a Message to Mr. Futter and myself that, if we would come up with the Police, they would take care none of us should go back again, as they have plenty of Arms, Ammunition and Ball. Indeed I think, unless some decisive measures are taken immediately to put down Armed Bushrangers, it will be quite unsafe remaining in that part of the Country.

I have, &c.,

DAVID REID, J.P.

[Enclosure No. 2.]

THE MAGISTRATES OF ARGYLE TO COLONIAL SECRETARY MACLEAY.

Sir,

Inverary, Argyle, 14th June, 1829.

Military to be
employed
against
bushrangers.

At a General Meeting of the Magistrates convened at Inverary on the 22nd inst. for General Purposes, a Letter from the Colonial Secretary, dated 23rd May, 1829, addressed to the respective Benches, was laid before them, conveying His Excellency the Governor's intimation that two Detachments of Troops were to be immediately forwarded for the purpose of suppressing Bushranging.

The Meeting beg to offer their thanks for His Excellency's prompt attention to the representation, made by Dr. Reid upon the disturbed state of the Country.

Recommendation by
magistrates re
disposal of
military.

At the same time, they cannot but feel regret that these Detachments have never been sent to the respective Stations at Goulburn Plains and at Major Elrington's; the state of the country being much disturbed and demanding the immediate presence of the Troops (the country between Major Elrington's and Mr. Ryrie's, and between Lake Bathurst, Limestone and Mimeron Plains being still infested with Armed Bushrangers, the same Parties who committed the various robberies), it appears to the Meeting that the Parties alluded to have hitherto escaped the Mounted Police from their intimate knowledge of the bye passes leading to and from these places. From these reasons, the Meeting consider that detached Parties of Infantry, stationed as above intended, would prevent the escape of the Bushrangers, and insure safety to the Numerous Stations in those Districts; at the same time, it would be necessary to the attainment of this object that these Detachments should be made permanent, not only that they might acquire a Local knowledge, but also by their presence prevent the Bushrangers being harboured, which we know is frequently done; otherwise the Police would be more successful in apprehending them.

Proposed
quarterly
meetings of
magistrates.

As the Magistrates now assembled are of opinion that Quarterly Meetings, such as the present, cannot but be conducive to the Maintenance of good order in the County, as they would each have an opportunity of reporting the state of their District, and submitting matters of General Public Utility, it is their intention, therefore in future, to confine their representations to those Quarterly Meetings, which will supersede the necessity of Individual representations being made to Government, except in cases of emergency.

We have, &c.,

ROBERT FUTTER, J.P.
ANDREW GIBSON, J.P.
DAVID REID, J.P.
L. MACALISTER, J.P.

[Enclosure No. 3.]

EXTRACT from Minute No. 37 of 5th September, 1829, of the
Proceedings of the Executive Council.

1829.
2 Oct.

Recommendation by executive council re appointment of H. C. Antill;

PRESENT:—His Excellency the Governor; The Venble. The Archdeacon; The Honble. The Colonial Secretary.

“His Excellency next laid before the Council a Letter from H. C. Antill, Esqre., J.P., applying to be appointed Superintendent of Police at Stone Quarry in the County of Camden.

“The Council, in consideration of Mr. Antill’s having performed the duties of Police Magistrate for a length of time gratuitously, which have been considerable in consequence of the discontinuance of the Cawdor Bench, advised that he should be allowed a Salary of £150 per annum for the performance of these duties, there being no other Magistrate or person qualified for that Situation in that part of the Country.”

A true Extract:—E. DEAS THOMSON, Clerk of the Council.

[Enclosure No. 4.]

EXTRACT from Minute No. 41 of the Proceedings of the Executive Council on the 28th September, 1829.

PRESENT:—His Excellency the Governor; The Venerable The Archdeacon; The Honble. The Colonial Secretary.

“His Excellency The Governor submitted to the Council several Letters from the Magistrates of Argyle and the Neighbouring Districts strongly urging the necessity of increasing the Police Establishment, in consequence of the prevalence of Bushrangers in these Districts, and the Alarm which has thereby been excited in the minds of the Settlers.

and re mounted police in county of Argyle.

“The Council, in consequence of the strong representations of the Magistrates, recommend that a Party of Mounted Police should be stationed at Goulburn Plains, and that some active Person well acquainted with that part of the Country should be appointed to the Command.”

A true Extract:—E. DEAS THOMSON, Clerk of the Council.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 151, per ship Katherine Stewart Forbes.)

Sir, Downing Street, 3 October, 1829.

3 Oct.

I have to acknowledge the receipt of your Despatch No. 48 of the 24 April last reporting that, in consequence of the representations of Mr. Macquoid, you had authorised the issue to him of a moiety of his Salary as Sheriff of New South Wales from the date of his Embarkation till his assumption of the duties of his Office.

Approval of payment of moiety of salary to T. Macquoid from date of embarkation.

From the uncertainty, which existed at the time of Mr. Macquoid’s appointment, whether the person, temporarily discharging the functions of his Office, was in the receipt of the full Salary or only of half of it, it was decided, in order to secure the Public from the expence of a double payment of the Salary of Sheriff,

1829.
3 Oct.

that Mr. Macquoid's Salary should not commence until his arrival in the Colony. As, however you have stated in your despatch that a compliance with Mr. Macquoid's application will not occasion any additional expence to the Public, I am enabled to sanction the issue which you have made to that Gentleman.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Katherine Stewart Forbes.)

4 Oct.

Despatch
acknowledged
re veteran
companies.

Sir,

Downing Street, 4th Oct., 1829.

I have received and laid before Secretary Sir George Murray your Letter to me of the 21st January last, together with the Copy of a Letter which you have addressed to the Department of the General Commanding in Chief, relative to the manner in which you propose to carry into effect the measure for disbanding the Royal Veteran Companies stationed under your command; and I am to acquaint you, in answer, that, as you will receive a communication from Lord Hill, stating how far the arrangements adopted by you are considered satisfactory, Sir George Murray deems it unnecessary to make any particular observations of his own in reply to your present Despatch.

I am, &c.,
HORACE TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(A circular despatch per ship Mermaid.)

8 Oct.

Return required
re landholders.

Sir,

Downing Street, 8 October, 1829.

As it is desirable that I should receive more accurate information as to the Landholders of New South Wales, the extent of their Grants, and the conditions which are annexed to them, than that which is now transmitted to my Office with the annual Blue Book, I have to desire that you will cause the Return, which I have now the honor of forwarding to you, to be filled up and sent home with as little delay as possible, and that, in future, a corresponding Return may accompany the other Statements comprized in the Blue Book. I have further to desire that you will intimate to the Officer, whose duty it will be to prepare the Statements required by my present Despatch, that, unless the strictest attention be paid in collecting the information upon the various points specified in the accompanying Table, the object, which I have in view, will be defeated.

I am, &c.,
G. MURRAY.

[Enclosure.]

1829.
8 Oct.

A STATEMENT of the names of all Persons, who have received Land in New South Wales from the 1st January to the 31st of Decr., 18—, Alphabetically arranged with their descriptions and the terms and other circumstances of their holding, And of the total amount of the land already granted, and of that remaining undisposed of:—

Form of return
required for
land grants.

Grantee's Names.

1. His occupation and station in the Colony.
 2. Whether the Tenant came free, was born in the colony, or has become free by termination of Servitude.
 3. Date of Grant.
 4. Number of Acres.
 5. County or District.
 6. Annual or other quit Rent if in perpetuity.
 7. Annual or other Rent, if leasehold for life or term of years.
 8. Amount of purchase money, if in fee simple.
 9. By what instalments paid or payable.
 10. Whether the proprietor or Tenant is resident on the farm.
 11. Number of acres granted in the Colony.
 12. Total number of acres that remain to be granted.
- Observations in which should be stated the reasons for any deviation from the Regulations.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch delivered by — Edwards.)

My dear Sir,

Downing Street, 8 Oct., 1829.

This Letter will be presented to you by Mr. Edwards, who has already settled in the Colony under your Government. As the friends of this Gentleman have favorably recommended him to me, I beg that you will have the goodness to afford him your protection and good Offices and any assistance, which it may be in your power to render him consistently with the Regulations.

Letter of
introduction
for Edwards.

Yours very truly,

HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 108, per ship Harmony; acknowledged by Sir George Murray, 16th May, 1830.)

Sir, Government House, 8th October, 1829.

I have the honor to transmit for your information Copy of a correspondence, which passed between the Judges and myself on the subject of holding Circuit Courts, or adjourning the Sittings of the Supreme Court to certain Towns, which are specified at a distance from Sydney, to which place the Sittings of that Court had been hitherto confined.

Correspondence
re circuit
courts.

1829.
5 Oct.

Competency
of judges to
adjourn
sittings.

The Enclosure No. 2 points out the doubts I entertained of the proposed proceeding being in accordance with the Act of 9th Geo. 4th, chap. 83rd; but, as the judges continued to think they were competent to adjourn the Sittings of the Supreme Court as might be convenient, the Court sat accordingly at Windsor, Campbell Town and Maitland in the months of August and September last.

Expenditure
on circuit
courts.

I further beg to enclose the Copy of a Letter received by the Colonial Secretary from the Registrar of the Supreme Court, with an Abstract of the Expences incurred by the Judges and Officers of the Courts on the late Circuits, amounting to £397 14s. 5d., which I have accordingly directed to be paid.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Supreme Court, 19th March, 1829.

Proposal for
holding circuit
courts.

I would not press a matter of so much importance upon your Excellency, at a moment when I understand you are so ill as to be confined to your bed room, as the Substitution of Circuits of the Judges of the Supreme Court for the Antecedent practice of holding Courts of Sessions, were it not one, in which I apprehend that the inconvenience to the Public will be most materially increased by delay. Your Excellency will observe, by the New Act* of Parliament, that Courts of Sessions for the Trial of higher Crimes and all Offences committed by Free Persons can only be held after they may be invested with such Jurisdiction by the New Council. At present, they can only exercise Summary Jurisdiction over Prisoners of the Crown, charged with the minor offences enumerated in the Local Ordinance. As some time may elapse before the Warrant* for creating the New Council may arrive, and still further time before the New Jurisdiction can be properly defined, there will be serious delays in the Administration of Justice, and a perpetual Gao! delivery in the Supreme Court, unless an expedient be adopted to supply the Chasm created by the suppression of the ordinary Courts of Sessions in the Colony. Under these impressions, it has occurred to me that the Judges of the Supreme Court had better hold their Criminal Sittings for a short time at the places and, as near as may be, at the times appointed for holding the Quarter Sessions, and take those Cases which, by the practice of the Colony for the last four Years, have been heard and disposed of there. I think it will be found practicable, because at many of those places or at no great distance from them reside Half Pay Officers of the Army or Navy, who may be summoned to attend the Judges, and empanelled under your Excellency's Precept to try all offences whatsoever. There is nothing to prevent the Judges from holding their Sessions in any part of the Colony. I submit the above proposal to Your Excellency with the concurrence of my brother Judges; and we beg to recommend it to your earliest consideration.

I have, &c.,
FRANCIS FORBES.

* Note 51.

[Enclosure No. 2.]

1829.
8 Oct.

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, 20th March, 1829.

I have the honor to acknowledge the receipt of your Letter of yesterday, suggesting, with the concurrence of Their Honors the Judges, the Substitution of Circuits of the Judges of the Supreme Court for the antecedent practice of holding Courts of Sessions for the reasons stated in your Letter. Letter acknowledged.

In expressing my Thanks to Your Honor and the Judges for proposing a measure, which would in some degree relieve the Government from the embarrassment, which is occasioned by the Non arrival of The King's Warrant appointing a New Council, you will, I trust, excuse me for requesting information how the proposed expedient could be adopted consistently with the 13th and 16th Sections* of the Act of 9th Geo. 4. Chap. 83rd. The 13th Section appears to me to be directly opposed to the measure. But, as I may have taken an erroneous view of the case, I should be obliged to you to point out how Circuits could be established without His Majesty's special Authority. Request for legal opinion.

I regret that my present state of health did not permit of my replying to your letter yesterday. I have, &c.,

RA. DARLING.

[Enclosure No. 3.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 20th March, 1829.

I have just had the honor to receive Your Excellency's Letter of this date, and, as a slight misapprehension of the Word "Circuit," into which I led Your Excellency by too undefined a manner of using it, appears to be the only point which requires explanation. I have thought it better to reply to Your Excellency immediately and without communicating with the other Judges.

We did not intend to propose holding Circuit Courts, such as are contemplated by the 13th Section of the present New South Wales Act, but merely to adjourn our Criminal Sittings from Sydney to such Places, as, under the present state of the Criminal Business of the Colony, we could most conveniently obtain the Attendance of Witnesses and Prosecutors. There is nothing to prevent the Supreme Court, or, by the New Act, any of the Judges, from holding Pleas of the Crown, where it may be found most convenient. Mr. Justice Pedder at Van Diemen's Land Sits occasionally at Launceston. After an objection raised in that Colony upon a technical difficulty about the venue, His Honor, after consulting with me and receiving my opinion upon the Power he possessed of holding his Court where-ever the Public Interests required it, determined to sit at Hobart Town and Launceston alternately, and has continued to do so ever since. The Late Criminal and Civil Courts of this Colony occasionally were held at Van Diemen's Land; and the only reason that the present Supreme Court has not adjourned its Sittings to Parramatta and other parts of the Colony has been from a belief that the Public would not derive a commensurate advantage from its doing so. At the present moment, I am given to understand, that a great Number of Cases have been prepared for the Courts of Sessions, in the supposition that they would continue to be holden as heretofore, which must go unheard, or the parties compelled to Proposal confined to adjournment of criminal sittings of supreme court.

Reasons for making proposal.

1829.
8 Oct.

Reasons for
making
proposal.

come to the Supreme Court in Sydney at a serious expense and under many disadvantages to Public Justice. The Prosecution may remove these cases into the Supreme Court, and, if one of the Judges attend at any Places where the Sessions were formerly held by the Justices of the District, and be provided with a Clerk and a Jury of Officers, and some person properly accredited on the part of the Crown (which Your Excellency has the power of Nominating), the Judges may proceed to try all criminal cases whatsoever with as much legal Power and Authority as if he were seated in Sydney.

The Circuits, which are contemplated by the Act, will embrace many Things, which cannot be done or provided for by the mere motion of the Judges. And therefore it will require the power of the Law to provide for such Things. The main question in the present exigency is whether Juries of Officers can be provided to meet the Judges out of Sydney? I have, &c.,

FRANCIS FORBES,
Chief Justice.

[Enclosure No. 4.]

THE JUDGES TO GOVERNOR DARLING.

Sir,

Sydney, 3rd June, 1829.

Proposal to hold
adjourned
sittings of
supreme court
in country
districts.

It has been intimated to us by the Attorney General that there are for Trial at least eighty persons in the Country Districts of the Colony, who have been committed for the General Quarter Sessions, and are either in Confinement or out on Bail, waiting the result of their several cases.

There being now no General Quarter Sessions holden in the Colony for the Trial of Offences by a Jury in any form, a sense of public duty compels us respectfully to point out to your Excellency a mode of meeting the difficulty, which this state of Things presents.

The Judges have, in their Opinion, full power and authority to adjourn the Proceedings of the Supreme Court at any time, and to any place in the Territory of New South Wales within their Jurisdiction. It is proposed, therefore, that the Country to the Northward and Westward of Sydney be temporarily divided into three Districts for the Administration of Justice in this unprovided for emergency, "Vizt.":—

Liverpool, to include Campbell Town and Parramatta.

Windsor, to include the whole District of the Hawkesbury and pressing Cases from Bathurst; and

Newcastle, to include the whole of the Hunter's River and its Branches.

One Judge, accompanied by a Military Jury and suitable Officers of the Court (all of whose Travelling Expenses should be paid), would get through the whole of the Business in three Weeks, taking each District in Succession.

This Arrangement appears to us the least expensive, most expeditious, and creditable for the Government, that can be adopted to prevent the failure of Public Justice in the Cases herein alluded to. As guardians of the public justice of the Colony, we respectfully press upon Your Excellency's attention the necessity of immediately adopting this or some other equally proper arrangement for the prompt relief of the Districts above mentioned.

There are many points of view, in which such an Arrangement would be desirable permanently for the Trial of Capital Offences committed in the Country Districts; but, as these points could be

more satisfactorily explained at a personal conference than by writing, we should be happy in the honor of attending Your Excellency on the subject at your perfect convenience.

1829.
8 Oct.

We have, &c.,

FRANCIS FORBES, C. Justice.
JOHN STEPHEN.
JAMES DOWLING.

[Enclosure No. 5.]

MR. J. E. MANNING TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 29th September, 1829.

I have the honor of transmitting for the approval of His Excellency the Governor particulars of contingent expences of my Office, amounting in all to the sum of £397 14s. 5d., whereof £391 8s. 1d. accrued from the three Circuit Court Sitings recently held.

Expenditure on circuit courts.

I have also the honor of transmitting for His Excellency's perusal and consideration two Letters, addressed to His Majesty's Attorney General and myself, from the Gentlemen, forming the Juries at Campbell Town and Maitland, in which they express their hopes that an encrease of pay may be allowed them for their attendance upon such duties at the distant Circuit Courts.

Request by jurors for increase of pay.

I have, &c.,

JOHN EDYE MANNING,
Registrar of the Supreme Court.

[Sub-enclosure.]

ABSTRACT of contingent Expences and disbursements of the Supreme Court, between the day of July, 1829 and day of Sept., 1829. Abstract of expenditure on supreme court.

		<i>General.</i>	£ s. d.
July	.....	Paid Boylan and Co., bookbinders, binding and preparing 20 Vols. of Note books for Mr. Justice Dowling by order of Colonial Secretary	3 18 4
Augt.	.....	Paid Watkins (Hindson) for 2 reams of paper furnt.	2 8 0
<i>Circuit Expences.</i>			<hr/>
Augt.	.....	Paid for 2 Trunks to convey Circuit books, Stationary and luggage to Campbell Town	2 0 0
		Reimbursed Sheriff Macquoid his payment of Hotel bill for the Chief Justice at Campbell Town	1 8 0
		Paid Attorney General's bill of Hotel and travelling expences to, at and from Campbell Town, himself, Clerk and Servant and his Horses 7 days	29 8 0
		Hire of his Carriage and Horses at 40s. per day	14 0 0
		Paid Judge Stevens' Expences and those of his retinue to, at and from Windsor 9 days	26 8 5
		Paid Hart for hire of 4 horses for His Honor's carriage	30 0 0
		Paid Crown Solicitor's bill of Expences for himself and Attorney General's Clerk and Servt. to, at and from Windsor 9 days	37 16 0
		Hire of Carriage and Horses at 40s.	18 0 0
		Paid Clerk of Arraigns for disbursements on both Campbell Town and Windsor Circuits, Self, Cryer, and Carter with Luggage 14 days	37 6 0
		Paid Hire of Cart and Horse with Circuit Luggage and Court Cryer to and from Campbell Town and Windsor 18 days at 8s.	7 4 0
		Paid driver for his time also 18 days at 2s.	1 16 0
		Paid for 3 hobbles for Maitland Circuit horses meant for the bush	0 10 6
		Paid Humphreys for 4 horses for Judge Dowling's carriage to Wiseman's 4 days charged	22 0 0

1829.		ABSTRACT of contingent Expences, etc.— <i>contd.</i>				
8 Oct.		<i>Circuit Expences—continued.</i>		£ s. d.		
Abstract of expenditure on supreme court.	Augt.	Paid Court Cryer's bill of disbursements for himself and Constables at Newcastle and to Maitland		8	0	0
		Paid Expences, Mr. Justice Dowling, Solicitor General and Clerk of Arraigns to Maitland, 3 days (Wiseman, Seirr.'s bill not paid nor delivered)		12	11	11
		Paid bill at Maitland, 5 days, including Dinner given to Magistrates and Gentry, attending the Judge, for same retinue as above		77	15	0
		Gratuities to Servants of Mr. McLeod and Mr. Winder on 2 visits and frequent use of carriage of latter Gentleman (Paid £5 11s., half paid by Mr. Manning who travelled unofficially)		2	15	6
		Paid Judge's expences at Maitland on return from his own Estate and waiting Warrant of Execution of 5 Criminals (bill £10 18s.; deduct for Sheriff and Mr. Manning)		5	9	0
		Paid Judge's expences to and at Newcastle on return to Sydney with Mr. Sheriff and Mr. Manning one 3rd of £2 12s. and paid his passage £1 10s. and Steward		2	9	10
		Paid passage of his Constable, not included in bill of Liverpool packet Compy.		0	15	0
		Paid Expences of Solicitor General and Clerk of arraigns (Mr. Rogers) returning overland to Sydney and per hire of Solicitor General's horse during Journey to, at and from Maitland		14	12	7
		Paid for hire of Mr. Roger's horse to, at and from Newcastle 28 days, and of a pack horse with Tent and Luggage to Wiseman's and 2 men leading horses		14	11	0
		Paid for hire of a Gig for Solicitor General's horse for Journey		7	0	0
		Paid Expences, Fielding and another Policeman bringing home Judge's and Sheriff and Mr. Manning's horses from Maitland to Sydney (Judge's 3rd £7 2s.)		2	7	4
		Paid Liverpool Packet Owners for passage of Six Constables and Tipstalfes on 7th Augt. to Newcastle and one returning on 26th Augt. and one on 3rd Septr.		5	4	0
				£387 14 5		
			General disbursement of Office	£6	6	4
			Circuit Expences	381	8	1
				£387 14 5		
			P.S.—Add to the above Satisfaction made to Mr. Wiseman, Senior, for his accommodation on the Road an afternoon and night and morning and loan of horse to the Judge for rest of the Journey. N.B., horse not yet returned, being unable to leave Luskentyre		10	0	0
			£397 14 5			

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Mermaid; acknowledged by Governor Darling, 10th May, 1830.)

Sir,

Downing Street, 9th Octr., 1829.

9 Oct.
Transmission
of statement by
R. Robison.

I have the honor to enclose the extract of a Letter addressed by Captain Robison of the New South Wales Company to Lord Fitzroy Somerset, dated the 4th October, 1828.

I beg you will understand in calling upon you for a Report on all the points which are marked in the margin of this Paper, I

do not mean to imply the slightest presumption unfavorable to you; on the contrary, I feel I am only doing you an act of Justice in furnishing you with the readiest means of vindicating yourself from imputations, which I am quite assured you will be able to meet in a manner the most satisfactory.

1829.
9 Oct.

Reasons for
submitting
extract from
letter.

It will not be necessary that you should give yourself the trouble of going much into detail in the explanations which you may deem it proper to offer, as the shortest possible answers to the Assertions of Captain Robison, distinctly stating the real facts of the case, will be the best mode of disposing of them.

I have, &c..

G. MURRAY.

[Enclosure.]

EXTRACT of a Letter from Captain Robison of the New South Wales Veteran Corps to Lord Fitzroy Somerset.

Allegations by
R. Robison re

Sydney, New South Wales.

I PLEDGE myself to prove satisfactorily to the Home Authorities that it has been in a great measure (if not solely) owing to the treatment and conduct adopted by Lieutenant General Darling to myself and the New South Wales Veterans, that they* have so totally failed in answering the purposes, for which they were sent to this Colony from England. I need only mention, as regards the Officers, that the Senior Captain (General Darling's brother in Law) Bt. Lt. Colonel Dumaresq, never did one hour's duty with his company, nor once interfered about them. He held the Military situation of Aide de Camp and the Civil appointments of Private Secretary and Clerk to the executive Council, worth several hundreds a year, besides having received, whilst on the full pay of these Companies, a free grant of upwards of three thousands of the best acres of Land in the Colony, with leave to purchase ten thousand more adjoining at 1 dollar an acre! and is at this moment one of the largest Stock and land Proprietors in New South Wales.

cause of failure
of veteran
companies;

H. Dumaresq;

One of the Subalterns of my company, Lieut. North, holds a civil Office of better than £400 a year as bonded Storekeeper of the Custom House (the head of which is a Foreigner on half Pay of the Army, put into Office by Genl. Darling, Capt. Rossi, with a Salary of nothing short of £2,000 a year), and our only medical Officer, Asst. Surgeon Gibson, has been and is to this day kept from his duties (as the House and Family Surgeon of Genl. Darling) never having left Head Quarters since he landed in the Colony, besides receiving double Pay as a Colonial Surgeon, and has got a free Grant of Land from His Excellency of 2,560 Acres, in a most advantageous situation, worth nearly as many Pounds Sterling.

S. North,
F. N. Rossi and
A. Gibson;

These, My Lord, are facts which cannot be denied, and I would presume to ask for what reason, as Commanding Officer of the Veterans, I have been treated in the way which has been proved upon my trial?

and his own
treatment.

When I applied for a Grant of Land, I was told I could not receive it because *I was on full Pay*, and that I must retire from the Service first, although numerous Officers in this command have received grants of Lands (never less than 2,560 acres) from General Darling.

* Note 53.

1829.
9 Oct.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 109, per ship Harmony; acknowledged by
Sir George Murray, 10th April, 1830.)

Sir, Government House, 9th October, 1829.

I do myself the honor to transmit for your Consideration the accompanying Copy of a Letter from Mr. Fraser, the Colonial Botanist, together with an Extract from the Minutes of the Proceedings of the Executive Council, under the consideration of which I was induced to bring this Case.

The inadequacy of Mr. Fraser's Salary to the Situation he holds is so obvious that it cannot be necessary to enlarge upon it. He has in consequence become embarrassed and has suffered much anxiety of mind. The Council, feeling that he is very useful in the particular branch of science, to which he has devoted himself with great success, have recommended, as well on this account as the very inadequate manner in which his Services have been remunerated, that he should receive £150 in compensation for his losses, and that his Salary should be increased from £150 to £200 per Annum, which I have accordingly authorised until I shall be honored with your commands on the subject.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

COPY of a Letter from Mr. Charles Fraser, Colonial Botanist, to the Honorable the Colonial Secretary.

Sir,

I do myself the honor to request that you will submit to His Excellency the Governor my respectful representation that the various expeditions for the purposes of Botanical research and discovery, on which I have been employed since the year 1819, have involved me in considerable expences, for which the assistance afforded me by the Government from time to time did not provide, and to meet which my Salary has proved insufficient.

The expeditions* to which I allude are the following, vizt. :—

- 1st. Mr. Oxley's of 1817.
- 2nd. " " " 1818.
- 3rd. To survey the "Hastings" in 1819.
- 4th. To Van Diemen's Land, with the Commissioner of Enquiry in 1820.
- 5th. With the Commissioner of Enquiry into the interior of N. S. Wales in 1820.
- 6th. To Van Diemen's Land in 1827.
- 7th. In His Majesty's Ship Larne in 1826 To New Zealand, Norfolk Island, and Van Diemen's Land.
- 8th. To Swan River in H.M. Ship Success in 1827.
- 9th. To Moreton Bay in 1828.

In each of these, the peculiar nature of the duties entrusted to me exposed me to difficulties, which it was impossible always to foresee, and the expense of which it is not more easy to calculate

Transmission
of papers re
C. Fraser.

Compensation
and increase of
salary for
C. Fraser.

Expenses
incurred by
C. Fraser in
research, etc.

exactly. But His Excellency is aware that the most valuable plants are produced in the most rugged spots. Their variety is often proportionate to the difficulty of the discovery; and, in the collection of them, it was not merely proper but absolutely necessary to leave the more open tracks, and visit places no one would ever enter on any other errand, and many of which (I scruple not to say) would by most have been pronounced impracticable.

1829.
9 Oct.Difficulties of
botanical
research.

In the Gullies and Brushes, which I have thus been compelled to penetrate, and the dirt and wet which rooted plants of [blank] carried with them, the loss in clothing alone has been such as I find it difficult to compute. But some estimate may be formed of its extent, when I mention that, sooner than forego the objects of my mission, I have more than once been obliged to use that clothing as bags for their conveyance, and that every ascent of Mount Wellington cost me an entire new suit.

In addition to this, the necessary outfit upon every expedition, and the residence among strangers, materially increased my expenditure, and a large portion of the common Travelling charges, such as the passage to and from Van Diemen's Land, have been paid by myself; and, on one occasion, I suffered considerable loss in books and other articles by being cast ashore at Norfolk Island.

Travelling
expenses.

I have defrayed also from my own purse the expences of Transporting to Europe and other Quarters of the Globe many of the plants, seeds and specimens, thus collected, and of carrying on a very extensive correspondence respecting them from the year 1817 to the present date.

Expenditure
on freight.

From these several sources, the items though individually perhaps comparatively small, and evidently of a nature which does not admit of my specifying them in detail, have gradually accumulated to an amount, which I estimate at least at £150. This is more than my income allows me to lose, but not more I trust than His Excellency will deem my services to him merited during the period and upon the occasions above enumerated.

Estimated gross
expenditure.

That I was not idle and that my Salaries were not wholly useless, Yourself, the several Gentlemen whom I had the honor to accompany, the Garden under my superintendance, and numerous correspondence and collections at Glasgow, Edinburgh, Horticultural Society of London, Jardin des plantes, Paris, King's Garden, Mauritius, Botanic Gardens of Calcutta, and Marseilles, will, I feel assured, both readily and amply testify. My report* on Moreton Bay has already had the effect I believe of saving the Government a considerable expense, and the necessity of sending some hundred prisoners to another less eligible penal settlement; And, of that* on Swan River, where a new Colony is now establishing, I trust I may say without impropriety that honorable mention has been made by the Public and His Majesty's Government.

Evidence of
success in
researches.

I respectfully solicit, therefore, that His Excellency will be pleased to order payment of the above sum to reimburse me the extra expences, which I have incurred in the service of Government and (should he think fit) any additional reward or increased Salary, that he may judge me to deserve for the privations and fatigues which were suffered in the same service, and of which my impaired health gives painful and lasting proof.

Request for
compensation
and increased
salary.

I have, &c.,

C. FRASER,

Supt. Botanical Garden.

[Enclosure No. 2.]

1829.
9 Oct.

Compensation
and increased
salary for
C. Fraser
recommended
by executive
council.

EXTRACT from Minute No. 42 of the Proceedings of the Executive Council on the 6th October, 1829, when there were present:—

HIS EXCELLENCY the Governor; The Venerable The Archdeacon; The Honble. The Colonial Secretary; The Honble. Colonel Lindesay.

“ His Excellency next laid before the Council a Letter from Mr. Charles Fraser, Colonial Botanist, representing the heavy expences which he had incurred on his numerous excursions into the interior for the purposes of Botanical research and discovery, which have exceeded £150, and to which his present rate of Salary, £135 per annum, was quite inadequate, and requesting that he might be allowed the Sum of £150 in part compensation of these expences, and such additional Salary for the future as his long services might be deemed to merit.

“ In consideration of Mr. Fraser's qualifications as a Botanist, and his meritorious services as Superintendent of the Colonial Botanic Garden for a period of upwards of Twelve years, as well as his indefatigable exertions on his numerous excursions, which have been attended with much benefit to science and a more perfect knowledge of the Colony, on which it appears his health has been considerably impaired; and, considering the great expences necessarily incurred by Mr. Fraser in collecting and transmitting seeds and plants to the various public institutions in Europe, and also that the usual wages of an *ordinary* Gardener in this Colony are £100 per annum and even more; the Council recommended that he should be allowed a Salary after the rate of £200 per annum, until the pleasure of the Secretary of State be known.

“ The Council, further considering that the Salary now recommended will be barely sufficient to cover Mr. Fraser's future expences, strongly recommend that the Sum of £150 be now paid to him in consideration of his past Services, and in compensation for the expences which the Council are persuaded he has unavoidably incurred.

“ The Council, in making these recommendations, think it proper to refer to the situation of the person employed in this Colony as Botanical Collector for the Royal Garden at Kew, who, in addition to his Salary, which is understood to be £200 per annum, receives rations for himself and Servants; whereas the Salary now recommended for Mr. Fraser is without rations or any other allowance whatever.

“ In addition to the above, it may be further stated that it is understood that the Botanical Superintendent at the Mauritius receives allowances to at least double the amount of those now proposed for Mr. Fraser.”

A true Extract:—E. DEAS THOMSON, Clk. of the Council.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch marked “Separate,” per ship Mermaid.)

Sir,

Downing Street, 10th October, 1829.

I have the honor to acknowledge the receipt of your Despatches of the 24th November, 1828, and of the 22d April, 1829, both marked “Separate.”

10 Oct.

Despatches
acknowledged.

Salary and
allowances of
botanical
collector;

and of
superintendent
at Mauritius.

With reference to the question asked in your Despatch of the 22d April, 1829, viz., whether it is intended that you should consult the Council on every individual application for land which may be addressed to the Colonial Government, I have to acquaint you that this was certainly not my intention in addressing to you my Despatch of the 30th August last. You will, therefore, not consider yourself called upon by your Instructions to adopt this course, unless under extraordinary circumstances, when, as in any other case of unusual occurrence, you would naturally apply to your Council for their advice.

1829.
10 Oct.

Consultation
with executive
council *re*
land grants.

I have, in my despatch of the 8th instant marked "Circular," thought it expedient to require Lists to be sent home in future of all Grants whatever, according to a tabular form therein described; but, after the observations contained in your despatches now under acknowledgement, it may not be unnecessary to state that neither the regulation newly imposed upon that subject, nor the regulation by which the Grant of lands to Civil Officers has been restricted is intended to convey any imputation upon your conduct in the administration of these matters; and it would give me much satisfaction if you would suppress those intimations or uneasiness as to your own estimation with His Majesty's Government, and of irritation, as to the proceedings of private persons, with which your communications have long abounded. I am particularly, though reluctantly, induced by the frequency of its recurrence to take some notice of the allusions so often made in your Despatches to some secret enemy, whom you suppose to have prejudiced or endeavoured to prejudice you in the opinion of His Majesty's Government. I wish you to rest assured, once for all, that there is not the slightest ground for any such apprehension. No private representation against you has ever been made, nor, I believe, ever attempted to be made to this department, nor, if made, would it have received any sort of attention, unless prepared in the shape of a specific allegation, in which case it would have been sent to you in the usual course, as the charges of Captain Robison are now, in order to afford you the opportunity of the fullest answer and explanation.

No imputations
on administra-
tion by
R. Darling.

Necessity for
suppression of
remarks *re*
secret enemies.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 152, per ship *Mermaid*; acknowledged by Governor Darling, 24th May, 1830.)

Sir,

Downing Street, 11th Oct., 1829.

11 Oct.

I have received your Despatch No. 41 of the 11th April last, notifying the appointment of Mr. Alexander McLeod to be

Despatch
acknowledged.

1829.
11 Oct.

Superintendent of Agriculture at Norfolk Island, with a Salary of £200 per annum, in the room of Mr. Bennett whom you had found it necessary to remove from that situation.

Qualified
approval of
appointment of
A. McLeod.

After the orders, which have been given for the reduction either totally or in part of the various Agricultural Establishments maintained by Government, I feel very unwilling to sanction an increase to the expense of that at Norfolk Island; but, as Settlers are not allowed under the peculiar circumstances of that Island to receive Grants of Land there, and no other alternative remains but to raise corn upon the spot for the consumption of the Prisoners, or to send supplies from Sydney, I do not object to the employment of Mr. McLeod in the manner and with the Salary, which you propose.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 153, per ship Mermaid.)

12 Oct.

Sir,

Downing Street, 12th October, 1829.

Refusal to
confirm reserve
of land for
mother of
F. Forbes.

I do not find that any answer has been sent to your despatch marked "Separate" of the 29th of April, 1827, in which you request instructions as to the confirmation of a Reserve of 10,000 Acres of Land, ordered by your Predecessor Sir T. Brisbane to be made in favor of the Chief Justice, Mr. Forbes.

This Reserve of land appears to have taken place in consequence (as is mentioned by Sir Thomas Brisbane, in his letter to the Surveyor General, dated the 7th April, 1825), of "a communication from the Chief Justice, stating that he intended to submit propositions to his Majesty's Ministers relative to exchanging certain lands, etc., the property of his mother in the Island of Bermuda, for an equivalent out of the unoccupied Crown Lands in New South Wales."

Chief Justice Forbes has not (as far, at least, as I can trace in the correspondence of this Department) brought forward any application of the above nature; and, as I have no information before me by which I can form an opinion of the value either of the land belonging to Mrs. Forbes at Bermuda, or of that which has been reserved at New South Wales with a view to the exchange, it would have been impossible for me without further enquiry to give my consent to the arrangement. But there are many other considerations connected with the proposed exchange of this land, which induce me to decline acceding to it. You will, therefore, acquaint Chief Justice Forbes that it is with much regret that I feel myself compelled to refuse the confirmation to his Mother of the reserve, which has been made in her favor.

Any Grant, which Mr. Forbes or his Mother may be desirous of obtaining, can be only given to them, as to any other Settler, in proportion to their available Capital, and the regulations respecting personal residence must be enforced in this case as in that of any other Grantee.

I have, &c.,
G. MURRAY.

1829.
12 Oct.

Instructions
re land for
F. Forbes.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 110, per ship Harmony; acknowledged by Sir George Murray, 22nd April, 1830.)

Sir, Government House, 12th October, 1829.

I have the honor to transmit for your information the accompanying Copy of a Letter from Mr. Carter, together with an Extract from the Minutes of the Proceedings of the Executive Council, under the consideration of which I felt it necessary to bring this case.

Transmission
of papers re
W. Carter.

It is simply as follows: on the temporary appointment of Mr. Carter as Sheriff, Mr. Foster was appointed to succeed him in the Situation of Chairman of the Court of Quarter Sessions.

Statement re
claim of
W. Carter.

On the arrival of Mr. Sheriff Macquoid, Mr. Carter, who had only just then been sworn in as Sheriff for the year, immediately resigned according to the general understanding, and Mr. Macquoid took possession of the Office. It was expected that Mr. Foster, according to the invariable practice in those cases, would have retired at the same time from the Situation of Chairman of the Quarter Sessions, in order to the reinstatement of Mr. Carter in that Office. He however delayed from time to time under various pretences, and still continues to retain it.

Mr. Carter, having now been kept out of the Office for a period of nine months, has in fact lost as much as he had gained in the shape of additional Salary by the temporary Appointment of Sheriff, and on this ground has applied for remuneration.

The Council being of opinion that Mr. Carter should not suffer for the breach of faith of which Mr. Foster has been guilty, I have authorised a Sum equal to the Salary of Chairman of the Quarter Sessions (being at the rate of £200 per Annum) being issued to Mr. Carter, until an Act of Council,* regulating the Courts of Quarter Sessions which has been lately passed, comes into operation, of which I trust, under the peculiar circumstances of the case, you will be pleased to approve.

Compensation
recommended
for W. Carter.

Mr. Foster's conduct will appear the more extraordinary when you are apprised, Sir, that he is the person who was placed in the situation of Chairman of the Courts of Requests, when Dr. Douglas returned to England. Mr. Foster was unknown to me, but had shewn some ability, and, in the destitute situation of the

Criticism of
W. Foster.

1829.
12 Oct.
Criticism of
W. Foster.

Government without a Crown Lawyer to consult, possessing either experience or knowledge of his profession, I was glad to have recourse to anyone capable of giving a legal opinion. I was certainly not prepared for Mr. Foster's conduct, but it serves to shew the more strongly how the Government has been situated, though I advert to it not as a matter of complaint, but merely to explain the circumstance of Mr. Foster's appointment.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Copy of a Letter from William Carter, Esq., late Sheriff, to His Excellency the Governor dated

Sir,

Sydney, 2nd Oct., 1829.

Statement of
claim by
W. Carter.

From an extreme unwillingness to trespass upon your Excellency's attention, I have delayed writing to you on the subject of my non-appointment to the office of Chairman of the Quarter Sessions.

When your Excellency was so kind as to offer me the situation of Sheriff, I held two appointments, which brought me £800 per annum.

I accepted the offer you were so kind to make with the express understanding that I was to be restored to all my appointments in case of my not being confirmed in the office of Sheriff.

Upon your Excellency's communicating to me Mr. Macquoid's appointment, I promised to resign upon his arrival. He did not arrive till after I had been sworn into office for the present year, but I resigned the moment your Excellency signified a wish that I should do it.

When I resigned, I expected that the promise of restoring me to my former appointments would have been kept with me. Mr. Foster knew my understanding with your Excellency, when I canvassed the Magistrates in his favor, and, if he refused to resign, I had a right to expect that he would have been dismissed.

I am a loser this year already by my non-appointment of £150, and, in consequence of my temporarily holding the office of Sheriff, my losses this year exceed in the whole £400.

I have that contempt for money that, had it not been for the continuance of these disastrous seasons, I should have silently put up with the loss I have sustained; but, under present circumstances, I owe it to my family not to waive a claim, which I feel convinced your Excellency will allow to be just.

Your Excellency will do me the honor to believe that I am very sensible of the uniform kindness I have always experienced from you, and that I sincerely regret Mr. Foster's conduct should have compelled me to trouble your Excellency at all upon the subject.

I have, &c.,

WILLM. CARTER.

[Enclosure No. 2.]

EXTRACT from Minute No. 42 of the Proceedings of the Executive Council on the 6th October, 1829.

PRESENT:—His Excellency the Governor; The Venerable The Archdeacon; The Honble. the Colonial Secretary; The Honble. Colonel Lindesay.

"The Governor then laid before the Council a letter addressed to His Excellency by William Carter, Esq., late Sheriff, under date the 2nd Instant, representing the loss which he has sustained by his appointment to the office of Sheriff, in consequence of his not having been restored, since he has been superseded in that office by the present Sheriff, to that of Chairman of the Quarter Sessions, which he held at the time he was appointed Sheriff. The Governor at the same time stated to the Council that he had repeatedly, both personally and through the Colonial Secretary, called upon Mr. Foster to resign the Office of Chairman of the Quarter Sessions according to the understanding on this and similar occasions, where persons are appointed to fill up vacancies occasioned by promotions made by the Governor, subject to the approval of the Right Honble. the Secretary of State.

1829.
12 Oct.

Consideration
by executive
council of
claim of
W. Carter.

"It appears, however, that Mr. Foster has hitherto refused to resign; and it has, therefore, not been practicable to reinstate Mr. Carter in the situation in respect to emoluments, in which he actually stood at the time of his appointment as Sheriff, altho', under the Act of Council (No. 7) lately passed, he may now be appointed to fill the situation of Chairman, if he should obtain a Majority in his favor.

"The Council, having fully considered this Case, are of opinion that, under the circumstances stated, Mr. Carter has an undoubted claim to the same emoluments, which he enjoyed previously to his appointment as Sheriff, and that the Government is bound to see that he does not suffer by the want of faith of Mr. Foster, and, therefore, recommend that an Allowance should be made to him equivalent to the Salary of Chairman of the Quarter Sessions (not including, however, that for travelling expences) from the date of his relinquishing the office of Sheriff in consequence of the arrival of Mr. Macquoid, until the appointment of a Chairman under the New Act."

A true Extract:—E. DEAS THOMSON, Clk. of the Council.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 112, per ship Harmony; acknowledged by
Sir George Murray, 23rd April, 1830.)

Sir, Government House, 12th October, 1829.

I have the honor to enclose for your consideration the accompanying Copy of a Letter from Mr. William Hutchinson, praying to be allowed a Pension in consequence of his long services and having been obliged by impaired health to relinquish his situation of Wharfinger. I have also the honor to transmit a Copy of the Minute of Proceedings of the Executive Council, recommending that Mr. Hutchinson should be allowed a Grant of three Sections of Land (1,920 Acres) free of Quit Rent.

Transmission
of papers re
W. Hutchinson.

I have, &c.,
RA. DARLING.

1829.
12 Oct.

[Enclosure No. 1.]

MR. W. HUTCHINSON TO MR. T. DE LA CONDAMINE.

Sir.

74 George Street, Sydney, 26th June, 1829.

Statement of
services by
W. Hutchinson.

I have the honor to acknowledge the receipt of your Letter, bearing date 21st inst., and, in reply thereto, beg to lay before you a Statement of my Services, for the information of His Excellency the Governor, from the time of my arrival up to this date, being the whole of the time in the Service of the Colonial Government.

I arrived in the year 1799 and went shortly afterwards to Norfolk Island, where, on my arrival, I was appointed Overseer of Government Stock until June, 1803, when I was appointed Acting Superintendent by Colonel Foveaux, who, on leaving the Island recommended me to Captain Piper, Comandant, in which Situation I remained until July 1st, 1809, when I was appointed Superintendent, and confirmed by Governor Macquarie by a Government and General Order, 1810, and acted under Lieut. T. A. Crane, Commandant, until January 1st, 1813, when I was appointed by Governor Macquarie to be left in charge of Norfolk Island. I herewith enclose my Instructions on that head bearing date January 1st, 1813; after fully completing and carrying into effect the Governor's Instructions and evacuating the Island, I arrived in Sydney the early part of March, 1814, bringing with me the whole of the Stores and all the remaining Inhabitants, entirely to the Governor's satisfaction. I beg leave to refer His Excellency the Governor to Letter No. 2. On the 9th April following, I was appointed Principal Superintendent of Convicts and Public Works by a Government and General Order, bearing date April 9th, 1814, a Copy of which I now enclose for His Excellency's satisfaction, in which Situation I was fully employed until the arrival of F. A. Hely, Esqr., who succeeded me in January, 1824.

I further beg leave to state that I was appointed Principal Wharfinger by Governor Macquarie by Government and General Orders, bearing date November 8th, 1817, which Situation I have fulfilled, until His Excellency Governor Darling was pleased to appoint me a Landing Waiter, bearing date June 12th, 1827, until the present date.

I further beg leave to state that I am severely *doubly ruptured*, which injury I have received in the Service of the Colonial Government.

I have, &c.

WM. HUTCHINSON.

P.S.—I now enclose several Certificates, for the information of His Excellency the Governor's Perusal, which I will thank you to return after His Excellency is satisfied with the contents.

W.H.

[Enclosure No. 2.]

EXTRACT from Minute No. 31 of the Proceedings of the Executive Council on the 4th August, 1829, when there were

PRESENT:—His Excellency The Governor; The Venerable The Arch-deacon; The Honble. The Colonial Secretary; The Honble. Colonel P. Lindesay.

“His Excellency the Governor laid before the Council a Letter from Mr. William Hutchinson, dated the 13th May last, enclosing Testimonials from every public Officer under whom he has served

during a period of thirty years, 26 of which he has been free by expired sentence, and soliciting in consequence that he should be allowed a Pension or Grant of Land, as he had been obliged, on the score of his health, to retire from the office of Land Waiter.

The Council, considering the very satisfactory nature of Mr. Hutchinson's testimonials, recommend that a reference be made to His Majesty's Government at home to allow him a Grant of Land to the extent of Three Sections or 1,920 Acres, free of Quit Rent."

A true Extract:—E. DEAS THOMSON, Clk. of Council.

1829.
12 Oct.
Free land grant recommended for W. Hutchinson.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Mermaid.)

Sir, Downing Street, 13th October, 1829.

13 Oct.

I have received and laid before Secretary Sir George Murray your letter to me of the 22nd January last, with its enclosures relative to the case of Mr. John D. Shelley, a disappointed applicant for land. I am directed to acquaint you, in answer, that Mr. Shelley has not as yet preferred any complaint to the Secretary of State.

Despatch acknowledged.

No complaint received from J. D. Shelley.

I am, &c.,

H. Twiss.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony.)

Sir, Government House, 13th October, 1829.

The very serious inconvenience and Expense, to which the Government is subjected from the manner in which the supplies are sent out, oblige me to request your attention as well as Mr. Barnard's to the subject. The delay in forwarding them is in general very great, and a large portion of the Articles applied for are consequently purchased in Sydney, where they can only be procured at a very extravagant rate and are of very inferior quality.

Method of shipping supplies.

We have for a considerable time past been obliged to purchase Stationery here, than which nothing can be worse, while the price is ten fold that of good Paper in England.

Local purchases of stationery.

I beg leave to enclose the Copy of a Letter from the Colonial Secretary at Van Diemen's Land, respecting a supply of Stationery supposed to have been intended for this Government, it being, however, impossible to ascertain the fact from the total want of information respecting it. I have to add that the Officers of the several Departments continue to represent the serious inconvenience, which is occasioned by *Invoices* not being sent out with the supplies, as they are consequently without means of checking the receipts with the articles shipped. In my Despatch on this Subject, written the 31st December, 1828, No. 147, I

Stationery landed at Hobart town.

Inconvenience through want of invoices.

1829.
13 Oct.

applied, at the suggestion of the Auditor and Deputy Commissary General, that *Priced Invoices* should be forwarded with *all supplies* as necessary to making up the public accounts of the Government in a Complete and satisfactory manner. But no such Document has ever yet been received.

Necessity for
statement of
accounts by
colonial agent.

I take the opportunity of requesting, before closing my Letter, that I may be furnished by the Colonial Agent with a statement of his account with the Government, as I am at present totally unable to judge what remittances are necessary. It would be convenient if the account were made up from the 1st of January, 1826, stating each year separately, and not blending the Expenditure on account of Van Diemen's Land, which is no longer a Dependency.

I have, &c.,

RA. DARLING.

[Enclosure.]

COLONIAL SECRETARY BURNETT TO COLONIAL SECRETARY MACLEAY.

Col. Secretary's Office, Hobart Town,

Sir,

Van Diemen's Land, 22nd September, 1829.

Stationery
received at
Hobart town.

In acknowledging the receipt of your Letter No. 29/6,359 of the 17th ult., respecting the Stationery recently received in this Colony from England by the Ship *Georgiana* via Sydney, I have the honor to inform you that, as it was addressed to "Lieut. Governor Arthur" and very nearly corresponded in Quantity with the Supply, which had been ordered and was expected, it was supposed to be intended for Van Diemen's Land; but, whether such was the fact or not, it is impossible to ascertain owing to the Stores, which are sent out by the Colonial Agent, seldom corresponding with the Requisitions, and to his rarely forwarding either Invoice or Letter of advice respecting them.

I am directed to add that this Stationery having been urgently required has been apportioned to the several Departments; but, should any further supply be addressed to this Government from England, by which an error would be apparent, the same will be forwarded forthwith to New South Wales.

I have, &c.,

J. BURNETT.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 154, per ship *Mermaid*.)

14 Oct.

Sir,

Downing Street, 14th October, 1829.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your despatch No. 46 of the 22d April last. It has given me particular satisfaction to observe by the Abstract of the net Revenue and Expenditure, which your despatch encloses, that so considerable an improvement has taken place in the receipts of your Government for the year 1828, as compared with that in which you assumed the charge of it. This augmentation of resources must not, however, be made a ground for relaxing in that strict and

Improvement
in revenue.

rigid system of Economy, which has been so often impressed upon you in your Instructions, and which you will be expected by His Majesty's Government to persevere, notwithstanding the prosperous state of the Revenue, to the utmost extent that may consist with the welfare of the Colony.

I have, &c.,

G. MURRAY.

1829.
14 Oct.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

My dear Sir,

Downing Street, 15 October, 1829.

15 Oct.

I beg to enclose to you the Copy of a Letter, which I have received from Mr. J. Chadborn, recommending to my Notice Mr. Thos. Stephens, at present residing at Sydney, who is desirous of getting employment under your Government. If the Young Man's conduct in the Colony should bear out the good account, which is given of his Character and qualifications, I shall be happy to hear that you have been able to confer some small appointment upon him.

Recommendation of T. Stephens for appointment.

I remain, &c.,

HORACE TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 155, per ship Mermaid.)

Sir,

Downing Street, 16 October, 1829.

16 Oct.

I have the honor to acknowledge the receipt of your despatches of the dates and numbers mentioned in the margin,† together with their respective Enclosures, reporting the result of the Expeditions, which have lately been sent into the Interior of the Colony, under the charge of Captain Sturt and Mr. Allan Cunningham.

Despatches acknowledged.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 156, per ship Mermaid.)

Sir,

Downing Street, 17 Octr., 1829.

17 Oct.

I have received your despatch No. 38 of the 9th of April last, recommending the augmentation of the salary of Mr. Harrington, the assistant in the Office of the Colonial Secretary, from £450 to £600 per annum.

Refusal of increase of salary for J. T. Harrington.

When I consider that scarcely more than three years have elapsed, since the Establishment of the Colonial Secretary's Office was remodelled, and the salaries of the Persons belonging to it placed upon such a scale, as was considered to afford them a fair remuneration for the services which they have to perform,

* Note 7.

† *Marginal note.*—No. 5, 10th Jany., 1829; No. 25, 24th Feby., 1829; No. 47, 24th April, 1829.

1829.

17 Oct.

Refusal of
increase of
salary for J. T.
Harrington.

I should feel very unwilling, even if the necessity were more urgent than in the present case, to burthen the Colony with any further expence on account of that Department. Without meaning, therefore, at all to disparage the services and qualifications of Mr. Harrington, to which you have borne testimony, I cannot consent to the increase of his Salary. And, after the decision communicated to you by Lord Goderich on the subject of the appointment of an Assistant Secretary, I do not feel myself at liberty to acknowledge Mr. Harrington in that capacity.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 157. per ship Mermaid.)

18 Oct.

Refusal of
land for
W. H. Hovell.

Sir,

Downing Street, 18 Octr., 1829.

I have received your despatch No. 49 of the 24th of April last, together with its Enclosures relative to Mr. William Hilton Hovell's application for Land.

From the account given in your despatch of the nature of the services performed by Mr. Hovell, and the remuneration which he has already received, there appears to me to be no reason for making to him any additional compensation.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 113, per ship Harmony; acknowledged by Sir George Murray, 12th June, 1830.)

Sir,

Government House, 18th October, 1829.

I have the honor to transmit to you the accompanying Report of Archdeacon Scott on the Church and School Establishments of this Colony, made up at the period of his delivering over his Charge to his Successor, Archdeacon Broughton.*

You will observe, on reference to Paragraph 3, that Mr. Scott points out the want of Chaplains, Chapels, School Houses, etc. Although I quite concur with him that it is highly desirable these deficiencies should be supplied, I am by no means prepared to state that the Revenue of the Civil Government is in a condition to meet these Expences. But, as soon as the Funds of the Corporation admit of their being defrayed by that Body, the Establishment should be immediately increased.

With respect to the Establishment of the Australian Agricultural Company, to which Archdeacon Scott alludes in Paragraph 5 of his Report, it will rest with His Majesty's Government to determine whether the Church Corporation or the Company should be at the Expence of the Establishments proposed. In

Report on
church and
school
establishment.

Revenue
insufficient for
increase of
establishment.

Establishment
proposed at
Port Stephens.

making this observation, I am not prepared to say that the circumstance of the Land being in possession of a Company or united Body of People does away the claim on the Government to provide such assistance, as it would afford, were the Land settled and occupied by independent Individuals.

1829.
18 Oct.

As to a better description of Chaplains, it need, I apprehend, hardly be expected until their situation is improved. I have on a former occasion recommended their Stipends being increased, not merely as an Equivalent for Land, as the Quantity they were allowed was of very little use to them, but to place them on a respectable footing in Society and induce persons at Home of Character and Acquirements to accept the Office. Some have been materially injured, if not impoverished, in endeavouring to turn the Land, which they received, to an useful Account. Others have sold it in breach of the Regulations of Government and of the Conditions on which they received it, thus setting an improper example to the Public, the more culpable in them whose duty it is to inculcate a due observance of every legitimate Engagement. The state of the Colony at present must render it almost impossible for a Clergyman to obtain Land near his Residence. If remote, it is much more likely to embarrass him than to add to his means or contribute to his comfort.

Necessity for
increased
stipends.

Uselessness of
land grants
to clergy.

I quite agree with Archdeacon Scott that suitable Provision should be made, as suggested in Paragraph 10 of his Report, for the Reverend Mr. Marsden and the elder Chaplains of the Establishment. Mr. Marsden has served long and diligently and is well deserving a respectable Retirement and relief from his labors, which his advanced Age and growing infirmities will not long permit him effectually to continue.

Pension
proposed
for Revd.
S. Marsden.

The Reverend Mr. Cowper and Mr. Cartwright are both deserving old servants. Without meaning to disparage the merits of the latter, who I believe to be a most deserving man, I may be permitted to say of the former, from my immediate knowledge of him in consequence of his residing in Sydney, that the zeal and fidelity, with which he performs his laborious duties, reflect the highest credit on him; and I should indeed be very glad, if Government were induced to adopt the suggestion of Archdeacon Scott, as explained in Paragraphs 11 and 20, with respect to an Endowment for the benefit of Youths born in the Colony, and to grant an Allowance on account of the Expence of Mr. Cowper's Son, who is at Oxford educating for the Church, until this be effected.

Testimony
to services
of Revd.
W. Cowper.

I cannot close this communication without bearing testimony to the Services of Archdeacon Scott. He has had much to contend with; but his zeal in the performance of his professional

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Testimony
to services
of Revd.
T. H. Scott.

duties, as well as in the discharge of those which attached to him as a Member of the Government, has been unabated. For my own part, I shall always gratefully acknowledge the assistance, which he has on all occasions cheerfully and willingly afforded me; and I am the more anxious to express my Sentiments here, as I understand, by the Instructions* lately addressed to me, I am not permitted to acknowledge in any public manner the opinion I entertain of the conduct of Individuals belonging to the Government.

I have, &c.,

RA. DARLING.

[Enclosure.]

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir,

Sydney, 1st September, 1829.

I have the honor of transmitting to your Excellency for the information of His Majesty's Government, my Report on the Church and School Establishment of this Colony.

1. The two enclosures, marked A and B, will at one view shew the state in which I found both these Departments on my arrival, and in which they are this year. I have also noticed the additional assistance, which I find to be required since my last Visitation and Report, not only in consequence of the arrival of Settlers, *but more especially of Convicts* from England in very considerable numbers, and the increase of the Penal Settlements.

2. I trust that, when this Report shall be laid before His Majesty's Govern., it will appear I have not been unmindful of the awful responsibility I took upon me by accepting the spiritual charge of the Church Establishment in this Archdeaconry.

3. At the time of my appointment in 1824, there were *Eight Chaplains*; on my recommendation at that time, the Secretary of State augmented the number to *twelve*, and subsequently to *fifteen*, one of whom resigned lately and immediately returned to England.

On my arrival early in 1825, the spiritual duties were discharged only at Ten stations by ten chaplains, and there were twenty one Services. By the arrangements made, the *fourteen* chaplains now on the Establishment, aided by three Catechists, attend at fifteen places of Public Worship, and Officiate at *Fifty three* Services; but of these there are seventeen, which it is not possible to have on every Lord's day. An addition will therefore be required of Six Chaplains, Eight small Chapels, four School Houses, and Six Parsonages, to meet the immediate and pressing demands of an increasing population, especially of the convicts transported from England, I have before alluded to. At the *Seventeen* places, which are now without Divine Service on Sundays, there are upwards of 3,000 Convicts.

4. The Penal Settlements of Norfolk Island, situated at a distance of 800 Miles from this Colony, demands attention. There are not only troops and their children, but upwards of *Two hundred Convicts* of the most depraved habits, most of whom have been without any spiritual assistance whatever since the Establishment in 1825, and certainly with no present prospect of amendment.

Report on
church and
school
establishment.
Comparative
returns
transmitted.

Increase of
chaplains.

Services
conducted in
colony.

Necessity for
additional
chaplains, etc.

Chaplain
required at
Norfolk island.

5. The settlement at Port Stephens, belonging to the Australian Agricultural Compy., is in a state still more lamentable; for, besides upwards of 250 Convicts of whose maintenance the Government is relieved, there is a large number of free people, brought from England with their Children, The last now amounting to nearly 100, from infancy to 15 years of age, in a very deplorable state of ignorance, and with nothing more than an Irish convict as the Schoolmaster to instruct them. I strongly urged this both on the Government and the Company in my Report two years ago, but without the desired effect.

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Chaplain and
schoolmaster
required at
Port Stephens.

6. I cannot, however, conceal from His Majesty's Government that, unless the *greatest caution* be used in the *selection of Chaplains for these Colonies*, I fear more injury will accrue with than without them. By the conduct of some portion of the body, and the exceptions *I lament to say are very few*, Religion and especially the Church have been brought into disrepute, and any real feeling on that subject or attachment to the Church has diminished rather than increased. I cannot but attribute a great deal of this state of things to the negligence in the performance of the spiritual duties, and the improper engagements in secular pursuits by the Clergy. To this may be added another reason, the impossibility of assembling together for want even of common shelter, and a stoppage to the erection of any such buildings.

Necessity for
selection of
chaplains.

Nor, Sir, can this be at all surprizing, for, bad and various as the people are here, they have more acute and observing powers on the conduct of their Superiors and especially on the Clergy than elsewhere. Though they will be vicious themselves, they feel a contempt for those, who, under a profession of Religion, commit such inconsistencies as I regret to say have been practised by some of the Clergy in both Colonies. I do not, Sir, contend against the acquirement or possession of property, for I see no reason why a Clergyman, because he has embraced that profession, should not endeavour by frugality to provide for against infirmity as well as for a family, if he does not neglect his spiritual charge and employ his Sacred Character in the pursuit of mere secular aggrandizement.

7. That this has been the case in these Colonies, I lament to say is too true; absenting themselves from duty and neglecting their cures in defiance of all Authority have lately, I grieve to say, been openly practised. Nor have some of the Clergy been ashamed as openly to associate with those, in whom they must witness the most licentious and most depraved conduct. The instances of insult to all authority and want of respect for their Clerical character are exemplified in the Reverend F. Wilkinson and the Revd. C. P. N. Wilton, both of whom have, I trust, before this been relieved of their Chaplaincy in this Colony. In the course of the last Eighteen months, the former Gentleman (Mr. Wilkinson) has left his very large Cure unsupplied no less than *Seven times*, and, with one exception, in defiance of Your Excellencie's Authority* and my own.

Misconduct
of chaplains.

Misconduct
of Revd.
F. Wilkinson.

I cannot too strongly animadvert on his conduct, which has been so irregular and so negligent as to have contributed largely to the discredit thrown on the profession. It has only been by incessant trouble and applications I can get any information from him as to his duties and the School under his charge. He has made no difficulty in leaving his Church on a Sunday afternoon, and going 26 miles from his residence to be present at a public dinner, where

* *Marginal note.*—See Appendix C.

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the most disgraceful and degrading scenes have taken place; yet he objects to ride the same distance to baptize the Children, tho' allowed his travelling Expences for doing so.

Misconduct
of Revd.
T. Reddall.

The Revd. Thos. Reddall is another instance of the consequences of these secular pursuits and neglect of duty. He attended political meetings; and, when I reminded him that in doing so he had omitted attending another of the greatest importance to the Church Establishment, and required of him by the King's Charter, my letter thro' his means was published in the Newspapers devoted to the scurrilous party with whom he associated.

He commenced farming on a large scale, and a few months since he called his Creditors together, when it appeared he had not the means of paying one half their claims; there were also other circumstances highly discreditable to him. Yet this Gentleman has again possessed of Stock (by what means I do not know) and I find rents a tract of 5,000 acres of Government; and, altho' largely indebted to the Crown for money advanced to him under Your Excellency's predecessor, he continues to live as tho' he were in a state of affluence.

Farming
pursuits
of Revd.
T. Hassall.

The case of the Revd. Thos. Hassall is different. He inherited some land and considerable herds and flocks from his father, and became possessed of more by Marriage, the usual method in this Colony where money does not prevail of making settlement on wives and children; and it would be unjust and cruel in the extreme to prevent them from reaping benefits where the country does not admit of any other provision, added to which, Mr. Hassall is a very prudent young man, lives in great retirement, and does his Clerical duties with the greatest decorum and punctually throughout a very large District, and entirely to my satisfaction; nor have I had any instance of negligence. Under the Ecclesiastical Law, which does not allow a Clergyman to *rent* beyond *Eighty* acres unless licensed by the Ordinary, I feel no reluctance in granting Mr. Hassall one to the extent he requires, taking the relative proportion of waste land in this Country and that cultivated in England, especially as it is not for speculative purposes, but for the support of the herds settled on his Wife and Children.

Effect of
example of
influential
colonists.

8. Bad as the examples are, I cannot at the same time omit stating that much serious injury has been done to their morals as well as their feelings towards the Government, and that great impediments have been thrown in the way of all improvements and reform, both amongst the free and convicts, by the example of a large portion of the higher order in Society, especially by many influential members, and the open and unblushing countenance and support these persons have given to the most licentious, profligate and blasphemous press, conducted and assisted by persons whose lives are notoriously Scandalous, and who have lived and continue to live by fraud and plunder. The change, which has taken place in the minds of the Colonial youth in my own time, is most remarkable.

Want of efficient
control over
clergy.

9. But what is, if possible, still more lamentable, no means of correction are within the power of the Ordinary. Indeed, such is the uncertain state as to what those powers are, how they may be exercised, and how the Courts construe their Applicability, that *experience** has already shewn it to be hazardous, if not dangerous, to attempt to put in force. I have great fears that irregularities

will continue to be practised until some other system be adopted, and a more *respectable* and *steady* Class of Clergy be sent out to replace some of those now here, since they are too well aware of the facility with which they can call their Superiors before a Court for the sake of having them abused there or vilified in the public press by their unprincipled advocates.

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10. In transmitting to Your Excellency this my final Report on the Church Establishment of the Colony, I most respectfully and earnestly beg leave to call the attention of His Majesty's Government to the state of some of the Senior Chaplains, whose age and infirmities cannot but be a Source of great anxiety to them, when, from the length of Service, they might reasonably hope for more peace and comfort than they have hitherto enjoyed.

Report on
senior
chaplains.

Thirty Six years of Service in a Colony of this description almost from its commencement will, I presume, entitle the Revd. Saml. Marsden, the Senior Chaplain, to a superannuation, should his age and infirmities, which are fast increasing, oblige him to relinquish his duties. *For many years Mr. Marsden officiated alone* at the different Stations far removed from each other, and at a time when there were no roads thro' an almost impenetrable forest, and when the Colony was suffering under great privations of every description.

Services
of Revd.
S. Marsden.

The Revd. Wm. Cowper and the Revd. R. Cartwright are the two next in Seniority; the former of these Gentlemen arrived in 1800, the latter in 1810; both relinquished comfortable provisions in their native places and both had promises held out to them in these Colonies, which in a few years were suspended, and for which they have received but a very inadequate remuneration.

Case of Revds.
W. Cowper and
R. Cartwright.

Mr. Marsden, Mr. Cowper and Mr. Cartwright brought with them large families, which they have reared and educated at an expence far greater than could have been contemplated in England, and under difficulties and privations no person could have anticipated, and of which no one in England can form a just opinion. With these large families to feed, clothe, and educate, with provisions and Clothing at a price exorbitant beyond any idea, and the means of Education extremely limited, it is not to be wondered at that they should have been thrown into difficulties, requiring no ordinary means of prudence from which they could extricate themselves. I can state to your Excellency as a fact that, so inadequate were the means and so exorbitant were the demands for many years, that *their families have been obliged to forego the use of meat and flour and subsist on a less substantial diet.*

Families of
senior
chaplains.

Mr. Cowper was placed in Sydney, and for eight years officiated at the Church to a very large and increasing population, composed of the Military and the Convicts; nor did he leave amidst these harassing duties the Convicts in Gaol or unattended to the Scaffold criminals condemned to die. These, Sir, were and are of necessity frequent. And I am sure no Member of His Majesty's Government will require to be reminded of the feelings to which a Chaplain on such occasions is exposed.

Duties of Revd.
W. Cowper ;

Mr. Cartwright's duties extended over an inhospitable district in the interior, settled with convicts of the worst description, many of whom had become free, but retained all the vices and bad passions they possessed in their bondage, and the population of which was widely scattered in a country without roads or bridges; he had to perform journies through a thick forest both day and night; and,

and of Revd.
R. Cartwright.

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Duties of Revd.
R. Cartwright.

to provide himself with a horse to travel over this District of nearly 50 miles in extent, he paid £150, his stipend at that time being but £240 per annum. Subsequently Mr. Cartwright took charge of the Male Orphan School, when it was in the most deplorable state of irregularity, disease and vice, and in four years established a system of unprecedented order and propriety, as well as reducing the expenditure in every Department.

Testimony
to services
of Revds.
W. Cowper and
R. Cartwright.

Nor did these Gentlemen amidst all these privations make any complaint or relax their exertions in consequence. As I had an Opportunity most particularly of investigating the Clerical Duties of the Revd. Gentlemen under the King's Commission* of Inquiry Ten Years ago, I can speak with more precision than others on that subject. From that investigation, and during the five years I have recently presided over the Clergy of this Archdeaconry, I have had the same opportunities afforded me, and undoubtedly my attention has latterly been more particularly called to the subject than it was formerly. I have abundant reason to confirm my former opinion both of Mr. Cowper and Mr. Cartwright, and to add that I feel almost inadequate to a detail of their unwearied labours; and not less incompetent do I feel to place them before His Majesty's Govern't. easily to be comprehended, because the pastoral duties of a Chaplain in a Convict Colony, if rightly and conscientiously performed, bear no resemblance whatever to those of a Parish Priest or a Chaplain of a Gaol in England.

Provision
proposed for
widows.

These three Gentlemen are now advanced in years, and are nearly worn out by their exertions and by the Climate, which, tho' salubrious, yet is exhausting and enervating by its heat. I believe, Sir, if they could be Officially assured by His Majesty's Government that a stated provision would be settled at their decease on their Widows, they would be relieved from a source of very great anxiety, and feel most grateful for His Majesty's Bounty. It is not a little appalling to the mind the apprehension of leaving a Widow and Children unprotected for and unprotected at the distance of so many thousand miles from their relatives and homes. Instances of this nature have occurred in these Colonies, and the unprotected state of distress and penury can only be really felt by those who have witnessed them.

11. I beg also to request the attention of His Majesty's Government through Your Excellency to the following Circumstance:—

Exhibition
proposed for
son of Revd.
W. Cowper.

The Revd. Mr. Cowper, desirous of bringing up his youngest Son to the Church, has at his own expence and with the most limited means placed him at the University of Oxford. This is the first instance† of a youth born in this Colony having been sent to England to receive a University Education. I have repeatedly urged the Trustees of Clergy and School Lands to endow an Exhibition for this purpose out of the Funds set apart for Education by the King's Charter, and I have offered to contribute to such an Endowment myself but in vain. I have now respectfully to propose that His Majesty's Government should order the Agent to pay for the support of this youth £100 per Annum, chargeable on the Church and School Lands, whilst he is at the University and until he takes his Master's degree, which from this period will be six years. I am persuaded such an Act of grace would be received by the Colonists with every heartfelt pleasure, and I am equally certain that, if it depended on the popular voice, not an objection would be raised either to the measure or the individual.

* Note 60.

† Note 61.

I cannot but hope that these recommendations, which have for their object an act of grace for past Services, will if put in force excite others to as great and as praiseworthy exertions, as have been made by these Gentlemen, and most respectfully do I ask your Excellency's powerful recommendation.

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12. I shall next proceed to lay before your Excellency the state of the Schools.

Report on schools.

About six months after my arrival in 1825, I reported,* thro' your Excellency's predecessor to His Majesty's Government, the loathsome and horrid state of disease and filth, in which I found the Children of the Male and Female Orphan Schools. This state arose from the neglect and plunder of the Masters of both Institutions. By the exertions of the Revd. Robt. Cartwright, who was placed over the former and suffered the loss of his health, a most beneficial reform soon appeared; and I have every reason to hope and believe the Colony will derive very great benefits from this Institution, the more so as, since Mr. Cartwright's retirement, the present Master, Mr. Rich. Sadlier, takes a strong interest in his charge and is every way qualified by ability and integrity for his situation.

Improvement in male orphan school.

13. Your Excellency has already been made acquainted, by my letter* of the 27th June and 30th Dec., 1828, and 30th April and 23rd June, 1829, how incompetent I found Mrs. Wilton as Matron of the Female Orphan School, as well as the conduct of the Revd. C. P. N. Wilton, the Master, both for resisting my interference as Visitor, and a lavish expenditure contrary to all Authority. In consequence of the disorderly state of this School I placed Mrs. Ellis as Matron under the Authority given me by the King's Instruction and the Royal Charter. To her assiduity and exertions, the present excellent state of discipline and order are due.

Female orphan school.

14. Upon these two Establishments, I beg to observe that, as the Children of Convicts sent from England and in the employ of Government are chiefly maintained there, a great relief is afforded to the Crown which must otherwise support them. Children of Convicts who being transported by the Colonial Courts to Penal Settlements, of persons in great distress, and also Orphans are admitted. Each School is capable of containing about 170. The Boys receive the elements of education and latterly have been taught the several useful trades of Shoemakers, Gardeners, tailors, and Carpenters; The Girls knitting and sewing, and both are apprenticed at a proper age, either as servants or mechanics to respectable families and tradesmen.

General report on both schools.

Since May, 1825, to the 30th June last, there have been admitted 117 Boys and 134 Girls and apprenticed in the same time 69 Boys and 71 Girls.

15. I also reported the lamentable want of plain and practical education, arising from the deficiency of Parochial Schools. I found but Seventeen, which were very ill conducted and very thinly attended. These have now been extended to *Thirty Six*, including *five* Infant Schools in the Towns of Sydney, Parramatta, and Windsor. These Infant Schools, which are daily attended by about 80 to 100 Children under Six years of age, have succeeded beyond my most sanguine expectations. I trust and hope they are now placed on such a footing as at least to lay the foundation, on which may be raised a better generation than exists at present.

Increase of parochial and infant schools.

16. To give more effect to these Primary Schools, I requested each Chaplain to establish a lending Library for the use of Children,

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Lending
libraries for
schools.

Difficulty in
providing
schoolmasters.

Proposed
boarding
schools.

Failure to
establish
grammar
school.

Grammar
classes
established at
Sydney and
Parramatta.

lending such books as were calculated for their capacities, selected from the Catalogue of the Society for Promoting Christian Knowledge, and other useful publications. The Reports, which have been made to me, are very favorable, and by proper care and attention I have little doubt but that much good will be effected.

17. On a former occasion, I adverted to the great difficulty of finding proper persons as Schoolmasters, which chiefly arises from the low Salaries allowed from the School fund, and the high rate of Stipends which have been hitherto given by private Individuals in the Colony to such as have qualifications suited for Schools.

18. In a Convict Colony and where so many vicious examples exist, I was anxious to detach the Children as much as possible from such constant scenes of iniquity; and, altho' this may have at the first view a tendency to destroy the natural ties between the parent and the offspring, yet where that offspring must necessarily become contaminated at so early a period of life, and imbibe all the horrid passions of its vicious parents, I cannot conceive that such arguments ought to avail here, whatever they might and unquestionably should avail in a Country differently populated.

To this end, I endeavoured to establish a few Boarding Schools for children of both Sexes in some of the Districts of easy access, from all parts of the Colony and on *such very moderate terms* as to induce the lower orders to send their children to them for Common Education. I addressed a circular letter to all the Clergy, requesting them to make inquiries in their respective Districts and report to me such persons as were disposed to avail themselves of these Schools. From *Thirteen* Districts, which included almost the whole Colony, I received returns of *Twenty-two* Children, whose parents would consent to part with them. A public notice was issued that Boys would be taken at the Male Orphan School and at Sydney, and only three applications were made. The whole however were subsequently withdrawn.

19. I had likewise been very desirous of establishing *One good Grammar School* in the Colony for Boarders; but as the funds set apart for Schools could only be applied to the support of the indigent, I did not feel that, as a Visitor, I could exclude a child from those benefits, were he otherwise deserving of it, because the Parents were humble or immoral. But the upper classes objected to send their Children to this School, urging as a reason that they would be contaminated by such an association. As however the funds were evidently given by the King for those, who were unable to obtain education by their own means, and not for those whose parents were in independant circumstances, I could not assent to the establishment of a Public School on such a system of exclusion; I left it to the latter persons to select their own schools from private establishments of which in Sydney there are many.

In compliance with several urgent requests, I effected the establishment of a Grammar Class at one of the Day Schools in Sydney, and a very respectable person also established one at Parramatta. The same objections, however, were made to them by the upper classes, namely, a dread of the consequences of contamination. Yet I must beg leave to point out that, in spite of this dread, and in spite of both Schools being conducted by persons of irreproachable characters and every way qualified even for a Classical Education of sufficient extent, these very persons, who most loudly called out against the want of proper Schools and indiscriminate mixture, felt

no hesitation in sending their children to Schools kept by persons who took children of all descriptions, persons of the most worthless characters, who had formerly been Convicts and who were notorious drunkards, who felt no remorse at the introduction of Spirits amongst the Children of the School, when both the latter and the former equally participated in these libations; the consequences as were anticipated have indeed been lamentable. It is nevertheless a notorious fact that these persons have not only been patronized most openly and confidentially by high influential persons in the Colony, but Parents have actually taken their Children from the more reputable masters and placed them under these vicious and immoral Teachers, alleging that the Schools were more convenient to their dwellings, the distance in neither case exceeding a quarter of a mile. Yet, with all these instances before their eyes, and altho' there are so many private schools of various classes and various rates, and some kept by the Chaplains, there are still many, who, quite ignorant of the nature of a foundation or its object, wish for Grammar Schools founded by the funds set apart by the King.

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Causes of
failure.

I have dwelt upon this subject at some length, because many of the Clergy have repeatedly and officially asserted that sufficient means of education have not been provided for the Colony. These Gentlemen have made these assertions without taking the trouble to think or enquire into the subject with any degree of accuracy, and, perhaps from a solitary instance of the deficiency, they have come at once to a conclusion upon the whole Colony; and it would appear from these opinions that I had not paid sufficient attention to the subject; but, out of the 5,754 Children under 12 years of age, 1,265 or nearly one fourth are receiving education at the expence of the Crown.

Inadequate
means of
education.

20. I wished also and proposed to the Trustees to establish an Exhibition at each of the Universities of Oxford and Cambridge, and offered to bear a proportion of the expence myself; but these Gentlemen, joined by that part of the Reverend Body to whom I have before alluded, rejected my proposal.

Exhibitions
proposed at
Oxford and
Cambridge.

It is a subject I most earnestly beg of your Excellency to press on the attention of His Majesty's Government, convinced as I am that it would be hailed as an earnest of the interest taken by the Parent State of forming a bond of Union between her and her Colonies, and sending back a portion of the youth, educated in and having imbibed the Sound principles taught in the Universities and Public Schools in England.

The Question of additional expenditure is so small that, when compared with the ultimate end to be attained, I most sincerely trust that His Majesty's Government will lend a willing ear to so benevolent and beneficial an object.

In closing this my final Report with the duties of my Ministry in these Colonies, I cannot but express the most lively apprehensions for the future. I must respectfully maintain that the prosperity and happiness of these Colonies will depend on the course to be pursued in educating the rising generation, and, as the watchfulness of it has been committed to my hands, I consider I should have been wanting in fidelity to my trust, did I not bring it before His Majesty's Government in the strongest point of view, and press it most seriously on their consideration.

Necessity for
adequate
education.

I have, &c.,

T. H. SCOTT.

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Return of
church and
school
establishments.

[Sub-enclosure A.]
RETURN OF CHURCH AND SCHOOL ESTABLISHMENTS.

No. of Stations.	Places in which Chaplains were stationed to officiate.		Number of services performed in years.		Number of additional services required every Sunday.	Number of Schools.		Places requiring a				Remarks.
	Number.		1825.	1829.		1825.	1829.	Chaplain.	Chapel.	School House.	Parsonage.	
	1825.	1829.										
1	Appin .....	..	..	1	1	..	1	..	..	..	..	Supplied once in three months by the Chaplain of Campbell Town.
2	Bathurst .....	..	1	2	..	..	1	..	..	..	..	every Sunday by the Chaplain of Kelso.
3	Bong Bong or Medway ..	..	..	1	..	..	1	1	..	..	..	once in three months by the Chaplain from Narrellan and every Sunday by the Schoolmaster.
4	Cabramatta .....	..	..	1	..	..	..	..	..	..	..	once a month by the Chaplain of Narrellan.
5	Camden .....	..	..	1	1	..	..	..	..	..	..	every Sunday.
6	Campbell Town	1	1	1	..	2	..	..	..	..	..	every Sunday.
7	Castlereagh	1	1	1	..	..	..	..	..	..	..	every Sunday.
8	Castle Hill .....	..	..	..	..	1	..	..	..	..	..	every Sunday by the Schoolmaster.
9	Cornelia and Branches on Hawkesbury .....	..	..	5	2	..	3	1	1	..	..	by a Catechist and once in three months by the Chaplain of Pitt Town.
10	Female Orphan School ..	..	1	..	..	1	1	..	..	..	..	every Sunday.
11	Field of Mars .....	..	..	1	..	1	1	..	..	..	..	every Sunday.
12	Illawarra .....	..	..	..	1	..	..	..	..	..	..	None.
13	Kelso .....	..	1	..	..	..	..	..	..	..	..	every Sunday.
14	Liverpool .....	..	1	1	2	..	1	1	..	..	..	every Sunday.
15	Matland .....	..	..	..	1	..	1	..	..	..	1	by a Catechist and once in two months by the Chaplain of Newcastle.

[Sub-enclosure A]—*continued.*
 RETURN of Church and School Establishments—*continued.*

No. of Stations.	Places in which Chaplains were stationed to officiate.		Number of services performed in years.		Number of additional services required every Sunday.		Number of Schools.		Places requiring a				Remarks.
	Number.		1825.	1829.	1825.	1829.	Chaplain.	Chapel.	School House.	Parsonage.			
	1825.	1829.											
16	Male Orphan School	1	1	1	1	1	1	1	1	1	1	1	Supplied every Sunday by the Master.
17	Moreton Park	...	1	1	...	...	...	...	...	...	...	...	once a month by the Chaplain of Campbell Town.
18	Moreton Bay	1	2	1	1	1	1	1	1	1	1	1	once a month by the Chaplain of Narcllan.
19	Mulgoa	...	1	1	...	...	...	...	...	...	...	...	every Sunday.
20	Narellan	...	1	1	...	...	...	...	...	...	...	...	every Sunday.
21	Newcastle	1	2	1	1	1	1	1	1	1	1	1	once a month by the Chaplain of Kelso.
22	Norfolk Island	...	1	1	...	...	...	...	...	...	...	...	every Sunday.
23	O'Connell Plains	...	1	3	...	...	...	...	...	...	...	...	every fortnight by a Catechist.
24	Parramatta and Factory.	1	3	1	1	1	1	1	1	1	1	1	every Sunday by Chaplain of Castle-rough.
25	Patterson's Plains	...	1	1	...	...	...	...	...	...	...	...	alternate Sundays.
26	Peurith or Ennu	...	1	1	...	...	...	...	...	...	...	...	every Sunday.
27	Pitt Town	...	1	1	...	...	...	...	...	...	...	...	every Sunday by a Schoolmaster.
28	Port Macquarie	1	2	1	1	1	1	1	1	1	1	1	once a month by the Chaplain of Kelso.
29	Port Stevens	2
30	Prospect	...	1	1
31	Rainville	...	1	1

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Return of church and school establishments.

1829.
18 Oct.
Return of
church and
school
establishments.

[Sub-enclosure A]—*continued.*
RETURN of Church and School Establishments—*continued.*

No. of Stations.	Places in which Chaplains were stationed to officiate.	Number of services performed in years.		Number of additional services required every Sunday.	Number of Schools.		Places requiring a				Remarks.	
		Number.			1825. 1829.		Chaplain.	Chapel.	School House.	Parsonage.		
		1825.	1829.		1825.	1829.						
32	Sackville .....	..	..	1	1	1	..	..	..	..	..	Supplied every fortnight by the Chaplain from Pitt Town.
33	Richmond .....	..	..	1	2	2	..	..	..	..	..	weekly by the Chaplain of Windsor.
34	Saint Aubin .....	..	..	..	..	..	..	..	..	..	..	None.
35	Shoal Haven .....	..	..	..	..	..	..	1	..	1	..	None.
36	South Creek .....	..	..	1	..	..	..	..	..	..	..	monthly by the Chaplain of Narellan.
37	Sydney and Jails	2	2	6	..	7	..	1	..	..	..	every Sunday.
38	Wilberforce	1	..	1	..	1	..	..	..	..	..	weekly by the Chaplain from Pitt Town.
39	Windsor	1	1	2	..	2	..	..	..	..	..	once a fortnight by Catechist and once in two months by Chaplain from Newcastle.
40	Wittingham .....	..	..	1	..	..	..	1	..	..	..	Total number of Children in the Colony under the age of 15 in 1825..... 4,724
	<i>Note</i> :—At the 17 Places stated to require divine Service every Sunday, there are upwards of 3,000 convicts.	10	15	21	53	17	36	6	8	4	6	Total number of Children in the Colony under the age of 12 in 1829..... 5,754

RECAPITULATION.

Officiating stations every Sunday by Chaplains in 1825.....	10	Additional Chaplains	6
Do do in 1829.....	15	Do Chapels	8
Services performed in 1825.....	21	Do Schools	4
Do do in 1829.....	53	Do Parsonages.....	6
Additional Services required on Sundays	17	Number of Schools in 1825.....17; in 1829	36

[Sub-enclosure C.]

1829.
18 Oct.Statement
by Revd.
T. H. Scott *re*
case of Revd.
F. Wilkinson.

A STATEMENT OF THE REVD. F. WILKINSON'S CASE.

I RECEIVED a letter* from Mr. Wilkinson, dated 29th May, requesting leave of absence to come to Sydney. I replied† that I saw no reason to depart from the rule laid down on such occasions in England. The Revd. Mr. Hill and Mr. Marsden‡ called on me and offered to take Mr. W.'s duty, if he were allowed to come up and I offered to take care of either of their churches for two Sundays to enable one of them to relieve Mr. Wilkinson.

The Governor wrote to me that Mr. W. had appealed to him, but that he had declined interfering. I again wrote§ to Mr. W. that I made no objection to his absence if his Church was supplied.

On the 28th June (Sunday Evening), I received a letter|| from Mr. Wilton offering to take Mr. Wilkinson's duty; but I informed him on the 29th he could not be spared, as his presence was required to answer to some questions as to his accounts at the Female Orphan School and other matters.

On the 9th July, I met Mr. Wilkinson in the street of Sydney and informed¶ the Governor of it that day. I imagined Mr. W. would leave Sydney by the Packet, which sailed on Saturday, 11th July, to enable him to be present at his Church on Sunday, the 12th.

On the 19th July (Sunday), I learnt to my surprize Mr. W. had not returned to Newcastle, but had officiated at Parramatta; and I wrote** to him on the 21st to enquire how his Church had been supplied. On the same day (Tuesday) he replied†† stating under what circumstances he left his cure.

On this letter I must observe:—

1. That Mr. W. might and ought‡ to have waited until either Mr. Marsden or Mr. Hill appeared at Newcastle to have taken his duties at the time most convenient to themselves.

2. That he did not apply‡‡ to the Catechist in the neighbourhood to take care of his weekly duties.

3. That his presence was not necessary in Sydney, as his own Attorney stated to Mr. Norton.§§

4. That Mr. Wilkinson, having officiated at Parramatta on the 12th July, neglected to register a Burial;||| that he officiated¶¶ for Mr. Wilton on Sunday, 19th July.

5. That he left Newcastle*** on Sunday, the 6th July, and that, besides the weekly duties being unattended to, there was no Service in the Church on Sunday, the 12th and 19th instant; and, as he did not return until the 24th, he was absent 18 days including *two* Sundays, whereas *had his presence in Sydney been necessary*, he might have transacted it and ret'd. over land in five days with ease; but

* No. 1.—Mr. W., 29th May.

† No. 2.—Archn. S., 9th June.

‡ No. 3.—Mr. Marsden, June 18th and July 30th; Mr. Hill, June 18th, July 27th.

§ No. 4.—Archn. S., 19th June.

|| No. 5.—Mr. Wilton, 28th June; Archn. S., 29th June.

¶ No. 6.—Archn. S., 9th July.

** No. 7.—Archn. S., 21st July.

†† No. 8.—Mr. W.'s reply, 21st July.

‡‡ No. 9.—Mr. Wood, 23rd July.

§§ No. 10.—Mr. Norton, 17th Augt.

||| No. 11.—J. Whitehead, 20th July.

¶¶ No. 12.—Henry Jupp, 23rd July.

*** No. 13, 27th July.—Mr. Wright to the Colonial Secry., enclosed in 6th Aug.

Mr. W. preferred remaining with his Brother in law Mr. Wilton at the Female Orphan School, enjoying himself in parties of pleasure.

Mr. W. does not appear to have attended* the Primary School at Newcastle once from October to December, 1827, and but once from January to March, 1829, and once only from April to June.

It has been stated† to me from the Inhabitants Mr. W. will not baptize their children, of which he had notice on Wednesday, the 12th; yet this Gentleman could proceed to Maitland on his own pleasure to dine at the assize dinner on Monday, the 24th, and remain there a day or two; and, in order to accomplish this, *he left his Church on Sunday afternoon the 23rd unserved.* Mr. W. also thought proper to perform Divine Service at an Inn, in a room, in which within one hour after Divine Service ended was converted into a Court to try Criminals without any license or direction from me; although in all his Official papers he has stated as a hardship he had been compelled to go to Inns by me and felt disgraced by doing so. I wrote‡ to Mr. W. on the subject, and received his reply of the 20th instant, and enclosures No. 17, on which I have to remark that Mr. Wilkinson proceeded to Maitland unnecessarily, and remained there some days, having left his Church unsupplied on Sunday; and, though he requested the Judge to allow him to perform Divine Service in the room at an Inn appointed for the Court to hold its sittings, the Judge I presume out of civility did not object; but the place was neither licensed nor was Mr. Wilkinson authorized by me. It was strictly an object of pleasure his going there.

The quotation is made from an official reply to questions put by desire of the Ecclesiastical Board, and not from his letter as he states.

The building of the Chapel was begun on, as soon as funds were appropriated.

There are no directions forbidding Baptism at the time of a Judge holding an Assize, and therefore his excuse for not baptizing the Children is inadmissible.

On his letter§ to Mr. Wood, it is to be observed that, as Mr. Wood officiated every Sunday, I directed Mr. Wilkinson, by letter dated 13th February last, to proceed to Maitland and Patrick's Plains alternately once a quarter to officiate *and baptize the Children, giving previous notice of his arrival*; that he was allowed his travelling expences, and, up to the 30th June last, he drew for Forage, and it has been discovered he kept no horse.

Mr. Wilkinson complains that he has no means of travelling to Maitland, yet he made no difficulty in going to the Assizes for his own pleasure.

[Appendix No. 1.]

REV. F. WILKINSON TO ARCHDEACON SCOTT.

Reverend Sir,

Newcastle, 29th May, 1829.

My Agent in Sydney informs me by this Packet that my presence is required in that place on business of considerable private importance to me. May I therefore take the liberty of requesting

Request for
leave of
absence.

* No. 14.—See the 3 quarterly returns.

† No. 15.—Mr. Wood, Saturday, 15th August.

‡ No. 16.—Archd. S., 12th Sept.

§ No. 18.—Mr. Wilkinson to Mr. Wood, 12 August.

1829,
18 Oct.

Statement
by Revd.
T. H. Scott re
case of Revd.
F. Wilkinson.

1829.
18 Oct.

you will permit me to absent myself from my Cure for a fortnight; I am anxious to attend by the next Packet, if you are pleased to grant me this indulgence.

I have, &c.,
F. WILKINSON.

[Appendix No. 2.]

ARCHDEACON SCOTT TO REV. F. WILKINSON.

Rev. Sir,

Sydney, 9th June, 1829.

Rules to be
respected.

I received your letter of the 24th May only yesterday, in which you require to be absent from your Cure a fortnight. As I see no reason to depart from the rules laid down in England for the residence and non-residence of the Clergy, until the reference I have made to the Ordinary on the subject be replied to, I can only at present refer you to those rules.

I am, &c.,
T. H. SCOTT.

[Appendix No. 3.]

[1] REV. RICHARD HILL TO ARCHDEACON SCOTT.

Rev. Sir,

Castlereagh Street, 18th June, 1829.

Proposals to
relieve Revd.
F. Wilkinson.

As you had left the office of the Corporation before I called, I merely write to mention that, having spoken before Mr. Marsden of the offer you had made respecting my duty, if I chose to relieve Mr. Wilkinson, and adding that I did not wish to go from home at present, Mr. Marsden stated that he should have no objection, on the arrival here of Mr. Wilkinson, to proceed to Newcastle for two Sundays, but that he should be unwilling to leave till he has secured the due performance of his Surplice duties.

As the Lord Liverpool usually leaves Newcastle and returns again between the Sundays, perhaps this arrangement may meet your approbation, and, if so, I will write to Mr. Wilkinson to inform him of it.

I am, &c.,
RICHD. HILL.

[2] REV. SAMUEL MARSDEN TO ARCHDEACON SCOTT.

Dear Sir,

Parramatta, 18th June, 1829.

Previous to my leaving Sydney, the Revd. Richd. Hill informed me that the Revd. F. Wilkinson had written to you for leave of absence to visit Port Jackson on his Private affairs, and further that you had given Mr. Hill leave to do Mr. W.'s duty for the time he should be from his situation. Mr. Hill said he did not wish to go, as it would be inconvenient to him. I replied I would go, rather than Mr. Wilkinson should not have an opportunity to come to Sydney. I know his private affairs require him to come to Head quarters at the present time, in consequence of some unforeseen circumstances having occurred, in which his interest is much concerned. Since I came home, I have thought more on the subject; I do not wish to go myself; I have stated the circumstances this morning to Mr. Wilton, who can be better spared than myself from the more menial duty I have to do, and he has consented to do Mr. Wilkinson's duty, if you grant your permission for him. If you should have any objection to Mr. Wilton's going, I would go myself in lieu of the Revd. Richard Hill, tho' this would be inconvenient to me on account of my public duties.

I am, &c.,
SAML. MARSDEN.

[3] REV. RICHARD HILL TO ARCHDEACON SCOTT.

1829.
18 Oct.

Rev. Sir,

Sydney, 27th July, 1829.

In reply to your note of this date, as to whether or not the Rev. F. Wilkinson had made any application to me to officiate for him during his absence from Newcastle, and whether you had objected to my doing so, and as to the nature of his reasons for coming to Sydney, which he had communicated to me to state to you, of which you do not find any letter; I beg to state that I did wait on you at the request of Mr. Wilkinson, and I then told you that he had not requested me to take his duty but had only informed me of the necessity of his coming here, which I stated to you verbally, when you said that you would assist in my duty if I were willing to go to Newcastle; but I replied that my own private affairs, as well as the quarterly accounts, would prevent my absence from home for some time. You then asked me the cause of Mr. W. being required to visit Sydney, as you seemed to doubt the necessity, when I told you that a Gentleman, whom I named, was indebted to Mr. W. in a large sum, and that Mr. Unwin had written urging Mr. W. to come to Sydney as his Debtor was involved. You replied that you had written a reply to an application you had received from him for leave of absence, declining to interfere in the ordinary course of duty, as a Clergyman could leave without reference to you, if he provided for his cure; and that Mr. Wilkinson could arrange as Mr. Wilton had done lately.

Negotiations for leave of absence for Revd. F. Wilkinson.

I have, &c.,

RD. HILL, Asst. Chaplain.

[4] REV. SAMUEL MARSDEN TO ARCHDEACON SCOTT.

Rev. Sir,

Parramatta, 30th July, 1829.

On Saturday, the 18th Inst., I was at Prospect and Toongabbee and did not return until the Evening, when one of my daughters informed me that the Rev. Mr. Wilton had sent over a verbal message to say he would read prayers for me the following day in the morning, and do my duty in the Evening at the Church. I considered it too late in the Evening to return an answer. On Sunday morning, I sent over my Servant to the Orphan School with a verbal message to say that you would assist me on that day. The above is what passed on the occasion.

Proposal by Revd. C. P. N. Wilton to read prayers.

I have, &c.,

SAML. MARSDEN.

[Appendix No. 4.]

ARCHDEACON SCOTT TO REV. F. WILKINSON.

Rev. Sir,

Sydney, 19th June, 1829.

His Excellency the Governor having communicated to me your letter of the 11th Inst. applying for leave from your Cure and a Copy of my letter to you on the same subject dated June 8, I have only to repeat that no objection has been made by me to your absence, if you comply with the usual regulations on this subject and with which, as you have served a Curacy in England, you must be well acquainted. But, to place the matter beyond any doubt, you can leave your Cure on procuring one of your brother Chaplains to exchange with you for the time, a matter not difficult. I beg to correct an error into which you appear to have fallen respecting the power of an Ordinary, who cannot grant a dispensation for absence unless the Cure be duly supplied.

Leave of absence granted if duties performed by substitute.

I am, &c.,

T. H. SCOTT.

1829.
18 Oct.

[Appendix No. 5.]

[1] REV. C. P. N. WILTON TO ARCHDEACON SCOTT.

Rev. Sir, Female Orphan Institution, 28th June, 1829.
Having just heard that Mr. Wilkinson will be at Sydney by the next Packet, I beg leave to state that, if Mr. Marsden is unable to go to Newcastle to take Mr. Wilkinson's duty during his absence, I am ready with your permission to do so. I remain, &c.,
C. P. N. WILTON.

Offer to do duty
by Revd.
C. P. N. Wilton.

[2] ARCHDEACON SCOTT TO REV. C. P. N. WILTON.

Rev. Sir, Sydney, 29th June, 1829.
In reply to your letter of yesterday offering to go to Newcastle if Mr. Marsden was unable, I must beg to advert to the state of your quarter's accounts for the School to be settled this week. The arrears of weekly receipts and issue of Provisions during seven weeks, which the Committee have noticed, and also the steps I have thought it necessary to take to call on you for proof of the charges you have made against me, all of which will require your presence.
I am, &c.,

Necessity for
presence
of Revd.
C. P. N. Wilton.

[Appendix No. 6.]

T. H. SCOTT.

ARCHDEACON SCOTT TO GOVERNOR DARLING.

Sir, Woolomoloo, 9th July, 1829.

It is with much regret I am under the necessity of acquainting Your Excellency that I met the Rev. F. Wilkinson the Chaplain at Newcastle this morning in the Town of Sydney. The Rev. Gentleman had, as your Excellency is aware, applied for leave to come here on his Private affairs, to which I answered there would be no objection, provided he had made arrangements for the duties of his Cure during his absence, and which it was easy for him to effect. As I am aware, he has not made this provision, and, as such an absence is a serious violation of the order and discipline of a Church, I trust Your Excellency will have the goodness to direct the Solicitor General to afford me his legal advice as to the course I ought to pursue, and I farther respectfully submit whether some notice of this absence should not be made to the Rev. Gentleman from Your Excellency or under your authority. I have, &c.,

Absence of
Rev. F. Wilkinson
from duty.

T. H. SCOTT.

[Appendix No. 7.]

ARCHDEACON SCOTT TO REV. F. WILKINSON.

Rev. Sir, Sydney, 21st July, 1829.

Having seen you in this Town on Thursday, the 9th inst., contrary to my injunctions, unless you duly provided for the duties of your Cure being supplied, and, as I find on unquestionable authority you have been since that period and still are absent, I request you will inform me whether Public or Private affairs induced you to leave your Cure and in what manner you provided for the duties being done.
I am, &c.,

Explanation
required
from Revd.
F. Wilkinson.

T. H. SCOTT.

[Appendix No. 8.]

REV. F. WILKINSON TO ARCHDEACON SCOTT.

Rev. Sir, Sydney, 21st July, 1829.

In reply to your letter dated this day, I beg to say that it is perfectly correct that I arrived on the 9th Inst. at Sydney, having

left Newcastle on the previous Tuesday. My former letters to you must have clearly informed you that my business was of a very important private nature; in addition to this and as a more perfect satisfaction to you, the Revd. Mr. Hill was kind enough to wait upon you in confirmation of the contents of my letter.

In your letter to me, in consequence of the one which I wrote to His Excellency the Governor, you informed me that I might leave my Cure, if I could obtain an exchange with any of my friends, and at the same time expressed your opinion that there would be no difficulty in doing so.

I was informed by the same Post that either Mr. Marsden or Mr. Wilton had kindly engaged to exchange with me; when therefore, on the arrival of the ensuing Packet, neither of these Gentlemen came as I expected, and, as it did not return to Sydney till the Friday, I thought it best to remain over the Sunday; and, as some small vessels were loading with Coals and would sail on the Monday, I imagined it would be most prudent to leave in one of them, by which means I should most probably reach Sydney before the Packet would sail for Newcastle; and then, if anything prevented Mr. Marsden or Mr. Hill doing as I was informed they intended, namely to relieve me, I could have returned by the Packet before the ensuing Sunday to Newcastle. I was prevented accomplishing my intention by the Vessel in which I was being detained two days at sea, and, on our arrival at the heads of Port Jackson, I had the mortification of seeing her sail out on her voyage to Newcastle.

When I met Mr. Marsden, he informed me that ill health and pressing business had prevented him from carrying into execution his design of relieving me, and that you had forbidden Mr. Wilton to take his place; and I could only lament that circumstances had been so untoward as to compel me however unwillingly to leave my Cure unprovided.

I am satisfied you will perceive that, under existing circumstances, I acted with the utmost caution. Had Mr. Wilton arrived, as I had every reason to expect, by the Packet, it would have been impossible for me, owing to the period at which the Packet sails, to reach his Church in time to take his duties; but, had he not been prohibited by you from leaving Parramatta, I should, under the arrangement I made, have been enabled to prevent any neglect of the solemn services of Sunday at either place.

You will also learn upon enquiry that the Packet did not return to Sydney till Saturday evening last, and will sail to Newcastle tomorrow morning, and consequently that my continuance at this place is involuntary. I trust, Reverend Sir, that this explanation will be perfectly satisfactory.

Respecting the concluding part of your letter, I beg to inform you that I brought up my replies to the questions from the Ecclesiastical Board, but, from the agitation of private business, they escaped my memory till this morning, when you received them; from them, you will learn that Divine Service has been duly performed at Maitland and Wittingham according to your instructions, and I would further add that the returns would have been sent in previous to my leaving Newcastle, had I been supplied with blank forms according to my application.

I have, &c.,

F. WILKINSON.

1829.
18 Oct.

Statement
re absence
by Revd.
F. Wilkinson.

1829,
18 Oct.

[Appendix No. 9.]

MR. JOHN WOOD TO ARCHDEACON SCOTT.

Revd. Sir,

Thursday, 23rd July, 1829.

In reply to your letter of the 21st instant, I have to say that no application has been made to me by the Revd. Mr. Wilkinson to take any of his duties for him. I have heard that a verbal message was taken to my family at the Government Farm Cottage near Newcastle about 3 or 4 weeks back, signifying that Mr. Wilkinson was going up on his quarterly visit to the upper Districts, and, if I am not mistaken, that it was expected that I should do the duty in the Church at Newcastle on Sunday, the 28th Ulto.; but I was at Maitland, or on the road thither, and knew nothing of it till the following week; and on the day in question I performed Divine Service at Maitland, on which day I have since heard that Mr. Wilkinson did the same at Patrick's Plains. Since that, Mrs. Wilkinson has twice sent me information of the absence of the Revd. Mr. W., but I was engaged in the execution of the duties to which you appointed me at Wallis's, Paterson's and Patrick's Plains, and I have not at any time done any duty for Mr. Wilkinson, except only on the first Sunday after my last arrival from Sydney, when I read the liturgy and one of Buen's printed discourses from the desk in the Church at Newcastle according to your desire.

I have, &c.,

JOHN WOOD.

[Appendix No. 10.]

MR. JAMES NORTON TO ARCHDEACON SCOTT.

Revd. Sir,

Elizabeth Street, 17th August, 1829.

In reply to your letter on the subject of a conversation I had with Mr. Unwin, respecting the attendance of the Revd. F. Wilkinson at Sydney on his private business, I beg to state that, a short time before Mr. Wilkinson's arrival at Sydney, Mr. Unwin informed me that an arrangement then about to be made (and which was afterwards completed) would make it unnecessary for Mr. Wilkinson to leave Newcastle.

I have, &c.,

J. NORTON.

[Appendix No. 11.]

STATEMENT BY MR. JOHN WHITEHEAD.

JOHN WHITEHEAD, Parish Clerk of St. John's Church, Parramatta, stated to the Archdeacon of New South Wales that, on Sunday, the 12th of this month, the Revd. F. Wilkinson read the morning and evening Service and Preached in the evening, the Revd. Mr. Marsden having preached in the morning.

At the close of the Service in the afternoon about four o'clock, Mr. Wilkinson baptized four children and registered them; that, before five o'clock, he buried a corpse but did not register it; that, upon pressing the Revd. Mr. Wilkinson two or three times to register the Burial in consequence of having been reprimanded before by the Archdn. for omitting to procure the signature of the Revd. John Vincent to two Burials, Mr. Wilkinson replied that he was in too great haste to do it then, or to that effect; but that, on being asked if he passed the Church that evening or on the following morning he would call and sign the Register, he replied that he would do so. That Mr. Wilkinson, in going from the burial Ground to the Town being on horseback, rode within three hundred

Statement by
J. Wood *re*
absences
of Revd.
F. Wilkinson.

Presence
of Revd.
F. Wilkinson
unnecessary
at Sydney.

Neglect of Revd.
F. Wilkinson to
register burial.

Yards of the Church wherein the Register was lying and always is kept. That the Revd. Mr. Wilkinson has not since been to sign the Register up to this day.

1829.
18 Oct.

JOHN WHITEHEAD, Parish Clerk.

Parramatta, this 20th July, 1829.

Before me, T. H. SCOTT, Archdeacon.

[Appendix No. 12.]

STATEMENT BY MR. H. JUPP.

Sydney, 23rd July, 1829.

HENRY JUPP, Parish Clerk of the Field of Mars in New South Wales, states, That, on Sunday, the 19th July instant, he was in his place as Parish Clerk in the Chapel of the District of the Field of Mars, whereof the Revd. C. P. N. Wilton is the Chaplain, and by whom he (the said Henry Jupp) was appointed Clerk on the 1st October, 1828. That the Revd. Mr. Wilton did not attend the Service, but the Revd. F. Wilkinson read the Morning Service and preached a Sermon on the day aforesaid.

Service held by Revd. F. Wilkinson at Field of Mars.

That, on Sunday, the 12th inst., the Revd. Mr. Wilton informed the said Henry Jupp, he should not officiate on the following Sunday; but that he expected the Revd. F. Wilkinson would be there to do the duty.

HENRY JUPP.

Before me, T. H. SCOTT, Archdeacon.

[Appendix No. 13.]

COLONIAL SECRETARY MACLEAY TO ARCHDEACON SCOTT.

Colonial Secretary's Office.

Sydney, 6th August, 1829.

Reverend Sir.

With reference to my letter of the 28th ultimo, transmitting you a copy of a report from the Superintendent of Police at Newcastle on the subject of the non-performance of Divine Worship at that station on the 5th and 12th July.

Non-performance of divine service at Newcastle.

I have now the honor, by direction of His Excellency the Governor, to enclose you a copy of a letter just received from that Officer correcting his former report, from which you will perceive that Divine Worship was performed there on the 5th ulto., but not on the 28th June and 12th and 19th July.

I have, &c.,

ALEXR. MCLEAY.

[Appendix No. 14.]

QUARTERLY Return of the Public School at Newcastle from 1st October to 31st December, 1828.

Quarterly return of public school at Newcastle.

Year and Month.	No. of Children on the Books.	Average of the monthly attendance of each Class.					Total in the School.	Remarks.	Punishments.	Date visited by the Clergyman.	Progress of Instruction.
		1	2	3	4	5					
1828.											
October ...	47	11	12	13	...	...	36				
November.	42	12	13	9	...	...	34				
December..	38	7	6	13	...	...	26				

F. WILKINSON.

ALEXR. MACAULAY, Master.

1829,
18 Oct.Quarterly
return of
public school
at Newcastle.

QUARTERLY Return, etc., from 1st January to 31st March, 1829.

Year and Month.	No of Children on the Books.	Average of the monthly attendance of each Class.					Total in the School.	Remarks.	Punishments.	Date visited by the Clergyman.	Progress of Instruction.
		1	2	3	4	5					
January ...	50	12	10	5	7	11	45			Rev. F. Wilkinson examined the Children on the 22nd March.	
February...	50	13	11	6	10	11	51				
March	50	11	10	6	10	10	46				

QUARTERLY Return, etc., from May 1st to the 30th June, 1829.

April.....	46	6	6	8	7	10	37			Rev. F. Wilkinson visited the School on the 17th June.	
May	48	5	6	7	10	12	40				
June	52	7	9	10	12	12	50				

F. WILKINSON.

JOHN GABBAGE, Master.

[Appendix No. 15.]

MR. JOHN WOOD TO ARCHDEACON SCOTT.

Reverend Sir, Maitland, Saturday, 15th August, 1829.

Infants baptized
by J. Wood;and awaiting
baptism.

Since my arrival here, several applications have been made to me to Baptize infants, to which my reply has been that you have forbidden me to do so except in cases of extreme danger. Last Monday, Mr. Henry Hewitt having written to me stating his infant Daughter to be in this condition I baptised her; she is since dead. A short time back a man named Smith was desirous to have his Child Baptized, who afterwards died without the ceremony being performed. At present the following persons, residing immediately in this neighbourhood, request Baptism for their children, viz., Redman for a Girl 19 months old, Stewart for a boy 4 months old, Singleton for a boy 2 months old, Prentice for a boy 19 months old and a Girl 7 weeks old, Simpson for a Boy 5 weeks old, Cliff for a Girl 6 weeks old, and Hannan for a Boy 3 weeks old. All these, with the exception of Redman, profess to be Protestants. Redman is a Roman Catholic, but he wishes notwithstanding to have his Child Baptized, when a Clergyman comes for that purpose. A man named Ryan, who is a Romanist, refuses on that account to bring his child. Last Wednesday, being with my family at Newcastle, I waited upon the Revd. F. Wilkinson and stated the case to him; he objected to come to Maitland which is the occasion of this letter.

I have, &c.,

JOHN WOOD.

[Appendix No. 16.]

ARCHDEACON SCOTT TO REV. F. WILKINSON.

Rev. Sir, Sydney, 12th September, 1829.

Divine service
performed in
inn.

I have received information that, at the Circuit Court held at Maitland on the 24th ulto., you celebrated Divine Worship in a house being an Inn, without such place being licensed by me, or your having permission from me, contrary to the Canons of the Church.

As you have so strongly expressed yourself on former occasions in your Official communications towards me for having directed you to officiate in such places, and have even gone the length of stating that you had been ordered to perform Service in a House of this sort notorious as a Brothel, and as I had particularly explained to the Judge why I could not on this occasion offer him Divine Service, but which reason does not concern you, I must desire to be informed of your reason for officiating in the place alluded to, and I beg to know why you left your Church unsupplied on Sunday evening the 23rd ultimo.

I have also received a representation from several inhabitants about Maitland that their children amounting to eight are unbaptized, of which due information was given you by Mr. Wood on the 12th August, but which you did not think proper to notice; as you were at Maitland on the 24th. I cannot but suppose that you would take that opportunity of performing so solemn a part of your Clerical duties; the parties have been very uneasy and unsatisfied, and certainly I think with reason. You will be allowed two days' expences according to the Resolution of the Corporation for your expences attending the criminal to Execution at Maitland.

I am, &c.,

T. H. SCOTT.

[Appendix No. 17.]

COPY of a Letter from the Revd. F. Wilkinson to the Venerable Archdeacon Scott.

Reverend Sir,

Newcastle, 20th September, 1829.

I beg to inform you, in reply to your Letter of the 12th Inst. (received this day), that Divine Service was performed at Maitland in the large room appropriated to the use of His Honor Mr. Justice Dowling as being more decent and convenient than the School House; and, as I possessed no licence for any particular place, I imagined you would approve of the discretion I used.

It is with much distress that I am compelled to make two remarks, which I am fearful will offend, 1st "I never stated that you ordered me to perform Service in a House of this sort, notorious as a Brothel," my words were, "I never felt so much disgust as at being obliged to perform Divine Service in a House, which had been a Common Brothel," and, if you turn to my letter to you, dated 2nd Dec., 1827, you will perceive that I endeavoured consistently with truth to give you every possible satisfaction; 2nd I have much against my inclination, but in obedience to my sense of propriety, repeatedly pointed out the neglected condition of these districts: and, had there been a Church at Maitland, I would have invited Mr. Justice Dowling's attendance at it; as there is not, I requested permission of His Honor to celebrate Divine Service in the temporary Court House and received his ready acquiescence.

Respecting the concluding part of your letter, I beg to inform you that I did take immediate notice of Lieut. Wood's information by sending him an official reply, which I requested him to transmit to you. My reason for declining to administer the rite of Baptism, when in attendance on His Honor the Judge, was that to do so is forbidden by the rubric, any departure from which would have most deservedly exposed me to your censure; I beg in conclusion to state that I was compelled to leave my Church unsupplied on

1829.

18 Oct.

Request for
explanation
from Revd.
F. Wilkinson.

Neglect to
baptize infants
at Maitland.

Explanation
by Revd.
F. Wilkinson.

1829.
18 Oct.

Sunday Evening, 23rd ulto., having to travel to Wallis Plains to be in readiness to perform Divine Service before the Court at 10 O'Clock the ensuing morning.

I have, &c.,

F. WILKINSON.

N.B.—I beg to enclose a Copy of my Letter to Mr. Wood referred to above.

[Appendix No. 18.]

Copy of a Letter from the Reverend F. Wilkinson to
John Wood, Esqre.

My dear Sir, Newcastle, 12th August, 1829.

Mrs. Wilkinson has communicated to me your obliging message.

Infrequency of
visits to upper
Hunter river.

It has always been a Source of regret to me that the Archdeacon's arrangements have prevented my more frequent attendance at the upper part of the River; and I have many months ago made known my opinion to him upon this important subject; my letter remains to this moment unanswered; and I cannot but conclude, from the Circumstance, that it is not considered by the Archdeacon of sufficient moment to occupy his attention.

A representation from you may perhaps have a more favorable result, and, in my opinion, it is become your imperative duty to make known to him the Complaint of your Congregation at Wallis Plains.

You are perhaps aware that I am at present without the means of travelling and consequently, were I imprudent enough to exceed the Archdeacon's Orders, it would be out of my power.

I remain, &c.,

F. WILKINSON.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 158, per ship Mermaid.)

19 Oct.

Sir, Downing Street, 19 Octr., 1829.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your despatch No. 54 of the 5th of May last, transmitting copies of two letters from Captain Laws, of H.M. Sloop "Satellite," containing Reports of his proceedings at Otaheite and other Islands in the Pacific.

Proposed
removal of
inhabitants
from Pitcairn
island.

From the information communicated by Captain Laws, it appears that the King and the Inhabitants of Otaheite are willing to receive all the people now in Pitcairn's Island, giving them such land, protection, and assistance as Otaheite affords.

It is stated by Captain Laws that the removal of the Inhabitants of Pitcairn's Island to Otaheite may be easily effected by the Ship of War on the New South Wales station with the assistance of one of the Colonial Vessels, and that, as the whole of the party does not exceed 100 Persons, one Voyage will be sufficient.

Under these circumstances, I have brought the subject under the notice of the Admiralty, and Instructions will be sent to the

Officer in Command on the East India Station to place himself in communication with you for the purpose of coming to an arrangement for removing these People as soon as the convenience of the Naval and Colonial service will allow.

1829.
19 Oct.

Instructions
re removal.

You will, therefore, consider yourself authorised, whenever you may hear from the Admiral on the subject, to place a Colonial Vessel at the disposal of the Officer commanding the Ship of War which may be employed on this occasion.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 114, per ship Harmony; acknowledged by Sir George Murray, 23rd April, 1830.)

Sir, Government House, 21st October, 1829. 21 Oct.

I have the honor to transmit to you, at the desire of Captain Rossi, Principal Superintendent of Police, the accompanying Memorial praying for an encrease of Salary on the grounds stated therein.

Transmission of
memorial from
F. Rossi.

It is due to this Officer to state that no one can be more zealous than he is in the performance of his duties, which are not only important but from the peculiar Character of this Colony arduous in the extreme.

Testimony in
favour of
F. Rossi.

It is proper for me to observe here that his duties have encreased so much of late that the necessity of appointing an Assistant, holding the Situation of Magistrate, in order the more effectually to relieve the Principal Superintendent, has been very strongly urged upon me; and a consideration of the Expence alone has prevented me from bringing the matter under the consideration of the Executive Council, feeling however quite satisfied that no constitution is equal to the incessant occupation to which Captain Rossi is exposed.

Necessity for
appointing an
assistant.

I have, &c.,
RA. DARLING.

[Enclosure.]

THE Memorial of Francis Rossi, Superintendent of Police at New South Wales.

Memorial of
F. Rossi
soliciting
increase of
salary.

To the Right Honorable Sir George Murray, His Majesty's Principal Secretary of State for the Colonies, G.C.B., etc., etc., etc.

Respectfully Sheweth,

That Your Memorialist had the honor of entering into His Majesty's Military Service in the Month of July, 1795.

That Memorialist has held several Civil Situations in His Majesty's Service since the year 1811. That Earl Bathurst was pleased, in consideration of Memorialist's Services, to appoint him in August, 1824, Superintendent of Police in New South Wales upon

1829,
21 Oct.

Memorial of
F. Rossi
soliciting
increase of
salary.

a Salary of £600 per annum with the advantage of a Residence, by which Your Memorialist relinquished his Half Pay as Captain of Foot, amounting to £125 per annum.

That Memorialist arrived in New South Wales on the 7th May, 1825, and entered upon the duties of his Office on the 19th of the same Month, and continued to fulfil the same until the 5th May, 1827, when he was appointed to the Customs of Sydney, in which situation he remained till the 31st January, 1829, when, on the arrival from England of Mr. Cotton to take charge of that Department, Memorialist again resumed his duties at the Police Office.

That Your Memorialist, having soon experienced the inadequacy of his Salary, was induced on 17th November, 1825, to address a Memorial to Sir Thomas Brisbane then Governor of New South Wales, setting forth its insufficiency and praying for an augmentation thereof, which Memorial Sir Thomas Brisbane was pleased to forward to Earl Bathurst on 21st November, 1825, and Memorialist on 4th February, 1826, forwarded a Duplicate thereof with a Letter addressed to Wilmot Horton, Esquire, Under Secretary of State for the Colonies.

That Memorialist was subsequently honored by a communication from His Excellency Governor Darling, transmitting a Copy of the Despatch of Earl Bathurst, dated 11th July, 1826, from which it will be perceived that His Lordship declined at that time sanctioning the augmentation of Salary, which Your Memorialist had prayed for solely on the ground that Your Memorialist had then been so short a period in the Service.

That the duties of Your Memorialist's Office since his first appointment have been extremely arduous, and have continued increasing both in number and importance from that time to the present.

That, on Your Memorialist's arrival, he had to New Model and regulate the Department; and the footing, on which it was then placed, was approved by Sir Thomas Brisbane and received the sanction of His Majesty's Government, and Your Memorialist presumes to flatter himself that his exertions since have been such as to merit the approbation of His Excellency Governor Darling.

That, in addition to the usual duties of a Police Magistrate, Your Memorialist has the very onerous and responsible duty of taking the Chair, when the Magistrates assemble as a Court of General Sessions for the Trial of Informations under Penal Statutes and Ordinances, when a summary Jurisdiction has to be exercised affecting every class of the Population.

That, from the peculiar Character of the Population, the Situation of Superintendent of Police in this Colony is obviously rendered more laborious than similar situations in Great Britain; and, in point of fact, it is second to none in this Colony as respects the arduous nature of the duties, the high responsibility, and its importance to the well being of the Colony.

That, without intending to draw any comparison which might appear invidious, Your Memorialist cannot in justice to himself refrain from pointing out that, since his first arrival in New South Wales, the Salaries of nearly all the Civil Officers have been greatly and (as Your Memorialist presumes to think) necessarily augmented, and that, during the time that Lieutenant Colonel Morisset held the situation of Superintendent of Police, he drew, in addition to his Salary and a Residence, Half Pay and allowances amounting to £350 per annum.

These augmentations have taken place whilst no addition whatever has been made to the Salary of the Situation held by Your Memorialist, altho', from its relative importance from its increased and increasing labor as well as from other Circumstances which being more personal to your Memorialist he abstains from particularizing, such an addition he ventures to hope could not have been considered but as just reasonable and necessary.

1829.
21 Oct.

Memorial of
F. Rossi
soliciting
increase of
salary.

That, as every reason, on which Your Memorialist first grounded his request for an augmentation of Salary, has increased in strength with the time which has since elapsed, and as the only ground on which Earl Bathurst declined to sanction that augmentation (namely the short period of Your Memorialist's Service as Superintendent of Police) has by the same lapse of time been entirely removed, Your Memorialist relying on your justice and liberality, cannot but indulge a hope that You will be pleased, Sir, to grant him such addition to his Salary as the increased labor and responsibility of the Situation and Your Memorialist's Services of 34 Years in Military and Civil capacities may be thought to merit and to direct that such augmentation should take effect from the 1st February of the present Year, being the date when Your Memorialist resumed the duties of the Police Department.

And Memorialist will ever pray. F. Rossi, J.P.,
Superintendent of Police, New South Wales.
Sydney, 16th October, 1829.

[Sub-enclosures Nos. 1, 2 and 3.]

[Copies of these despatches and memorial will be found on page 904, volume XI, and on page 357, volume XII.]

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Harmony; acknowledged by
under secretary Hay, 11th April, 1830.)

Sir, Government House, 21st October, 1829.

Herewith I have the honor to transmit for the information of the Right Honble. The Secretary of State, the "Crown Book" for the year 1828.

Transmission of
"Crown book."

I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 159, per ship Mermaid.)

Sir, Downing Street, 1 Novr., 1829.

1 Nov.

I have received your despatch No. 16 of the 13th of February last, transmitting a letter from Lt. Coll. Snodgrass, Major of Brigade at Sydney, applying for a Grant of Land.

Despatch
acknowledged.

As it has always been the opinion of the Commander in Chief that Grants of Land ought not to be made to Officers while in Military Employment, the Instructions,* conveyed to Governor MacQuarie on the 24 of July, 1818, forbidding Grants to Public Officers, must continue as to those, who are or shall be in Military

Objections to
land grants to
military officers.

1829.
1 Nov.

Refusal of
land grant for
K. Snodgrass
whilst in
military
employment.

employment, so long as that employment may endure; although the restriction has been removed with respect to Persons whose employment is merely civil.

The case of Colonel Snodgrass, therefore, is one, to which the restriction still applies; and I have only to express my regret that, so long as he shall continue to act as Brigade Major, or in any other Military capacity, I cannot, consistently with the Regulations, permit any Grant of Land to be made to him.

Whenever Colonel Snodgrass shall retire from his present employment, I shall have no objection to his receiving a Grant upon the same terms, whatever they may be at that time, which would be allowed to an Officer of the Army, proceeding from England at the same date to settle in the Colony.

Terms for
military officers
as settlers.

The allowance of this indulgence to Colonel Snodgrass, and, of course, to other Military Officers similarly circumstanced and being already upon the spot, must not, however, be considered as a Precedent for any Military Officer, to whom a Grant has been already made. The favourable terms* held out to Military Officers, who settle in the Colony, are meant to induce the residence of Military Men; and, if that inducement leads Officers, on retiring from their Military Employment, to settle in New South Wales instead of finishing their days in England, it equally effects its object, whether they shall have proceeded from England to the Colony for the express purpose of settling, or whether, being at the Colony in some temporary employment, they shall sit down there to make their residence a permanent one. But a Settler, who has obtained a Grant of Land, whether he belong to the Civil or to the Military Class, must be taken to have made his residence a permanent one already; and in *his* case, therefore, the offer of land upon peculiarly favourable terms is not an inducement, for which he gives to the Government the valuable consideration of his personal residence, but a clear boon, for which he gives no consideration at all; and he sustains no hardship from the nonextension of the favorable conditions to him, because he has taken no step on the faith of those conditions. Any Military Officer, therefore, already in the Colony, who shall have received no Grant of Land, may receive one at his retirement from his Military Employ on the same terms as if he had come from England for that express purpose; but any Military Officer on the spot, to whom a Grant shall before have been made, and who must, therefore, be considered as permanently settled already, shall not be entitled to the advantages of the Military conditions in any subsequent Grant he may obtain.

Concessions
granted only to
new settlers.

I have, &c.,
G. MURRAY.

* Note 63.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

1829.
2 Nov.

My dear Sir,

Downing Street, 2 Novr., 1829.

This letter will be presented to you by Mr. Westmacott, who is about to proceed as a Settler to New South Wales, and whom I beg to recommend for any facilities or other good offices, which it may be in your power, consistently with established Regulations, to render him.

Recommendation of Westmacott.

I remain, &c.,

H. TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 160, per ship Mermaid.)

Sir,

Downing Street, 3d Novr., 1829.

3 Nov.

I have the honor to acknowledge the receipt of your despatch No. 30 of the 19th of March last, on the subject of an application which has been addressed to you by Mr. Macquoid the Sheriff, and Mr. Thomson the Clerk of the Council at New South Wales, to be accommodated with allotments of Ground in the Town or immediate neighbourhood of Sydney, on which they could erect Houses for their respective residences, and with Grants of land for cultivation like those which other Civil Servants of the Government have received; and I have to acquaint you in answer that I see no objection to give Messrs. Macquoid and Thomson the indulgence which they have solicited.

Land to be granted to T. Macquoid and E. D. Thomson.

I have, &c.,

G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Roslyn Castle.)

Sir,

Downing Street, 4 Novr., 1829.

4 Nov.

By the direction of Secretary Sir George Murray, I do myself the honor of transmitting the copy of a letter which has been addressed to him by Mr. Manning, in which he applies for "the usual Grant of 2,560 acres of land, at his option, to be taken now or when any new District shall be opened to the Public," and that he may be placed on the same footing "with almost every other Servant of His Majesty who has preceded him, as to the grant of a portion of Town Land on the Woolamaloo Hills, or in any other spot convenient to the Government"; and I beg to acquaint you that Sir George Murray sees no objection against giving this Indulgence to Mr. Manning, should you have had cause to be satisfied with his conduct, and should no part of his request be unreasonable.

Application for land by J. E. Manning.

Approval of application.

I have, &c.,

H. TWISS.

1829.
4 Nov.

[Enclosure.]

MR. J. E. MANNING TO SIR GEORGE MURRAY.

Sir,

Sydney, N. S. Wales, 6 June, 1829.

Application by
J. E. Manning
for land grant
and town
allotment.

I beg leave respectfully to state that, at the time I solicited the appointment of Registrar of the Supreme Court of this Colony, I was particular in my enquiries as to the Grant of land accorded to public Officers; and that I was distinctly informed, by the Gentleman who represented Mr. Short during his absence on leave, that for some years past the Government at home had discontinued the practice of making any orders or giving any instructions on the subject; but that General Darling had authority to give such grants, and was in fact in the habit of doing so, to all the respectable servants of His Majesty in the Colony. As I had no reason to doubt the correctness of this assurance, which was in strict accordance with general belief and my knowledge of particular cases, I emigrated hither to perform the duties of an office, which I did not know, until I had been appointed, had been reduced to one half of its former emoluments by the substitution of Salary for fees. I thus took a step which, with a family of eight children, could hardly be retraced, at the expence of a voyage and necessary outfit of nearly £2,000 (2½ years' salary), and reached this Colony in 6 months, where almost every article of family subsistence but butcher's meat is twice as dear as in England, the expence of house rent alone being 5 times as great as in my native City of Exeter.

My disappointment has been in no small degree heightened by the receipt of the enclosed letter from our Colonial Secretary in answer to my application for my grant of land. I conceive, I owe it to my children and to my connexions in England, to observe that the prospect of establishing myself in after life and my family in the mean time upon this grant (2,560 acres) was a very leading motive for my emigration hither. I fully contemplated the investment (under the superintendance of one of my sons) of that surplus income, which a Gentleman, taking office in this most distant Colony, might reasonably expect to possess. It is with extreme pain that I now discover I have neither surplus income nor land to invest it on; and that I cannot support my rank in Society, nor look to the future establishment of my family, without importing private funds, nor while I am denied those priviledges which others enjoy.

Under these circumstances, I take the liberty humbly and respectfully to intreat that instructions may be forwarded to H.E. the Governor General to make me the usual grant of 2,560 acres of land at my option to be taken now or when any new district shall be opened to the public. And I take the liberty further also respectfully to entreat that I may be placed on the same footing with almost every other Servant of His Majesty, who has preceded me, as to the grant of a portion of town land on the Woolamaloo Hills or in any other spot convenient to the Government, in order that I may be relieved from the intolerable burden of paying 20 per Cent. for money in the shape of house-rent. Upon this point also, I have been referred (*vivâ-voce*) to His Majesty's Minister at home by the Colonial Government.

I have, &c.

JOHN EDYE MANNING.

[Sub-enclosure.]

COLONIAL SECRETARY MACLEAY TO MR. J. E. MANNING.

1829.
4 Nov.

Sir, Colonial Secretary's Office, 30th May, 1829.

With reference to your Letter of this day's date, requesting to know the form in which you should apply for Land, I am directed by the Governor to acquaint you that, from instructions recently received from the Secretary of State, it is not in His Excellency's power to Grant Land to the Civil Servants of the Government.

Inability to
grant land to
J. E. Manning.

Should you however be desirous of referring your case Home for consideration, His Excellency will feel much pleasure in forwarding your application.

I have, &c.,

ALEX. MCLEAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

Dear Sir,

Downing Street, 5 Novr., 1829.

5 Nov.

Captain Clunie of the 17th Regt., the Bearer of this letter, goes out to New South Wales in charge of some Convicts. He has been recommended by Mr. W. Dundas to Mr. Hay, who, being out of Town, has requested me to bring Captain Clunie's name under your favourable notice.

Letter of
introduction
for Clunie.

I remain, &c.,

H. TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 161, per ship Mermaid.)

Sir,

Downing Street, 6 Novr., 1829.

6 Nov.

You will have the goodness, as early as it may be convenient to you after the receipt of this despatch, to acquaint Mr. E. S. Hall, the Editor, Printer, Publisher and Proprietor of the Newspaper called the "Sydney Monitor," that I have received from him three letters,† dated respectively the 17th and 29th Novr., 1828, and the 2 Jany., 1829, relating to the refusal of certain land, which he had solicited from the Local Government; another letter, dated the 16th of March, 1829, relating to the withdrawal of a Convict Servant; and three other letters, dated respectively the 2d of May, and 6th and 8th of June, 1829, relating to the general conduct of the Colonial Government in New South Wales.

Letters received
from E. S. Hall.

In answer to the first set of letters relating to the refusal of the land, you will acquaint Mr. Hall that I see no reason to question the propriety of your decision in refusing the gifts of the Colonial Government to a Person convicted before the Supreme Court of a libel, which was expressly declared by the Judgment of that Court to have been "*indecent*," "*scandalous*" and "*emanating from personal motives*"; more especially, since I observe that his paper has continued, not less after his conviction

Approval of
refusal of land
for E. S. Hall.

* Note 7.

† Note 64.

1829.
6 Nov.

Policy of land
grants.

than before it, to be the channel of the most unmeasured and unjustifiable attacks on the characters, both private and public, of numerous and respectable persons. Even had it been otherwise, I should have been very unwilling to interfere in a matter of this kind. If the Governor of any of His Majesty's Colonies should invade any right of any Individual, however humble, it would be the duty of the Secretary of State, upon being satisfied of the facts, to do the earliest possible justice to the applicant. But, with respect to territorial gifts, except in the instance of the one grant, which each Settler emigrates to take on the faith of the published Regulations, and to which, so far as he has an equitable claim, I can admit no demand of right whatever. The distribution of these lands is a matter of pure indulgence; and the question, how far, in any particular case, the applicant may have forfeited all reasonable claim to such indulgence is incapable of being tried by broad principles like those of legal and constitutional right, and can be measured only by such considerations as those of general character and conduct. On these points, the Governor must have much better means of forming an opinion of each Individual, than can be possessed by the Secretary of State at this distance from Australia; and therefore, unless in some extreme case, such as I will not suppose likely to occur, the discretion of the Governor must determine the concession or refusal of all lands in his Colony, except those original grants which constitute the emigrant's consideration for his voyage to New South Wales.

Conduct of
E. S. Hall
responsible for
loss of servant.

With regard to Mr. Hall's letter of the 16th of March, 1829, you will acquaint him that I find no occasion to blame any thing, except his own very improper conduct in wilfully directing his convict Servant to disobey the directions of the Governor, for that Servant's attendance at the office of the Superintendent of Convicts.

Letters ignored
re colonial
government.

As to Mr. Hall's remaining letters, relating to the general conduct of the Colonial Government, I am of opinion that, as they are merely strictures of an Individual upon public questions with which he has no concern of a personal or private kind, they require no answer from His Majesty's Government, who will not fail to adopt at all times such measures as they shall consider best adapted for the general good Government of New South Wales, as well as of all other Colonies under the Dominion of His Majesty.

Despatch to be
communicated
to E. S. Hall.

You are at liberty to communicate to Mr. Hall a copy of this despatch.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship *Mermaid*; acknowledged by Governor Darling, 21st July, 1830.)1829.
7 Nov.

Sir, Downing Street, 7 Novr., 1829.

Mr. E. S. Hall, the Editor of the *Sydney Monitor*, has addressed a letter to Sir George Murray, dated the 6th of June last, in which he asserts that a Bushranger at Norfolk Island, named Patrick Clynch, after he had been captured by the constables and was in safe custody, in lieu of being sent to Sydney for trial was ordered to be shot to death. He further states "that the Officers of the Island concealed the circumstance ever since it occurred, viz., Octr., 1827," and adds many other particulars, connected with this case, with the endeavour to impeach the administration of Justice in New South Wales.

Report required
re alleged
shooting of
convict at
Norfolk Island.

Sir George Murray is not disposed to credit Mr. Hall's statement; but he deems it his duty to call for information on all the points of accusation contained in his letter against the Executive, against the Magistrates before whom the case was investigated, and against the Officer by whose orders the Prisoner was shot.

I have not forwarded to you a copy of Mr. Hall's letter, as I find it was published* by him in the *Sydney Monitor* of the 6th of June, 1829, No. 204.

I have, &c.,

H. TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 162, per ship *Mermaid*.)

Sir, Downing Street, 8 Novr., 1829.

I have received your despatch No. 53 of the 5th of May last, enclosing a letter from Lt. Colonel Lindesay, in which he solicits an allowance on account of the duties, which he has to perform as a Member of the Legislative and Executive Councils of New South Wales.

8 Nov.

Request from
P. Lindesay for
allowance for
civil duties.

Previously to Colonel Lindesay's departure for the Colony in 1827, he preferred a similar application, and he was then distinctly told that, "as a Member of Council alone, it would not be possible to grant him any compensation." The object, which the Secretary of State had in view in abolishing the Office of Lt. Governor of New South Wales, was to relieve the Revenues of the Colony from an expence, which it was deemed unnecessary to impose upon them. By granting to Colonel Lindesay an allowance as a Member of the Councils, this expence would be again thrown upon the Colony, and it would also give rise to applications from the other Members of the Councils for

* Note 65.

1829.
6 Nov.
Refusal of
request.

remuneration for the performance of the like duties in addition to those of their respective Offices. You will therefore acquaint Colonel Lindesay that I regret that it is out of my power to grant to him any separate remuneration for his services in that capacity.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 163, per ship Mermaid; acknowledged by Governor Darling, 25th May, 1830.)

9 Nov.
Report required
re land grant
to S. Lord.

Sir,

Downing Street, 9 Novr., 1829.

Observing by the Return, which accompanied your despatch No. 27 of the 1st of March last, of the Grants of land which have been made in New South Wales during the year 1828, that a grant to the extent of 17,813 acres has been made to Mr. Simeon Lord, whilst, in the case of no other Individual has a larger Grant than 2,560 acres been made during the same period, I request that you will inform me of the circumstances under which an indulgence in land, so much beyond that given to any other Person, has been afforded to Mr. Lord.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 164, per ship Mermaid.)

10 Nov.
Approval of
expenditure
on buildings.

Sir,

Downing Street, 10 Novr., 1829.

With reference to your despatch No. 47 of the 27th of March, 1828, reporting for approval the expences which had been incurred on account of the alteration, repair, and erection of various Government Buildings in New South Wales, and to my despatch of the 26th of October, 1828, No. 37, I have now to transmit to you the copy of a letter from the Secretary to the Treasury, by which you will perceive that the Lords Commissioners have directed the Board of Colonial Audit to allow these expences in your accounts. I have further to desire that you will, as proposed by their Lordships, cause the value, when exactly ascertained, of the labour of the Convicts employed in, and of the Stores supplied by the Commissariat for this Service, to be paid from the Colonial Funds into the Military Chest; and that, in estimating the value of Convict labour, you will observe the rule laid down by Mr. Stewart's letter in that respect.

I am, &c.,
G. MURRAY.

Payment to
military chest.

[Enclosure.]

1829.
10 Nov.

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir,

Treasury Chambers, 6 May, 1829.

I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Secretary Sir George Murray, that, on receipt of your letter of the 17th of November last, transmitting the Copy of a Dispatch from the Governor of New South Wales, accompanied by Copies of a letter and three Reports from the Civil Engineer relative to certain expenses incurred by him in the erection, repairs, and alterations of the Buildings therein mentioned, My Lords directed the Commissioners of Colonial Audit to allow the Expenses there reported in the Accounts of General Darling.

Allowance of
expenditure
on buildings.

My Lords however observe that the total amount of the Estimated Charge for these repairs and alterations is £1,264 17s. 9½d., the whole of which comes unquestionably under the Head of Disbursement connected with the Civil Government to be defrayed from the Colonial Funds; but, on referring to the details of the Estimates, it appears that of the above amount £225 3s. 4d. only would be disbursed from the Colonial Funds, that sum being the value of certain Articles purchased on the Spot, and that the remainder was the estimated value of the Convict Labour and of Stores to be purchased by the Commissariat, the Labour amounting to £342 18s. 9d., and the Stores to £696 5s. 8½d.

Details of
estimates.

My Lords are therefore of opinion that, consistently with the arrangement which has been made for charging against the Colonial Funds all Expenses connected with the Civil Establishment, the Governor should be instructed to cause the value of the Convict Labour and of the Stores, when exactly ascertained, to be paid over from the Colonial Government to the Military Chest.

Payment to
military chest.

With regard to the mode of ascertaining the value of Convict Labour, and consequently the Sum to be paid over to the Military Chest, my Lords are disposed to differ from General Darling, who proposes the value in some cases to be ascertained by Piece Work and in others at the rate of 1s. 3d. per day for each Convict, because My Lords conceive that payment by day labour is a more fair and simple mode, and because the rate of 1s. 3d. per day for each Convict, which rate was derived from a calculation made by the Civil Engineer and the Colonial Auditors, should previously to final Settlement be checked by the Depy. Commissary General and Commissary of Accounts; and I am to request that you will move Secretary Sir George Murray, in case he concurs with my Lords in these views, to issue instructions to the Governor accordingly.

Valuation of
convict labour.

I am, Sir, &c.,

J. STEWART.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch per ship Mermaid.)

Sir,

Downing Street, 11 November, 1829.

11 Nov.

With reference to Mr. Hay's letter to you of the 19th February, 1826, transmitting copy of a letter from the Secretary to the Treasury, with various enclosures relative to the Rations, etc., issued to Civil Servants, Convicts, and others in New South

Instructions
re rations.

1829.
11 Nov.

Instructions
re rations.

Wales; I am directed by Secretary Sir George Murray to forward to you, for your information and guidance, the copy of a further letter which has been received from the Treasury, together with copies of two Reports of the Comptrollers of Army Accounts, and of a Minute of the Lords Commissioners upon that subject; and I am to desire that you will take the proper measures for carrying the recommendations of their Lordships' Minute into effect. You will then report to the Secretary of State in detail the measures, which you shall have taken for that purpose.

As it is intended, in the cases of Civil Servants whose Salaries exceed £70, that compensations shall not be allowed till confirmed at home, you will report separately on those cases, as also on the cases of Salaries exceeding £100, respecting which it will be necessary for His Majesty's Government to consider whether compensations ought, under any circumstances, to be allowed.

I am, &c.,

G. MURRAY.

[Enclosure.]

———— TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, August, 1826.

I have it in command from the Lords Commrs. of H.M. Treasury to transmit herewith copies of two reports from the Comptrollers of Army Accounts, dated respectively 30 July, 1825, and 22 May, 1826, on the subject of the Rations issued to the Colony of New South Wales, together with a copy of their Lordships' Minute thereon of the 15th August, 1826; and, with reference to your letter of the 29th August, 1825, I am to request that you will move Earl Bathurst to give instructions to the Governor of New South Wales to cause the Board to be re-assembled for revising their Regulations already adopted, and for making such of the proposed alterations therein as may, upon a due consideration of local circumstances, appear to be expedient; and I am to request at the same time that a copy of the amended Regulations may be transmitted to this Board for their Lordships' consideration.

I am, &c.,

[Unsignd.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 165, per ship Mermaid.)

12 Nov.

Sir,

Downing Street, 12 Novr., 1829.

I have to acknowledge the receipt of your despatch No. 11 of the 2d of February last, reporting certain appointments, which you have made, founded on the arrangements adverted to in Mr. Huskisson's despatch of the 31 of March, 1828, No. 19; and I have to convey to you my sanction of those appointments.

I am, &c.,

G. MURRAY.

Appointments
approved.

Compensation
to be submitted
for approval.

Instructions
re rations.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 166, per ship Mermaid.)

1829.
13 Nov.

Sir, Downing Street, 13 Novr., 1829.

I have the honor to acknowledge the receipt of your despatch of the 19th of May last No. 60, forwarding an application from Mr. Jones, a Settler in the Colony under your Government, for an extension to the Grant of Land, which he already possesses.

Approval of
extended land
grant for
R. Jones.

Under the circumstances which you have represented in support of Mr. Jones's application, I see no objection to your augmenting his grant in proportion to the benefits which he has rendered to the Colony, and to the amount of his present disposable capital; and you will apprise me of the extent to which, in consequence of this authority, you may deem it expedient to enlarge his Grant.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 167, per ship Mermaid.)

Sir, Downing Street, 14 Novr., 1829.

14 Nov.

I have received your despatch No. 31 of the 19th of March last, reporting that you have granted a pension of £40 per annum to Daniel Cubitt, late Master of the Row Guard service of New South Wales.

Proposed
pension for
D. Cubitt.

You will have learnt, from my despatch No. 92 of the 11 of April last, the objections entertained by His Majesty's Government to granting pensions to Civil Servants in the Colonies on the sole ground of length of Services.

Unless, therefore, Mr. Cubitt's circumstances are so reduced as to render the issue to him of an alimentary allowance absolutely necessary, I regret that it will not be in my power to authorize the continuance of the Pension, which you have assigned to him.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 168, per ship Mermaid.)

Sir, Downing Street, 15 Novr., 1829.

15 Nov.

I have the honor to acknowledge the receipt of your despatch No. 23 of the 22d February last, on the subject of the Salaries of the Clerks employed in the Office of the Supreme Court.

Salaries for
clerks in
supreme court.

Although it appears that the augmentation, which was made in the Salaries of these persons, took place in consequence of the

1829.
15 Nov.
Salaries for
clerks in
supreme court.

additional duties, which devolved upon them during the temporary retirement of Mr. Carter from his situation of Master of the Supreme Court for the purpose of exercising provisionally the functions of Sheriff, yet it would seem, from the representations of the Chief Justice, that the increased rates of Salary, which were given to the first and Second Clerks of the Supreme Court on that occasion, do not exceed a moderate remuneration for the performance of the ordinary duties of their situations.

Under these circumstances, notwithstanding Mr. Carter's return to his original office, I am disposed to allow the first and Second Clerks to retain their salaries at the advanced rates at which they have lately been issued to them, vizt.:

To the first Clerk, a salary at the rate of £450 per annum.

To the second Clerk, a salary at the rate of £300 per annum.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 169. per ship Mermaid.)

16 Nov.
Application by
W. Ogilvie
re land.

Sir,

Downing Street, 16 Novr., 1829.

I have the honor to acknowledge the receipt of your despatch No. 139 of the 15th of Decr. last, forwarding a Memorial from Lt. Ogilvie, a Lieutenant on the retired List of the Royal Navy, who is established as a Settler in the Colony, praying that, in consideration of his services as an Officer in the Navy, of the Capital he has expended in the improvement of his land, and of the manner in which he has exerted himself generally since his arrival in the Colony, he may be permitted to retain as a free grant, without the payment of quit rent, 5,000 acres of Land, which he was authorised to purchase under the administration of your Predecessor, but which Land has not been paid for; and you take the opportunity, which this application, on the part of Lt. Ogilvie affords, of requesting Instructions with respect to those Officers, both of the Naval and Military Services, who had settled in the Colony previous to the recently established Regulations for granting Land to Officers, who retire from the service for the purpose of settling in the Colony.

Instructions
requested.

Having, in my despatch of the 1st Instant, very fully explained to you, with reference to Colonel Snodgrass's application for a Grant of Land, the principle upon which His Majesty's Government have been guided in the encouragement, which has been afforded to Officers of both services to emigrate to the Australian Colonies, I need only refer you to that despatch for an answer to the two first of the four general questions on which you have now solicited Instructions.

In accordance with the Rule which I have there laid down, it will be out of my power to comply with the application made by Lieutt. Ogilvie to hold his lands upon the same favourable terms with those Officers, who have gone out upon the faith of receiving such advantages.

1829.
16 Nov.
Refusal of
request from
W. Ogilvie.

With respect to the third of your general questions, I am of opinion that Naval and Military Grantees, who retired subsequently to, but in ignorance of the regulations, holding out advantages to induce the Settlement of Officers belonging to the Army and Navy, are no more entitled to those advantages than if they had settled before the Regulation was made. And, for this purpose, every Officer must be taken to have been ignorant of the Regulation, and therefore without title to profit by it, who did not claim its advantages at the time of his applying for his original allotment of land. In the concluding part of your despatch, you suggest that some greater advantages should be held out to the Officers of the higher ranks than those enjoyed by the Junior Officers.

Concessions to
be claimed
at time of
application.

The principle, upon which lands have been invariably granted in the Australian Colonies, is that of apportioning the Grants to the amount of available capital, and I foresee much inconvenience, without any commensurate advantages, from deviating from that rule in the case of Naval and Military Grantees. Nor do I think it necessary to hold out the additional inducements to the Emigration of Officers which might be the effect of adopting your measure, the number of Persons, who have proceeded to the Colony under the terms* which the Regulations at present offer, having fully answered the proposed object.

Inconvenience
through
deviation from
rules *re* grants.

The sum, which the Officers of Superior Rank may realize from the sale of their commissions, or the income which they may derive from their half pay, will always give them a claim to a greater quantity of Land than Officers of lower Rank will enjoy, unless indeed, where a Junior Officer is possessed of pecuniary means, unconnected with what he may have derived from his Military Services; and I see no reason why, in his case as in that of the ordinary Settler, his allotment should not be proportioned to his capital, provided always, and this provision you will be carefull to enforce, that the advantages conferred on the Officer by the regulations shall extend only to that land, which he receives on account of his commission or of his half pay, and not to that which is allotted to him in respect of his private capital.

Land grants to
be proportioned
to capital.

With regard to Officers stationed on service at New South Wales, who may be desirous of retiring to become Settlers, I have to desire that no allotment be made to any officer so situate,

Officers retiring
in colony.

1829,
16 Nov.

until permission to retire shall have been received by him from the Horse Guards, or from the Commander in Chief of His Majesty's Forces in India.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 115, per ship Doncaster; acknowledged by Sir George Murray, 23rd July, 1830.)

19 Nov.
Death of
J. Sampson.

Sir, Government House, 19th November, 1829.

It is with regret I have to report to you the death of Mr. Sampson, the Solicitor General, which took place on the 27th of last month.

Cause of death.

Mr. Sampson had been very unwell for some time; but, being zealous, he continued to discharge his duties to the best of his ability, until the period of his death, which appears to have been occasioned by the diseased state of his Lungs.

Necessity for
competent
solicitor-
general.

I have not yet been enabled to make any temporary Arrangement for the performance of the duties of Solicitor General; and I beg, Sir, to impress on you, how important it is, in the present state of the Law Department of this Government, that Mr. Sampson's Successor, who ought to be a sound, practical Lawyer, should at least possess a due share of information and experience with a disposition to apply himself to the duties of the Department.

The want of an Individual, in whose judgment and experience the Government can place some confidence, is a source of much embarrassment and anxiety; and I am therefore induced, Sir, respectfully to urge that our present difficulties may be alleviated, as far as circumstances permit, by the appointment of a competent Person to the Office of Solicitor General.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 116, per ship Doncaster.)

20 Nov.
Abandonment
of settlement at
Raffles bay.

Sir, Government House, 20th November, 1829.

I have the honor to acquaint you that the Settlement established at Raffles Bay has, agreeably to the Instructions* communicated to me, been abandoned; the Troops and Prisoners of the Crown, who alone composed the Settlement (no private Individuals having established themselves at that place) having been withdrawn in the month of August last.

Wreck of
vessels.

I am sorry to have occasion, in reporting this circumstance, to inform you of the loss of the Government Schooner "Mermaid"

in Torres Straits, at which time three other Vessels were wrecked the Ships "Governor Ready" and "Swiftsure" and the Brig "Comet."

1829.
20 Nov.

The Mermaid was despatched in May last with Supplies for King George's Sound, and, being obliged at that Season of the Year to proceed by the Northern Passage, was directed to touch at Raffles Bay to inform the Commandant of the intended evacuation of the Settlement.

Voyage of
schooner
Mermaid ;

The Brig Amity, which brought the account of the Wreck of the Mermaid, called at Swan Port with some Stores from Raffles Bay, which I conceived might be useful to the new Settlement. It is not, however, in my power to give any certain or satisfactory information with respect to its state or progress, as I have not yet received any communication from the Lieutenant Governor.

and of brig
Amity.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 117, per ship Doncaster; acknowledged by Sir George Murray, 24th April, 1830.)

Sir, Government House, 21st November, 1829.

21 Nov.

I have the honor to inform you that I have just returned from a tour of Inspection of the Bathurst District; and I have great satisfaction in being enabled to report that the present prospects are most favorable. It is, indeed, a matter of no little consolation to think, after the distress to which the Settlers have been reduced by the Drought, which has so long prevailed, that they are now likely to enjoy the blessings of a plentiful Harvest.

Inspection of
Bathurst
district.

The appearance until lately was most unpromising, the Crops from want of rain having generally afforded but little prospect of returning the quantity of Seed put in the Ground. A providential and fortunate change has now taken place, rain having recently fallen in abundance, so that there is every reason to hope that the wants of the Colony will, for the present, be amply supplied, though some considerable time must elapse before the People can recover the disastrous effects of the late Seasons. Several I fear have been totally ruined, and none but those long established or possessing substantial means have been at all able to resist the pressure of the times. The consequences have been that the property of many has been seized and sold or mortgaged to the extent of its value.

End of drought.

Its disastrous
effects.

The District of Bathurst may be said to labour under peculiar disadvantages. It lies at a distance of 150 miles from Sydney, and is separated from this part of the Country by the "Blue Mountains," which, from their height, ruggedness and extent,

Disadvantages
of Bathurst
district.

1829.
21 Nov.

Expense of
carriage to
Bathurst.

Necessity for
improved roads.

Import of
wheat.

Content of
settlers at
Bathurst.

Address from
settlers at
Bathurst.

render the Transport of the Produce of the Farms extremely expensive and laborious. Until very lately, the Carriage of the commonest necessaries of Life was 20s. per Cwt. By the improvement which has been effected in the roads, it is now reduced to about half that Sum, and I am not without hopes, when the new line from Mount York to Bathurst, which has been lately laid down, has been completed (a distance of about 50 miles) the Expence of Carriage will be still further reduced. Bathurst Plains are very rich and productive; and the surrounding Country is equally luxuriant and very extensive. It is therefore an object of no little importance to render the Communication with the Capital as easy as possible. It will be the means of enhancing, in a material degree, the value of that part of the Colony, the Grain of which, however abundant, cannot even at present be transported to Sydney but at an Expence, which has hitherto prevented its being attempted. The cultivation of Wheat in that part of the Country has consequently been limited to the demands of the resident Settlers, and the Sydney Market has to a considerable extent been supplied lately from Van Diemen's Land, Calcutta, the Cape, etc. It will be sufficient to state, in proof of this, that the quantity of Wheat imported since the beginning of February last exceeds 100,000 Bushels.

It would be unjust in me to close this Report, without bearing testimony to the good feeling of the Settlers of Bathurst. It was impossible for me not to feel highly gratified by my reception in their District, and their attention during the time I remained there, more especially when I considered the long Series of privations and misfortunes which they had had to contend with. I take the liberty of enclosing the copy of an Address, which was presented to me on the occasion.

I have, &c.,

RA. DARLING.

[Enclosure.]

ADDRESS FROM LANDED PROPRIETORS.

To His Excellency Lieutenant General Ralph Darling, Captain General and Governor in Chief, etc., etc., etc.

May it please Your Excellency.

We, the undersigned Landed Proprietors of the District of Bathurst, beg leave respectfully to approach Your Excellency with the expression of our unfeigned gratification in hailing the safe arrival of your Excellency at this Settlement; and of our grateful sense of that solicitude for its prosperity, which has prompted Your Excellency, at much personal inconvenience, to confer upon the Plains of Bathurst the distinguished honor of your presence.

We rejoice that, by the fall of recent and providential rains, Your Excellency is enabled to view our pastures clothed with verdure, and our cultivated lands teeming with a reasonable prospect of an abundant Harvest.

We avail ourselves of this acceptable opportunity to convey to Your Excellency our especial acknowledgments for the advantages which this District is deriving from the rapidly improving state of our Mountain Road, and for the persevering exertions which have been directed, under Your Excellency's auspices, towards the completion of an undertaking upon which our comfort and welfare so essentially depend. We look forward with satisfaction and pride to the approaching period, when our District will not only possess a comparatively unexceptionable Road to Sydney, but also a splendid and permanent memorial of that zealous anxiety, which Your Excellency has always manifested to promote the interests of our adopted Country.

We desire further to offer to your Excellency our sincere thanks for the institution of local Courts of Quarter Sessions and Requests, accompanied by our humble though confident hope that these valuable arrangements may be speedily extended to this populous and important District.

We finally entreat permission to assure your Excellency that we are not insensible of the security, which we derive, both in person and property, from the effective and combined exertions of our Civil and Military Police Establishments, to add our most cordial wishes for your Excellency's health and happiness; and to subscribe ourselves, with every sentiment of respect and esteem.

Your Excellency's very obliged and obedient humble Servants,

JAPHET WHITE,	WILLIAM LEE,
JOHN W. GOSLING,	JOHN DAY,
THOMAS ICELY,	ROBERT BONNER,
JOHN W. COATES,	GEORGE SUTOR,
JOHN STREET,	THOMAS HORE,
ALEX. K. MCKENZIE,	CHARLES T. WARE,
THOMAS EVERNDEN,	W. JEMMETT BROWNE,
ROBERT LAMBERT,	J. B. BETTINGTON,
JOHN JONES,	THOS. FITZ. HAWKINS,
JOHN TINDALL,	WILLIAM JOHNSTON,
ARCH. CAMPBELL,	GEORGE RANKIN,
GEORGE BROWN,	JOHN BROWN,
JOHN P. MCKENZIE,	HENRY PERRIER,
ARTHUR RANKIN,	DAVID PERRIER,
JOHN LISCOMBE,	ROBERT SMITH,
JOHN WEST,	W. LAWSON, JUNR.,
JOHN WEST, JUNR.,	NELSON S. LAWSON,
WATSON A. STEEL,	W. H. SUTOR,
THOS. HAWKINS, JUNR.,	T. C. SUTOR.

Court House, Bathurst, 10th November, 1829.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 118, per ship Doncaster.)

Sir, Government House, 21st November, 1829.

I have the honor to acquaint you that Captain Sturt has proceeded on another Expedition,* directing his Course to the River Mirambidgee, which lays to the Southward, in order to

1829,
21 Nov.
Address from
settlers at
Bathurst.

Exploration
by C. Sturt.

* Note 67.

1829,
21 Nov.

Necessity for
tracing
Murrumbidgee
river.

ascertain whether that River joins the Darling, which he discovered on his late Expedition, as he is induced to believe, or if it empties itself into the Sea on the Southern Coast of the Colony.

As the Mirambidgee is a River of some magnitude, it will be satisfactory to be assured of its course and termination, as well as of the nature of the Country through which it runs. Should it unite with the Darling and proceed to any part of the Southern Coast within a reasonable distance, it might, in the event of the Land being of a good quality, prove an inducement to the Settlement of that part of the Country, as, from the junction of two such considerable Rivers, there can be little doubt that the issue of these Rivers would be navigable, a circumstance, which alone would be important to Settlers and might be the means of opening a direct and perhaps an easy communication between Sydney and that part of the Colony.

Possible
course of
Darling river.

I received information some time since that there is a large Lagoon* in the neighbourhood of Gulf St. Vincent, and, from the direction of the Darling, when Captain Sturt was obliged to discontinue tracing that River,* it is not improbable that it falls into the Lagoon or some part of the Gulf, with which I understand the Lagoon communicates. The result of the Expedition may be important to the Colony, and, as the Expence of the Equipment is trifling, I have not hesitated to avail myself of Captain Sturt's Services, which have been cheerfully tendered on this occasion.

Instructions
given to
C. Sturt.

It may be proper to add that the first object of the present Expedition is to trace the Mirambidgee. Should it not unite with the Darling, but terminate in a Marsh as the Lachlan, which is not improbable, or as the Macquarie was supposed to do until Captain Sturt's former Expedition proved the contrary, I have in that case directed him to endeavour to regain the Darling and pursue it as far as circumstances may render desirable.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 119, per ship *Vibilia*.)

23 Nov.
Despatch
acknowledged.

Sir,

Government House, 23rd November, 1829.

I have been honoured with your Despatch of the 1st May last, acknowledging the receipt of mine of the 11th May, 1828, respecting the Convict Alexander Lockaye. I regret, Sir, that the communications, which I have had the honor to address to your Department on the subject of this Individual, should not have appeared to you satisfactory as to the identity of Lockaye and Edwards, which I certainly conceived had been fully and

* Note 68.

clearly established, not only by a chain of circumstantial evidence, but by the affidavits of several respectable Persons, taken by the Chairman of the Quarter Sessions and two other Magistrates, who were assembled to investigate the matter, and whose Report was transmitted with my Despatch of the 29th April, 1826.

With reference to the observation in your Despatch, to which I have now the honor to replying, "that the parties preferring such Allegations should be allowed every opportunity of substantiating them before the regular Tribunals of the Colony" and "further directing that Lockaye be apprised that he may apply to the Supreme Court for a Writ of Habeas Corpus to try whether he is properly detained under the Sentence against Lockaye," I beg to state, I am not aware that Lockaye was ever prevented by the Government from bringing his Case into the Supreme Court, and that, being a Lawyer, he knew perfectly well he was at liberty to apply to that Court, and I understand did actually make one or two Applications for a Writ of Habeas Corpus, which were refused by the Court. I am quite satisfied, I should not have ventured to interfere with any proceedings of the Supreme Court in this or any other Case. The object of the Government was merely to ascertain whether Edwards was or was not the Individual Lockaye, who had absconded from this Colony when under Sentence; and it does not appear that the means resorted to for this purpose were either irregular or illegal. A similar course had been adopted in the case of this Man in the Year 1824, as appears by the enclosed Copy of a Letter from the Principal Superintendent of Police, at which time there was no more doubt of the fact than there is at this moment.

You are pleased to observe in your Despatch that some of Mrs. Lockaye's "Allegations are of so very definite a Character, that it is scarcely convenient to oppose to them merely a general denial." With the most anxious desire to afford every possible information on the subject, I really am at a loss to discover in what manner I can reply to Assertions founded in falsehood except by a denial of their truth. I hoped my Despatch of the 11th May, 1828, would have shewn their inconsistency and have answered every necessary purpose. But I have now drawn up, in the best manner that the nature of the Allegations admits, Replies to the several Heads, which I have extracted from Lockaye's Letter written in his Wife's name, to which I beg to refer you. In order, Sir, to put you fully in possession of the case, it will be necessary to go circumstantially through it from the commencement, and you will then be able to form a more

1829.
23 Nov.

Evidence re
identity of
A. Lockaye.

Applications by
A. Lockaye to
supreme court.

Reply to
allegations by
wife of
A. Lockaye.

1829.
23 Nov.

satisfactory opinion as to the identity of Lockaye and Edwards, and the degree of credit which is due to the Statement, which Lockaye has transmitted in his Wife's name. She is a very ignorant Woman, and there is little doubt has been the dupe of her husband, who has concealed from her the Events of his Life previous to their marriage.

Recapitulation
of case of
A. Lockaye.

A few days after my Arrival here in December, 1825, and before I had time to act on Earl Bathurst's Despatch of the 20th of June of that Year, No. 42, Mr. Bannister, the then Attorney General, addressed a Letter to me, enclosing one which he had received from the Wife of Lockaye, respecting her Husband. I do myself the honor to enclose Copies of both these Documents for your information. You will perceive, Sir, that the Attorney General merely suggests that the Commandant at Port Macquarie and the Superintendent of Police in Sydney should be required to report on the Case. My Memorandum of Instructions to the Colonial Secretary on the Attorney General's Letter will shew that I had no desire to interfere further than was absolutely necessary. I merely echoed the suggestions of the Attorney General, and, as the necessity of bringing the Case into the Supreme Court does not appear to have occurred to him, it is not extraordinary it should not have occurred to me, nor was I aware it would have been proper for me to have interfered or to do more than ascertain by satisfactory means, whether Lockaye and Edwards was or was not the same Individual. Instead, however, of the Commandant at Port Macquarie and the Superintendent of Police at Sydney being called on, as suggested by the Attorney General, to report on the Case, Lockaye was brought up from Port Macquarie, in order that a more formal investigation might take place; and the Chairman of the Quarter Sessions, who is a Barrister, was appointed to conduct the Proceedings, with whom the Principal Superintendent of Police and the Principal Superintendent of Convicts, who are both Magistrates, were associated; and the Investigation took place accordingly at the Police Office in Sydney.

The Report of the Proceedings of the Magistrates accompanied by 17 Affidavits was transmitted with my Despatch of the 29th April, 1826, No. 12; to which, being unwilling to burthen this Communication unnecessarily, I shall beg to refer you.

It is stated, in the Report of the Magistrates, dated the 13th March, 1826, that, considering the matter of great importance to the Individual concerned (Lockaye), they were led to take a Mass of Evidence which may appear unnecessary; and further that the Evidence, which they have transmitted, "is such as cannot leave

a doubt on the mind of any unprejudiced Individual that the Prisoner, calling himself William Edwards, is Alexander Lockaye.”

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It is also stated by the Magistrates that Lockaye was sent to Newcastle (then a Penal Settlement) a few days after his Arrival in the Colony as a Convict in the Year 1819, in consequence of some Offence which he had committed during the Passage out; that he was brought from thence to Sydney in the Year 1821, in consequence of an Accident he had met with by the falling of a Cedar Log, which had fractured his Collar Bone and otherwise injured him. He is identified as the Individual *Lockaye*, who was at Newcastle as above, as appears by the Affidavits of Elliott, Smith, and Moore.

It appears he was afterwards employed in the Lumber Yard and in the Prisoners' Barracks in Sydney, and was identified by Lucas, Hutchinson, Brown and Chapman, whose Affidavits to that effect accompany the Report of the Magistrates.

It had been usual at this time for Lockaye to take such Prisoners to the Hospital as required Examination. Doctors Bowman and Allen usually saw him on these occasions. They immediately identified him, and it will be seen by the Report that Doctor Bowman stated “that, if the Prisoner was Lockaye, that upon his being examined, it would appear that his Collar Bone had been fractured or dislocated and had been badly set. He was examined and his Collar Bone was found in the state described by Dr. Bowman; the same remark is applicable to the Evidence of Doctor Allen.” The Affidavits of Doctors Bowman and Allen and of Mattingly, the Overseer of the Hospital, prove the identity of Lockaye in the most complete and satisfactory manner.

Lockaye appears to have been subsequently assigned to a Mr. Wylde, a Solicitor, on the night of whose death he absconded, and is supposed to have taken a large sum of Money with him, as he was not again heard of until his Transportation from the Cape of Good Hope in the Year 1824.

It will be seen, by the Affidavit of Chapman, that Lockaye, “in conversation with Chapman, stated that he hoped Chapman would not testify too strongly as to his identity, as he had married a respectable Woman.”

If the identity of this Individual required any further proof, it would be found in the Evidence of the Witnesses, Best, McCormick and Kean, whom Lockaye himself called on and whose Affidavits accompanied the Report of the Magistrates.

While on the subject of the identity of Lockaye, I would take leave to refer to my Despatch of the 11th May, 1828, No. 72,

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which contains the following passage:—"If the identity of Lockaye required any confirmation beyond that conveyed in my Despatch above referred to, it might be satisfactory to state that Colonel Morisset, the present Superintendent of Police, on his (Lockaye's) being lately brought forward, immediately recognized him as the Convict Lockaye who had formerly been under his charge when Commandant at Newcastle."

I beg also to refer to the accompanying Copy of a Letter received from Captain Allman, the Commandant at Newcastle in the Month of February, 1826, which shews that Lockaye was perfectly well known at that Settlement. The Letter now alluded to was uncalled for; but, the Vessel, in which Lockaye was coming from Port Macquarie, having touched at Newcastle, and Lockaye being known to several Persons there, who recollected him when Colonel Morisset was Commandant, Captain Allman appears to have considered it his duty to apprise Government of the fact.

Letter re
A. Lockaye from
J. T. Bigge.

I cannot close this Branch of the subject, Lockaye's identity as Edwards, without requesting your attention to the enclosed Copy of a Letter addressed by Mr. Commissioner Bigge, when at the Cape of Good Hope,* to Sir Thomas Brisbane. You will observe that Lockaye, in mentioning his having been previously in New South Wales, appears anxious to impress Mr. Bigge with a belief, that he had been an Inmate of Doctor Bowman's and of course was not a Convict.† Mr. Bigge did not recollect having seen Lockaye here; but he remembered *Parr*, who is afterwards spoken of in the Letter and whom Lockaye no doubt employed at the Cape, from having known him in this Colony.

I should not, Sir, have thought it necessary to dwell on this fact, did it not appear by your Despatch that you still doubted it, having expressed your desire, "if the identity of Edwards and Lockaye should not be satisfactorily established," that he may be discharged from all further restraint.

I do myself the honor before closing my Despatch to request your attention more particularly to the Letter of Mr. Bigge, as containing some circumstances respecting Lockaye not altogether unimportant either as regarding his identity or Character.

It will be seen that, after a course of the most violent proceedings at the Cape, he attempted to destroy himself, which he twice repeated here, before he succeeded in putting an end to his unfortunate existence.

Suicide of
A. Lockaye.

* Note 69.

† *Marginal note.*—No. 5, 24th Septemr., 1824.—It is however not a little singular that he did not remind Dr. Bowman of this fact at the Investigation. But on the contrary that Dr. Bowman should immediately recognize him as the Convict Lockaye, who used to bring the Sick to the Hospital for Examination.

I trust I shall ever feel as little disposed as any Man to withhold justice from another. I may at the same time be permitted to ask, what the situation of this Government would be, composed, as a great portion of the Population is, of Men of the very worst Character, Adepts in Fraud and Villainy, if their attempts to impose on the Government were to be countenanced. Lockaye, though his identity had been established in the most solemn manner by the Affidavits of 14 Individuals and some of these Men of the first respectability, would notwithstanding have had the Government believe that the *real* Lockaye was to be found somewhere in the Colony, and would no doubt have wished that the means and time of Government should have been employed in ascertaining the truth of a Story, concocted by himself and two other Individuals of similar Character in Jail at the time, which it was morally impossible could be true, unless the 14 Individuals above alluded to had all perjured themselves. Had he succeeded in duping the Government and again effected his escape, it would have been very justly blamed for its Credulity; and, for my own part, I must think, while the Government is charged with the Custody of Men of Lockaye's Character, it is a paramount duty to defeat and put down every attempt, which may be made to embarrass or impose upon it. Lockaye had no injustice to complain of, though he may have been disappointed in not being able to deceive the Government. Coupling his Letter to Mr. Dickson (see Appendix A to Enclosure No. 2) with his formerly having absconded and his Escape from the Escort at the Cape when proceeding to embark for this Colony; it became necessary to send him to Norfolk Island, where only he could be kept with any degree of Security. As to the result, though the depravity of the Man's mind may be lamented, there is nothing which can excite Compassion for the Individual or palliate his Proceedings. He possessed Talents, which he always employed to the very worst purpose, and, when deprived of the means of being mischievous, Life appears to have been no longer desirable.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MR. F. N. ROSSI TO ACTG. PRIVATE SECRETARY LITHGOW.

Sir, Police Office, Sydney, 6th December, 1825.

I have the honor to acknowledge the receipt of your communication of the 5th inst., respecting the case of a Prisoner at Port Macquarie of the name of Edwards, and, having referred to the Records, I cannot find that any proceedings have been entered in the Books in respect to this person since his arrival in the Colony in Novr., 1824.

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Necessity for
suppression of
attempts at
imposition.

Report by
F. Rossi re
A. Lockaye.

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Report by
F. Rossi *re*
A. Lockaye.

I am however given to understand that Edwards was examined before Messrs. Wentworth, Campbell, McVitie and Riley in November, 1824, and that, on the oral examination of several individuals, Edwards was identified to be the Prisoner Lockaye, and was in consequence turned into Barracks as Lockaye, to be disposed of as the Government should deem proper.

I have, &c.

F. Rossi, J.P.,

Supt. of Police.

[Enclosure No. 2.]

Replies to
allegations
by wife of
A. Lockaye.

HEADS of a Communication to the Secretary of State, in a Letter* dated the 20th April, 1828, and signed "Elizabeth Edwards," with Replies.

1. That her Husband Edwards or Lockaye was improperly charged with being a Runaway Convict, and that People were *procured* to prove this unfounded Assertion. *Reply.* See the Report of the Magistrates appointed to ascertain whether Edwards and Lockaye were one and the same person. Drs. Bowman and Allen with twelve others deposed to their identity. The above Report was transmitted with my Despatch of the 29th April, 1826.

2nd. That he was sent to a Penal Settlement and detained there three years. "That, on the high recommendation of two successive Commandants as to Lockaye's good Character, he was recalled and sent to Bathurst, the Superintendent of which Establishment was informed that Lockaye was a Man of bad and dangerous Character, in consequence of which he was 'persecuted beyond measure by a Military Officer of the place, who prevailed on General Darling to send him 100 miles further into the Wilderness, it being alleged that he had been solicited to write the Brief of a Man committed for Trial.'" *Reply.* Lockaye had been sent to the Penal Settlement of Port Macquarie *before my arrival*, under a *Colonial Sentence* of three Years' Transportation, and, at his Wife's earnest and particular request, was removed by my Order to Bathurst, and, on the representation of the Magistrates that he was a troublesome Character, was subsequently ordered to Wellington Valley, where the "Educated Convicts" are kept. See my despatch of 11th May, 1828, No. 72.

3rd. His explanation of the circumstance was unnoticed. *Reply.* Not at all improbable, The Government having found it had been grossly imposed on, and had wasted much time in attending to Individuals of Lockaye's description.

4th. That Mrs. Lockaye wrote to the Private Secretary, a Letter, which was laid before General Darling, who without reading it answered that he would not be troubled about her Husband or self. *Reply.* No such Letter can be found, nor is it probable any such was ever written.

5th. Rendered desperate by persecution, Lockaye appealed to the Supreme Court, and informed the Chief Justice that he should attend him and left home to do so, on the 1st January, 1828, to repair to Sydney. The Judge being from Home, Lockaye remained in Sydney; when the Governor, pretending to believe that he was about to quit the Colony, offered a reward of £50 for his apprehension. He was sentenced to be transported for 3 years to Norfolk Island, an excess of punishment, as he was only convicted of being a "simple Absentee." *Reply.* Lockaye absconded on the 1st January,

1828, as is stated in the letter written in his Wife's name, and was secreted in Sydney. The real object of his coming to Sydney is best explained by the accompanying Copy of a Letter, See Appendix A (which shows what degree of attention is due to his Representations) written five days after he left Bathurst; the Original of which is in his own hand and was found with some trifling Papers, Copies of Letters and Memoranda, and it is presumed had been prepared and was intended to be sent to Mr. Dickson, after he should have embarked on board the Frederick. He was then brought before the Bench of Magistrates at Sydney and ordered to Norfolk Island, being the only place where he could be prevented from again effecting his Escape. Many Prisoners have been sent by the express Orders of the Secretary of State to that Settlement, for much less serious Offences than Lockaye was guilty of.

6th. Mr. Shewell's Affidavit that he had seen a Person, who had conversed with the real Lockaye, who was working for Government on the Roads, and that this fact was communicated by Mrs. Lockaye to the Governor but was unnoticed. The expence of procuring a Copy of Mr. Shewell's Affidavit alone prevented her sending it. That the Person, who saw Lockaye, was silently released from Prison, and Lockaye removed from the place where he had been seen. *Reply.* A Copy of Shewell's Affidavit, the *Original of which is in the Hand Writing of Lockaye*, is enclosed (See Appendix B), which Lockaye might have obtained from the Supreme Court for *two Shillings*. Mrs. Lockaye has omitted to state that Mr. Shewell, the "English Gentleman," and the other Person alluded to, were both Prisoners in Jail at the time. The Affidavit of such Men, made under such circumstances, could hardly have been noticed after the fact of Lockaye's identity having been so satisfactorily established by the Magistrates. The release of the Person, who saw the real Lockaye and the removal of the latter as stated in the Letter, are too gross to be replied to.

7th. That the lowest and basest Persons (except the two Govt. Surgeons) were called to swear as to Lockaye's identity, who all, on Cross Examination, contradicted each other. *Reply.* It would be quite sufficient that *Lockaye's* identify had been sworn to by both Dr. Bowman and Dr. Allen; but it is further confirmed by Captain Allman's Letter, Enclosure No. 4 with my Despatch of this date, and by the circumstance, stated in my Despatch No. 72 of last Year, relative to Colonel Morisset.

8th. That, the Magistrates having refused to take down these Cross Examinations, Mrs. Lockaye sent them to General Darling in March, 1826, She prays that this Document should be required of General Darling, as it would refute all the falsehoods of Lockaye's Prosecutors. *Reply.* I have no recollection of ever having seen the Cross Examinations alluded to. This mode of appealing to Documents which never existed, in proof of facts, is ingenious and no doubt convenient in a case of this nature.

9th. That, whenever he was brought before the Magistrates, he was taken unawares and unprepared. *Reply.* *The Investigation* (it was no Trial or ever intended as such) took place at Mrs. Lockaye's desire, See Enclosure No. 3 with the present Despatch, and three Witnesses were produced by Lockaye, whose Evidence could not have been very useful or satisfactory to him.

10th. She proposed, if they were allowed to live in some remote part of the Colony, that they would produce the necessary proof in

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two years that he was *not Lockaye*. *Reply*. They had actually obtained what she pretends to have wished, that is, to be allowed to live in some remote part of the Colony, to have enabled them to procure from England proof that he was not Lockaye. They were sent to Bathurst and had already been *four Years* in the Colony, but had never before thought of writing to England for their proofs.

11th. That he alone, out of 700 Prisoners at Penal Settlements under illegal Sentences, was excepted in a Bill of General Amnesty. *Reply*. It was understood that several Individuals had been irregularly if not illegally sent to the Penal Settlement of Port Macquarie, and I appointed a Board, soon after my Arrival, to ascertain the fact. All those, who had been so sent there, were released as an Act of justice, not as a matter of Indulgence.

12th. Convicts were assigned to their Wives who bore good Characters. Mrs. Lockaye was made "a solitary Exception." *Reply*. Married Convicts, whose conduct gives them a claim to indulgence, are exempt from Government labour and are permitted to reside with their Wives. Lockaye had no such claim, and, though actually at a Penal Settlement, his Wife, contrary to the Established Rule, was permitted to live with him and to keep a Shop. When removed to Bathurst, she was allowed to accompany him, and, when afterwards ordered to Wellington Valley, directions were given that they and their Children should be maintained at the Expence of Government.

13th. That the Police were employed to intercept and seize her Husband's Papers. *Reply*. Lockaye was a Convict and the Government had a right to seize his Papers, and use every means to counteract his Proceedings. He had been *twice* transported, and, in consequence of Offences subsequently committed in the Colony, had been sentenced to serve at a Penal Settlement. If any further means of judging of his claim to attention were necessary, it would be sufficient to refer to the Copy of his Letter to J. Dickson (See Appendix A).

14th. That General Darling had invariably shrunk from seeing her and did not secure the real Lockaye when informed where he was to be found. *Reply*. I saw Mrs. Lockaye *repeatedly*, until wearied with her importunities. Mrs. Darling also saw her *repeatedly*, and it being generally believed she was imposed on by her Husband, who had concealed his Situation from her, received her with every possible kindness and attention. The Letter, to which from the grossness of its Character I am sorry to have been under the necessity of reply, is evidently the composition of Lockaye himself, whose Education and acquirements seemed to have rendered him an Adept in distorting and misrepresenting facts.

Parramatta, 23rd November, 1829.

RA. DARLING.

[Appendix A.]

W. EDWARDS TO J. DICKSON.

Dear Sir,

Sydney Cove, 6th January, 1828.

You will recollect that Mrs. Edwards and myself, in March, 1826, jointly wrote you a letter requesting you to receive for us any property, which might arrive from the Cape of Good Hope. By some management or other, I have never been able to hear of any until last night; when I heard from an old friend that there were several letters for her with Mr. Secretary McLeay and some property either with him or some other person within his knowledge.

Letter written
by A. Lockaye
in anticipation
of his escape.

also for her. I believe it came per Bona Victa or Mary, and Mr. Arthur Hill, I have heard, can tell where it is. I therefore take the liberty to request you will do me the favor, on the strength of her *former letter*, to obtain the property and convert it into money for her use, that she may be able to receive it from you, when she arrives in Sydney from Bathurst, so as to enable her to follow me as soon as possible to Java. You would be surprized that I did not salute you as I passed you in George Street this morning; but, as I was then going to meet an old Schoolfellow for the purpose of getting secreted on board this Vessel, I wished to know no one, but get unperceived away. When this is delivered to you, I shall be out of the reach of the Philistines.

Great exertions have been made to persuade my excellent Wife that I am that Lockaye; my own conduct towards her, so different from his, has been her best security of its falsity, and nothing my enemies can do will ever prevail on her to credit the Slander; other exertions may be used, whilst I am away, to effect this; but, as I am convinced it would break her honest heart could she be so far imposed on, I rely on your kindness to protect her from all imposition until she leaves this Colony. We expect to go into the Stream to-morrow Evening and to sail on Wednesday or Thursday. I expect Mrs. E. to be down in 12 or 14 days and she will follow me in the first Vessel for Java.

With the greatest possible reliance on you. I remain, &c.,

W. EDWARDS.

The following was written on a Slip of Paper and enclosed in the above:—

You will let no other Person know it. I am stowed in the Frederick, where it is quite impossible for me to be found.

A true copy:—H. DUMARESQU, Priv. Secy.

[Appendix B.]

AFFIDAVIT BY C. SHEWELL.

Affidavit by
C. Shewell.

In the Supreme Court.

CHARLES SHEWELL, heretofore of the City of London, Gentleman, but now a Prisoner for Debt in Sydney Gaol, maketh oath and saith, that, on or about the twelfth day of January last, he saw several persons assembled together in the said Gaol yard and heard them saying that Lockaye was coming to Gaol; and, after this Deponent had waited for some time, he perceived a stranger brought into the Gaol yard and, passing through it, go into the Prison room, whom he recognised as a person of the name of Edwards that he had formerly known in Africa. And this Deponent further saith that, on its being said that this person was Lockaye, Henry Ruth, one of the assembled Prisoners above mentioned, declared that he (the said William Edwards) was not Lockaye, and added that he knew Lockaye most intimately at Newcastle, and had seen him and conversed with him in a Road Gang at the Cowpastures about five weeks previous to that time. And this Deponent further saith that he soon after intimated the same to the said William Edwards, who, on the succeeding day, wrote and sent a letter to the Colonial Secretary in this Deponent's presence to the effect following, that is to say:

Sir, Sydney Prison, 13th January, 1828.

The duty, I owe to my Wife and Children, induces me to inform you that a man named Henry Ruth, now confined in this

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Letter written
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C. Shewell.

place, communicated to me through a debtor, who knew me at the Cape, that he saw the real Lockaye (whom he long knew at Newcastle) working in a Road Gang at the New Bridge in the Cow-pastures five Weeks ago. I make no observation on this account, only that I am sure you will let enquiry be made in order that I may have the benefit of the fact, when I appear before the Supreme Court, on the application I felt bound to make to the Chief Justice on the 20th of November last.

I am, &c.,

To the Honble. Mr. McLeay, etc., etc., etc.

W. EDWARDS.

And this Deponent further saith, that, the time of the above mentioned conversation of the said Henry Ruth, the said William Edwards hath not conversed with any Person in the said Gaol yard. And further this Deponent saith that, since the said William Edwards hath been removed from the said Gaol, he hath heard many persons say they were the intimate acquaintance of the said Lockaye and declare that the said William Edwards was not that man.

CHARLES SHEWELL.

Sworn at the Gaol of Sydney, this 14th day of March, 1828;
before me, JOHN GURNER,

Commr. of Sup. Court.

[Enclosure No. 3.]

ATTORNEY-GENERAL BANNISTER TO GOVERNOR DARLING.

Sir,

Sydney, 30th Decr., 1825.

I have the honor of submitting the enclosed application to your Excellency and to suggest that an enquiry into the foundation of the complaint may be easily made by a Report being received from the Commandant of Port Macquarie and from the Superintendent of Police in Sydney. I know nothing of the circumstance myself.

I have, &c.,

S. BANNISTER.

[The following note appears on the back of the above document.]

Proposal by
S. Bannister
for inquiry.

McL. Refer as the Atty. General proposes and request the Commandant and the Supt. of Police will endeavour to ascertain whether the person in question is the Convict "Alexr. Lockaye," who was transported in the year 1818, and who is reported to have made his escape from the Colony.

R.D.

5th Jan'y.

[Sub-enclosure.]

MRS. E. EDWARDS TO ATTORNEY-GENERAL BANNISTER.

Sir,

Port Macquarie, 20th December, 1825.

Allegations
re mistaken
identity.

My Husband, being transported from the Cape of Good Hope a year ago for quarrelling with Lord Charles Somerset, was sent to this place on a pretence of young Wentworth, that he was a runaway felon called Lockaye; but several of that thief's acquaintance having told Dr. Morgan and Mr. Parker, whilst we were landing here, that it was not as I informed Sir Thomas Brisbane, who said, if I got their affidavits to that effect, we should be removed; so I sent them as soon as possible after my return here last month; but, they arriving when His Excellency had embarked, he handed them over to our friend Dr. Halloran for Mr. Lithgow to deliver to General Darling to act upon them.

But, as I expected to be removed as an act of right and not of grace, I am now obliged to address myself to you to request that Mr. Edwards may be allowed to return to Sydney to shew you he is not the man young Wentworth said he was, in which case he must be in a different situation from the felons sent here from England, as in truth he ought to be if his crime and theirs were properly classed.

For a proof of the difference of Mr. Edward's character from the men of this place, I can refer you with great satisfaction to Captain Gillman, whose attentive observation of every Man placed under his command enable him so well to appreciate that he said, if you wrote for my Husband, he should not have the least objection to trust him to go to Sydney to appear before you.

I have, &c.,

ELIZH. CATHERINE EDWARDS.

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—
Allegations
re mistaken
identity.

[Enclosure No. 4.]

CAPTAIN ALLMAN TO COLONIAL SECRETARY MACLEAY.

Sir, Commandant's Office, Newcastle, 21 Feby., 1826.

I feel it my duty to acquaint you that there is at present on board the Colonial Brig Amity in this Harbour on her way to Head Quarters a Prisoner from Port Macquarie calling himself Edwards, and lately transported from the Cape of Good Hope. This man is notoriously known on this Settlement, having arrived here on the 29th October, 1819, and left this on the 14th February, 1821; he then went under the name of Alexander Lockaye, his original sentence Life.

Among the many persons, who can swear to his identity, are George Brooks, Esqr., J.P., and Mr. J. Smith, late Chief Constable at this Station.

I have, &c.,

F. ALLMAN,

Commandant.

Report by
F. Allman re
A. Lockaye.

[Enclosure No. 5.]

MR. J. T. BIGGE TO SIR THOMAS BRISBANE.

Sir, Cape Town, 24th September, 1824.

Although the termination of my Official relations with the Colony under your Government has extinguished all claim on my part to address Your Excellency upon any subject connected with its Executive Duties, yet I trust that I am only rendering you an acceptable Service by endeavouring to throw some light upon the Character and History of a Convict named "William Edwards," now embarked on board the Ship "Minerva," who has lately been sentenced by the Court of Justice to be transported to New South Wales for Seven Years for Writing and Publishing a very atrocious Libel upon the character of His Excellency Lord Charles Somerset. His Excellency having (as he informed me) communicated to you the nature of the Libel, it is unnecessary for me to do more than to say that it exceeds, in virulence, audacity and malignity, every thing that has come within my experience.

During the procrastinated periods of the Trials, Edwards lost no opportunity, on the contrary, he seemed to glory in the opportunities, which were unfortunately allowed to him, of giving a louder

Report by
J. T. Bigge re
A. Lockaye alias
W. Edwards.

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Report by
J. T. Bigge *re*
A. Lockaye *alias*
W. Edwards.

emphasis to the libellous passages of his Letter. Since his conviction, he has laboured to prove, to myself and my Colleague, that his conviction and Sentence are illegal; and, from a Memorial that he has placed in *our* hands for the purpose of being transmitted to Earl Bathurst, he entertains a confident expectation that they will both be set aside, and the punishment of Transportation Annulled.

From the enquiries that we have made ourselves, and from information derived from himself and others, it appears that Edwards arrived about two years ago in the Island of Mauritius from Java. No account was received by any body in the Colony of his previous history; but, being in great distress, he entered into the employment of a Mr. Christie, one of the Judges of the Court of first instance as a Clerk, and was afterwards taken into the Office of Colonel Barry, the Colonial Secretary. In the midst of this employment, he suddenly retired, and intimating to Colonel Barry that, the arrival of the Commissioners of Enquiry* at the Cape had rendered it necessary that he should enter upon immediate communication with them, he left Mauritius and repaired to this Colony. His arrival preceded ours by a few weeks, and he was amongst the first that presented themselves, soliciting the Situation of Clerk in our Secretary's Office. It was upon this occasion that Edwards strove to bring to my recollection the circumstance of my having seen him, when he was residing with Dr. Bowman, the Principal Surgeon in New South Wales, for the recovery of his health, which he said had suffered much from his residence in Java. He further stated, though not in my presence, that he had known me in early Life and that he was acquainted with Mr. H. G. Bennett, Member for Shrewsbury, and that he himself had a brother in Parliament though not bearing his Name. In subsequent interviews, he has boasted of the Notice, which Your Excellency had been pleased to bestow upon him during his stay in New South Wales, and has referred to two or three distinguished personages in England, of whose acquaintance and protection he made frequent and very ostentatious mention.

Some little time after our arrival, Edwards was appointed a Notary Public, and, from intelligence in the transaction of Business and from the popularity that he had acquired amongst a certain Class of the population by successfully conducting a defence against a Government Prosecution, he obtained a large share of Business. In the Management of it, he employed as his Amanuensis a Man named "Parr," who happened to be delayed here on his Voyage from New South Wales, whither he had been once transported, and had (as I understood) received a free Pardon. I perfectly recollected Parr in New South Wales, but was not fortunate enough to see him, before he embarked for England. Edwards has since informed me that Parr was very skilful in the imitation of Hand Writing, and he still persists that the Libellous Letters to Lord Charles Somerset were written by Parr, although by his (Edward's) dictation, and that this plan was adopted in order to throw difficulties in the way of proof. After his Conviction, he had some intercourse with Edwards respecting his Memorial to Earl Bathurst, and, as he spoke with more levity and indifference than became him of his punishment, and said that he had hopes of doing very well in New South Wales, I took occasion to remind him, of what he seemed to be well aware, namely, the difference that it is possible

* Note 69.

to make in the punishment of Transportation to different Individuals, reference being always had to their previous conduct and the circumstances of their Offence; I connected this hint with a suspicion, that his Conduct justified, of his having been the Instrument of others in the attack he had made upon Lord Charles Somerset, and that, if he came forward with any declaration that would lead to the detection of the real authors or that would afford a rational explanation of his own motives, his case would receive every consideration, but that otherwise he would expose himself to all the consequences of having been actuated by motives of the most malignant kind. Since this conversation, his sentiments underwent a great change; he frequently expressed his fears of being sent to New South Wales, if he were accompanied by any explanatory account of his conduct; and, although, in excuse for the late desperate attempt that he made upon his own Life, he first assigned as a reason the separation from his Wife, yet he has since declared that he never will return alive to New South Wales or be landed there as a Convict. Under these circumstances, Your Excellency will not be surprised at the inferences we have now drawn that Edwards was a Convict, when he was formerly in New South Wales, and that he has made his escape from Transportation. In this opinion, I have been much confirmed by the perusal of an Extract (a Copy of which I have the honor to annex) from a Letter written in answer to an enquiry by a respectable Individual in this place, concerning the Character and History of Edwards. He has to a certain degree confirmed it by stating to this Individual that he had been once engaged in a Bank at Flint. He has represented himself to us as being the Son of an Officer of Dragoons, and that his mother was the Daughter of General Christie Burton.

It has escaped me to mention that, during his confinement in Gaol and in one of the Cells of the Gaol, he married his present Wife, a Native of this place, respectably connected, and who it is said brought him a fortune amounting to 6,000 R.D.'s which I understand is settled upon herself. This poor Woman is so infatuated as to persist in her desire to accompany her husband to New South Wales, and His Excellency Lord Charles Somerset has, not without much reluctance, obtained her a passage in the "Minerva" upon an assurance, both from the Captain and Surgeon, that they had no objection, if she could make arrangements with any of the passengers for accommodation, that would not encroach upon the space allotted for the Convicts and Guard. I have also apprised the friends of Mrs. Edwards that in no case would the Colonial Government of New South Wales be expected to defray the Expense of her maintenance there, or return to the Cape, and that Wives of Convicts were never permitted to join their Husbands in New South Wales unless upon an assurance from the Governor of the good conduct of their Husbands, and their ability to maintain their Wives. The peculiar circumstances of this Man's case and the unfortunate situation of his Wife have appeared to justify a departure from this Rule.

I have now to offer my apology to Your Excellency for the details, with which I have troubled you, and, to enable you to form a judgment of the desperate character of Edwards, I beg leave to enclose to you a Printed Account of his escape from the Police on his way to the place of Embarkation, and of the attempt that he

1829.
23 Nov.

Report by
J. T. Bigge re
A. Lockaye alias
W. Edwards.

1829.
23 Nov.

Report by
J. T. Bigge *re*
A. Lockaye *alias*
W. Edwards.

made upon his own Life at the moment of apprehension. He has since declared that it is his intention to starve himself to Death, and that he will never return alive to New South Wales.

I have, &c.,

JOHN THOMAS BIGGE.

P.S.—In further explanation of the Extract from the Letter from Chester, William Edwards has always avowed his connection with North Wales, and has stated that his Wife's Name was Sackville and that she was connected with the Noble Family of Dorset.

J.T.B.

[Sub-enclosure.]

EXTRACT from a Letter, addressed to Mr. F. R., Cape of Good Hope, by Mr. J. F. dated Chester, 19th Jany., 1824.

Transportation
of A. Lowe Kay.

"THERE was an Attorney at Flint of the name of Shackville, who had only one Daughter, who married a Mr. *Alexander Lowe Kay*, who was a short time a Banker in Flint, afterwards in a public office in Chester, and, after a number of notable exploits there and in other places, was ultimately transported to Botany Bay for stealing a Horse and Gig. I have never heard of him since."

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(A circular despatch per ship *Mermaid*.)

29 Nov.

Despatches and
enclosures to
be paginated.

Sir,

Downing Street, 29 Novr., 1829.

I am directed by Secretary Sir George Murray to request that, in order to facilitate a reference to the various subjects of your correspondence, the pages of all the despatches, which you may in future have occasion to address to this Department exceeding one sheet, may be carefully numbered, and that the same rule may be observed with regard to their enclosures, which should be pagged separately.

I am, &c.,

HORACE TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch per ship *Mermaid*; acknowledged by Governor Darling, 12th May, 1830.)

30 Nov.

Return required
re expenditure
on suppression
of slave trade.

Sir,

Downing Street, 30 November, 1829.

I have it in command from the King to desire that you will take immediate measures for preparing and transmitting to me an account of all expenses of every description, which may have been incurred in the Colony of New South Wales with a view to the suppression of the Slave Trade, or to the repression of illicit proceedings connected therewith, since the date of the Act for the Abolition of the Slave Trade, or for purposes arising out of the provisions of that Act, so far as the said expenses may have been discharged from the funds of New South Wales.

I am well aware that the examination of the documents, from which the information now desired must be extracted, will necessarily occupy some time; but I shall rely upon your taking measures for ensuring the early execution of the Commands, which His Majesty has, upon this occasion, been pleased to signify to you; and I trust, moreover, that you will not think it necessary to incur extraordinary expense for this service.

1829.
30 Nov.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Vibilia.)

Sir, Government House, 2nd December, 1829. 2 Dec.

I have the honor to acquaint you, in reference to your Letter of the 25th of June last, that a Copy of Mr. Francis Boulton's Letter has been communicated to Mr. John Thomas Campbell, who is now living in Sydney. I have, &c.,

Letter transmitted to J. T. Campbell.

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 170, per ship Nithsdale.)

Sir, Downing Street, 5 Decr., 1829. 5 Dec.

I have the honor to acknowledge the receipt of your despatch of the 12th of February last, in which you report the arrival at New South Wales of Mr. Cotton, the Collector, and of Mr. Langa the Comptroller of Customs, stating that, as those Gentlemen were accompanied by only three Persons, a Clerk and two other subordinate Officers, you had judged it advisable to continue in Office, to the termination of the quarter ending the 31st of last March, the Individuals who had been superseded, in order that the newly appointed Officers might acquire a more perfect knowledge of the system established in New South Wales; and I have to acquaint you, in answer, that I approve of your having, under the circumstances of the case, directed the issue of the salaries of the Persons whose services you had thus retained up to the period abovementioned.

Arrival of officers of customs.

Approval of temporary employment of customs officers.

In answer to that part of your despatch, which relates to Colonel Morisset's appointment as Commandant of Norfolk Island, I only think it necessary to observe that, as that appointment was originally destined for Colonel Morisset, you acted properly, on Captain Rossi's return to the Police Department (the duties of which Colonel Morisset had provisionally performed), in directing Colonel Morisset to proceed to Norfolk

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

1829.
5 Dec.

Island; but I do not perceive any circumstances connected with the appointment when filled by that Officer, which require that any assistance should be given to him in carrying on the duties of his situation, which was not afforded to the former Commandant.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 171, by ship Nithsdale.)

6 Dec.

Sir,

Downing Street, 6 Decr., 1829.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your despatch No. 19 of the 18th of February last, enclosing the copy of a Report of the Board of Management of the Female Factory, and requesting, in consequence of the difficulty of disposing of the women (whose number is now much beyond the demand of the Settlers), that no further supply of Female Convicts may be sent out for a period of twelve months, in order to give time for disposing of those who are already in the Factory.

Plan proposed
for disposal
of female
convicts.

In my despatch of the 17th of July, No. 125, I suggested a plan by which it appeared to me that the local Government would be relieved from much, if not all, of the embarrassment hitherto experienced from the difficulty of disposing of the Female Prisoners, I mean the measure of "compelling every Settler to take off the hands of Government one Convict woman for every two, or for every three men who may be assigned to him." Until I shall be apprized of the result of that measure, I do not think it advisable to recommend to the Secretary of State for the Home Department to dispose of the Female Prisoners, whom it may be deemed necessary to send out of the United Kingdom, otherwise than by sending them as heretofore to the Australian Colonies.

Transportation
of female
convicts to be
continued.

It does not, however, appear unreasonable that a proportion of them should be sent to Van Diemen's Land, and I shall not fail to bring this suggestion under the consideration of Mr. Secretary Peel.

Proposed
transfer of
weaving
establishment.

I trust that the Settlers, rather than forego the services of the Male Convicts, will submit to the Regulation, which imposes upon them the maintenance of a due proportion of Females; but I see no objection, should that measure not be attended with all the benefits I anticipate, to your following up your intention of transferring the Weaving Establishment to the Factory, and granting tickets of leave to such women as may be found deserving of the Indulgence.

I hope you will not have erected any additions to the Factory, or any other Buildings for the reception of Female Convicts

under the expectation of your having to maintain a still larger number of these Prisoners; for, until the result be known of the Experiments which were about to be made by yourself, and of that which I have recommended, for relieving the Government from that charge, it will be impossible to form any opinion as to what further accommodation it will be necessary to provide. You will not, however, consider yourself precluded from carrying into effect the suggestions of the Board in respect to the Virandah in front of that part of the Factory, which is used as an Hospital, nor from making such other improvements as may be really necessary for the well being of the Factory on its present scale of Establishment.

1829.
6 Dec.

Proposed
additions to
female factory.

With respect to the various other topics, mentioned in the Report of the Board, I do not think it necessary to offer any opinion. The Colonial Government will be best able to judge of the observations which that Report contains, and to decide upon the remedies and regulations which the state of the Establishment may require.

The statement, contained in the Postscript of your despatch respecting the alleged practice of sending all Irish Convicts to New South Wales, shall be communicated to Mr. Secretary Peel, together with your request that a proportion of the Prisoners, who may be under sentence of Transportation from that part of the United Kingdom, may in future be sent to Van Diemen's Land.

Distribution
of Irish
convicts.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 172, per ship Nithsdale.)

Sir,

Downing Street, 7 Decr., 1829.

7 Dec.

I have the honor to acknowledge the receipt of your despatch No. 21 of the 20th of February last, reporting a necessity for encreasing the Establishment of Clerks in the Office of the Superintendant of Police, and for augmenting the Salaries of the Chief Clerk and of two other Clerks, who have been for some time employed in that Department; and I beg to acquaint you in answer that the explanations, which you have offered in justification of this additional expence, are satisfactory to His Majesty's Government. I have to request, however, that in future you will not fill up any new office, which you may find it necessary to constitute, at a salary of more than £100 a year, until you shall have reported to the Secretary of State that you have constituted such Office, Unless the necessities of the Public Service be such as to admit no delay in filling it up, in which latter case

Approval of
altered
establishment
for
superintendent
of police.

Instructions *re*
appointments
to new offices.

1829.
7 Dec.

you will distinctly explain to the Person, whom you may appoint to such salary exceeding £100, that his appointment by you is only a provisional one until the intentions of the Secretary of State can be known.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 173, per ship Nithsdale.)

8 Dec.

Sir, Downing Street, 8 Decr., 1829.

Approval of
P. Lindesay as
member of
executive
council.

I have received and laid before the King your despatch No. 52 of the 2d of May last, reporting that you have nominated Colonel Patrick Lindesay, 39th Regt., to succeed Chief Justice Forbes as a Member of the Executive Council of New South Wales; and I have received His Majesty's Commands to signify to you His Royal confirmation of that appointment.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 120, per ship Vibilia.)

Sir, Government House, 8th December, 1829.

Transmission
of copy of
military letter.

I do myself the honor to transmit for your information Copy of a Despatch, which I have addressed to the General Commanding in Chief, with a Copy of a Letter which I have received from Lieut. Governor Arthur, representing the insufficiency of the Military Force under present circumstances allotted for the protection of Van Diemen's Land.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO LORD FITZROY SOMERSET.

(Despatch No. 10, per ship Vibilia.)

My Lord, Government House, 8th December, 1829.

Report *re*
military force
in Tasmania.

I have the honor to transmit, for the information of General Lord Hill Commanding in Chief, the Copy of a Letter which I have received from Lieut. Governor Arthur, commanding in Van Diemen's Land, on the subject of the Military Force allotted for the protection of that Colony.

Embarkation
of 40th regt.
for India.

I had given orders, previous to the receipt of Lieut. Governor Arthur's Letter, for the embarkation of the last Division of the 40th Regiment, consisting of about 180 Rank and File, and, having already taken up a Ship for their conveyance to Bombay, it is not my intention to countermand the orders which have been given.

The Garrison, which I had allotted for Van Diemen's Land, was the 63rd Regiment, and 100 Men of the 57th, the Head Quarters of which are in this Colony; but I have lately understood, though not officially, that a large Detachment of the 63rd has been sent from England to the Western Coast of Australia with Lieut. Governor Stirling. The Force, intended for Van Diemen's Land, would, in the event of that Detachment being continued, be reduced in proportion to the Number of which it may consist.

1829.
8 Dec.
Garrison troops
for Tasmania.

Being aware of the pressing nature of the demand for Troops at Home, and the difficulty of providing them under present circumstances, it is with extreme reluctance that I am induced to bring the subject of Lieut. Governor Arthur's Application under the consideration of the General Commanding in Chief, and to request that, as the state of Van Diemen's Land appears to render an addition to the Garrison necessary, that the Depôt Companies of the 63rd Regiment may be ordered out.

Request for
additional
troops for
Tasmania.

I have, &c.,
RA. DARLING.

[Enclosure.]

LIEUT.-GOVERNOR ARTHUR TO GOVERNOR DARLING.

Sir, Government House, 18th November, 1829.

I am conscious your Excellency is very desirous to send on the last Division of the 40th Regiment to India, and, under the exigencies of this Country, I am greatly indebted to you for the consideration you have manifested in delaying the departure of this Force.

Departure of
40th regt. for
India.

I have already had the honor to apprise Your Excellency that the exigencies of this Country, arising out of the continued Atrocities of its Aboriginal Inhabitants, have been so great as to have required the most active aid from the Military Force to protect the Lives and Property of the British Subjects settled in the Interior.

Atrocities of
aborigines in
Tasmania.

I wish it were in my power to state that the animosity of these Savages was abated and that, with a prudent regard to the public safety, a diminution of our Force was practicable. The circumstances, under which Van Diemen's Land has been Colonized, and the *extended* and *scattered* manner, in which the Settlers have located their grants, necessarily require a large force to protect them from their double foe. Bushrangers and Aboriginal Natives.

The Police of the Country is now so far organized that prisoners absconding are suddenly apprehended; but then this Force is greatly indebted for its efficiency to the imposing countenance it receives from the Military Stations; the hostile spirit of the Aborigines has hitherto resisted an anxiety to bring about a cordial reconciliation, and their movements have baffled all our efforts to take or expel them from the settled Districts.

Organisation
of police in
Tasmania.

The most I can venture to state in this situation respecting the last Division of the 40th Regiment is that, if Your Excellency deems their Embarkation for India of urgent necessity, I will by every

1829.
8 Dec.
Objections to
withdrawal
of troops.

means in my power endeavour to protect the Settlers with the Troops which shall remain; but, whilst scarcely a day now elapses without some White person being either murdered or most severely wounded, it is quite impossible for me to represent that any Troops can be withdrawn without considerable apprehension of the consequences.

Reinforcements
proposed.

I greatly fear it is hopeless to anticipate that another Regiment can be spared for this Colony; but I trust Your Excellency will point out the necessity of sending out the Depot Companies of the 63 Regiment, and relieving the Detachment of that Corps at Swan River by some Troops either from the Cape or the Isle of France.

I have, &c.,
GEO. ARTHUR.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 174, per ship Nithsdale.)

9 Dec.
Approval of
method of
withdrawal of
settlement at
Raffles bay.

Sir, Downing Street, 9 Decr., 1829.

I have to acknowledge the receipt of your despatch No. 56 of the 14th of May last, reporting the steps taken by you for the withdrawal of the Settlement from Raffles Bay, and stating that, as the Vessels to be employed in that service must necessarily at that season of the year return by the West Coast, you had desired that such breeding Stock, Cattle, Sheep and Stores, as could be conveniently conveyed to Swan River from Raffles Bay, should be delivered over to the Officer having charge of that Settlement.

In the directions which you have thus given, you have judiciously anticipated the Instructions conveyed to you in my despatch of the 12th of Jany. last for affording assistance on all occasions to the New Settlement.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 175, per ship Nithsdale.)

Sir, Downing Street, 9 Decr., 1829.

I have the honor to acknowledge the receipt of your despatch No. 59 of the 18th of May last, in which you transmit a copy of the Report of a Board, appointed to ascertain the amount of fees received by the Registrars and other Persons belonging to the Courts of Requests, together with a copy of a Minute fixing the salaries to be paid to them respectively in lieu of fees and allowances, agreeably to the principle which has been established for the remuneration of all Persons employed in the Colony under your Government.

Report re
fixed salaries
for registrars,
etc.

On comparing the salaries proposed to be given to these Persons with the Table of Fees received by them (which is contained in the Report), I observe that, with the exception of the Registrar and Messenger of the Windsor Court and the Messenger of the Sydney Court, you have assigned to them fixed Salaries exceeding, by a small amount, their net Incomes upon an average of the four years ending Decr., 1828. The course pursued in His Majesty's other Colonies, where permanent salaries have been substituted for emoluments arising from Fees, has been not to give salaries *exceeding* the average amount of those fees, but on the contrary much *below* it; because, in some cases, Officers have enjoyed larger emoluments from such sources of remuneration than they would have been permitted to receive, had a fixed salary in the first instance been assigned to them. It must, therefore, be distinctly understood that, in giving my sanction to the scale of remuneration granted to the respective Registrars, etc., of the Courts of Request, I have been influenced not so much by the extent of their present duties, as by that which (to judge from the increase which has taken place since those Courts were first established) they may have to execute hereafter, as I shall not consider myself called upon to sanction upon that ground any further augmentation of the salaries which I now agree to give them.

1829.
9 Dec.Criticism
of salaries
proposed.Qualified
approval of
salaries.

I see no objection to the other arrangements contained in your minute.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 176, per ship Nithsdale.)

Sir,

Downing Street, 10 Decr., 1829.

10 Dec.

I have the honor to acknowledge the receipt of your despatch No. 63 of the 22nd May last, together with a copy of the Report made to you by the Surgeon at the Head of the Medical Staff of New South Wales on the subject of the inferior description of Wine put on board Convict Ships for the use of the Prisoners. You will perceive by the enclosed copy of a letter, which has been received from the Commissioners of Victualling in explanation, that the Wine, respecting which complaints have been made by the Colonial Surgeon, was not intended for the use of the *sick* Convicts, for whom a better quality of Wine seems to have been supplied. I think it necessary, however, to apprise you, in reference to the arrangement communicated to you in Mr. Hay's letter of the 5th of Octr., 1826, that it will be proper

Report *re*
wine supplied
to convict
ships.

1829.
10 Dec.

for you to decline accepting, on the discharge of a Convict Ship, any wine or other description of Stores, unless previously ascertained to be applicable to the purposes for which you are authorized to receive such articles.

I am, &c.,
G. MURRAY.

[Enclosure.]

VICTUALLING COMMISSIONERS TO UNDER SECRETARY TWISS.

Sir, Victualling Office, 4th December, 1829.

Report *re*
wine supplied
to convict ships.

The Navy Board having transmitted to us as relating to our Department the copy of a despatch from the Governor of New South Wales, dated the 22nd May last, which Secretary Sir George Murray has forwarded to them, together with a Report from the Surgeon at the Head of the Hospital Staff, complaining of the bad quality of the Wine, "which is put on board the Convict Ships for the use of the Sick." We have to require that you will recall Sir George Murray's attention to these Papers, by which it will be perceived that the Colonial Surgeon does not complain of the quality of the wine put on Board the Convict Ships for *the use of the Sick*, but of the quality of the remainder of the Wine, which, having been originally supplied to those Ships for the *General use of the Convicts* during their voyage, is landed at Sydney on the discharge of the Ships, and which he considers not to be of a description fit for the use of the Sick in the Colony, to whom it had been ordered to be supplied.

We beg to add that Port Wine of the best description is supplied by us to all Convict Ships for the use of the sick on the Passage, and that the Wine alluded to by the Colonial Surgeon, which is shipped for the general use of the Convicts on their Passage, is good, sound Spanish Red Wine, such as is supplied to the Officers and Men of His Majesty's Fleet; but it is not improbable that this description of Wine, particularly when landed in Ullages as is probably the case, may not be fit to be issued for the use of the Sick.

We are, &c.,

G. A. CHETWYND STAPYLTON.
J. WEIR.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 177, per ship Nithsdale.)

11 Dec.

Sir, Downing Street, 11th Decr., 1829.

Application
for land from
A. M. Baxter.

I have the honor to acknowledge the receipt of your despatch of the 23rd of May last on the subject of an application, which had been made to you by Mr. Baxter, the Attorney General of New South Wales, for permission to purchase of the Crown, and to rent of the Crown with a view to eventual purchase, certain tracts of Land amounting in all to 8,840 Acres.

Land granted to
A. M. Baxter.

It appears that Mr. Baxter has already received the grant of 2,560 Acres, which it has been usual to make to the Civil Servants, since the cessation of the prohibition upon their obtaining lands.

The grant, which he has so received, seems to me quite adequate to any purpose for which it is proper that Public Officers should be accommodated with Grants from the Government; and I avail myself of this opportunity of acquainting you that, although Civil Officers are meant to have the privilege of investing a portion of their surplus Capital in Agricultural pursuits, yet it is not intended that they shall engage extensively in any concerns of that nature; you will, therefore, apprise Mr. Baxter that his application for 8,840 acres, in addition to the Grant of 2,560 Acres, of which he is at present in possession, cannot be complied with; and I have further to desire that it may be understood, amongst the Public Servants generally, that they are not to expect any facilities in acquiring land from the Government, either by Grant or by purchase, beyond the allotment of 2,560 acres.

1829.
11 Dec.

Refusal of
application
from
A. M. Baxter.

Limitation of
land to be
held by civil
servants.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 178, per ship Nithsdale.)

Sir,

Downing Street, 12 Decr., 1829.

12 Dec.

With reference to your despatch No. 4 of the 5th of January, 1828, and to mine of the 7th of January last No. 81, fixing the salary of Mr. Rumker, the Government Astronomer, at £300 per annum, to commence from the date of his taking charge of the Observatory, I have the honor to acquaint you that this Gentleman has represented to me that he has not as yet received any portion of that salary, and has applied for payment of the arrears due to him. As I have no means of ascertaining whether Mr. Rumker's statement is correct, I have been under the necessity of declining to issue to him his salary for any period previous to his departure from the Colony. I have, however, in consideration of his having been employed in the reduction and superintendance of the Printing of his observations, consented to depart from the Rule generally observed with regard to the salaries of absent Officers, by allowing him his full salary from the 1st of January to the 30th of June last; and the necessary directions have accordingly been given to Mr. Barnard. The other arrears of salary, which may be due to Mr. Rumker, will of course be paid to him by the Colonial Government on his return to New South Wales, for which I have directed him to make as early arrangements as may consist with his convenience.

Instructions
re salary of
C. S. Rumker.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch marked "Confidential," per ship Roslyn Castle; acknowledged by Governor Darling, 29th March, 1831.)

Sir, Downing Street, 12 December, 1829.

With reference to my Despatch of the 22d of April last, No. 109, enclosing the copy of the Act for the relief of His Majesty's Roman Catholic Subjects, I have to call your attention to the 28th Section* of that Act, which contains certain provisions having reference to such Members of Religious Orders or Communities as were within the United Kingdom at the commencement of the Act.

Roman Catholic relief act.

Return required of members of religious orders.

Although the provisions of the Section of the Act, above alluded to, are limited to the United Kingdom of Great Britain and Ireland, it has been thought desirable, however, that Government should possess an accurate knowledge of the number of persons bound by Monastic or Religious Vows, who are resident in any of the Colonies of the Empire. I am to request, therefore, that you will transmit to me as accurate information, as you can obtain, of the Numbers of any Religious Order, Community or Society existing in New South Wales, and that you will also take into your consideration how far it may be practicable, and, if practicable, how far it may be expedient, to establish a permanent system of Registration in the Colony for persons of that description.

Proposed system of registration.

Necessity for discretion.

It will readily occur to you of how delicate a nature the subject of this despatch is, and how liable it might be to misconception on the part of the Roman Catholic Subjects of His Majesty in New South Wales, if injudiciously acted upon. I rely therefore with perfect confidence upon your discretion, and am persuaded that you will use the best means for obtaining the information required, at the same time that you carefully avoid giving rise to any feeling of groundless jealousy or uneasiness in those persons to whom it refers, or in any other Quarter.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 121, per ship Vibilia.)

Sir, Government House, 12th December, 1829.

I have the honor to transmit herewith for His Majesty's gracious Allowance, agreeably to the 35th Section of the 3rd Geo. 4th, Chap. 96, Conditional Pardons for the four Convicts named in the Margin.†

Conditional pardons submitted for approval.

* Note 71.

† Marginal note.—Wm. Lackey, Robt. Brown, Patk. O'Neil, Wm. Galvin.

The peculiar circumstances under which these Individuals were sentenced, as set forth in the enclosed Petition, and their good conduct since they have been in the Colony, induce me to recommend them as objects deserving the Royal Clemency; and the same consideration will, I trust, be deemed sufficient to justify a departure from the prescribed rule, that no Prisoner should be recommended for a Pardon, who has not been ten years in the Colony.

1829.
12 Dec.

Reasons for
proposing
pardons.

The Principal Superintendent of Convicts, in certifying to the good Conduct and general usefulness of the Prisoners in question, has stated that he possesses an "extra official knowledge" that the blow, which occasioned the death for which these Men were transported, was inflicted by Thomas Gould, who is since dead.

Report by
F. A. Hely.

I have, &c.,

RA. DARLING.

[Enclosure.]

THE humble Petition of William Lackey, Robert Brown,
Patrick O'Neil and William Galvin.

Petition for
conditional
pardon from
W. Lackey and
others.

To His Excellency Lieut. General Ralph Darling, Governor and Commander in Chief in His Majesty's Territory of New South Wales, etc., etc., etc.

Most respectfully sheweth.

That Your Excellency's humble Petitioners arrived in this Colony in the Ship Sir Godfrey Webster in the Month of January, 1826, having been Convicted of Manslaughter at Roscommon, 9th March, 1825, and Sentenced to transportation for Life.

That Your Excellency's humble Petitioners are aware that their short residence in the Colony cannot give them any Claim to participation Your Excellency's dispensation of Mercy; they will therefore confine themselves to a brief enumeration of the unfortunate circumstances which caused their Banishment, Vizt:—

That Your Excellency's humble Petitioners were attached to the Police Stationed in the Town of Athlone, at a time that a Riot took place between the Town and Country People. Your Petitioners being called upon to assist in quelling the same, one of the Countrymen was stabbed; in consequence of which he died; and, although Your Petitioners were acting as they conceived in the execution of their Duty, for this offence they were doomed to perpetual exile. Your Excellency will no doubt perceive the impossibility of so many Persons inflicting *one* Bayonet Wound, and how far they are culpable in this transaction; but Your humble Petitioners beg to draw Your Excellency's attention to the state of the Country at that time, and to mention, what is well known to and almost universally acknowledged by those acquainted with the nature of the case, that the spirit of Party then so prevalent had but too much influence in their unhappy case to the prejudice of Your Excellency's humble Petitioners.

Under the foregoing circumstances, Petitioners most earnestly entreat that Your Excellency will take their case into Your humane

1829.
12 Dec.

Petition for
conditional
pardon from
W. Lackey and
others.

and favorable consideration, and be graciously pleased to recommend them for a Conditional Pardon, to which their conduct in this Country and previous to their banishment, they humbly hope, will (upon enquiry) be found to give them some claim. And for such mark of Your Excellency's favour Petitioners as in duty bound will ever pray.

[*Unsigned.*]

CERTIFICATE BY MR. F. A. HELY.

Recommend-
ation of petition
by F. A. Hely.

THESE Petitioners have conducted themselves well since their arrival in the Colony, and have been most useful to the Government in their various employments. I have also *extra official* knowledge of their case, which enables me to say that it is fairly stated. The unfortunate man Thomas Gould, who really inflicted the Wound, is now dead. Under the circumstances, I can feel no hesitation in recommending them to the Governor as fit objects for the exercise of His Excellency's Clemency.

FREDK. A. HELY.

27th August, 1829.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Nithsdale; acknowledged by Governor Darling, 10th June, 1830.)

14 Dec.

Statements
made by
J. Stephen, jr.

Sir, Downing Street, 14 December, 1829.

I have received your Letter dated the 9th of April last, marked "Private and confidential," in which you refer to a communication made by Mr. John Stephen, the Son of one of the Judges of New South Wales, to Mr. McLeay, the Colonial Secretary, concerning the appointment of his Relative Mr. James Stephen, as a Commissioner of Enquiry at that Colony. You further call my attention to another Statement made by Mr. John Stephen on the authority of Letters received from England, respecting the recall of Yourself and Mr. McLeay, and the immediate appointment of a new Governor and Colonial Secretary.

Denial of
all statements.

I have received from Mr. James Stephen, the Counsel to this Department, the most distinct and positive assurance that he is not the Author of the Letter, attributed to him by his Relative Mr. John Stephen, and that he never wrote any Letter in which allusion was made to any supposed appointment of himself or any other person, either as a Commissioner of Enquiry at New South Wales or as Secretary to any such Commission. I need scarcely state that no appointment of that nature has ever been contemplated by myself or by my Predecessors in this Office, and that the Reports respecting the recall of yourself and Mr. McLeay and the dismissal of the Council are all entirely without foundation.

I am satisfied therefore that the Letter in question is a forgery, and it would seem not to have been very skilfully contrived; since

it does not profess to be written by the hand of the person to whom it is ascribed, and has no date, signature or post mark. I am unwilling to suppose that Mr. John Stephen made use of this Letter with any knowledge or belief that it was a forgery; but I am informed by his Relative* in this Office that he has received from Mr. John Stephen a Letter, dated the 14th of April last, in which no reference is made to the subject, although your Letter is dated on the 11th of the same Month. Mr. John Stephen's silence on a subject of such recent occurrence, and of such evident interest to his Correspondent and to himself, is a circumstance which cannot but provoke some doubt of his own belief in the genuineness of the Letter. You will call upon him for such explanations as he may think proper to give.

1829.
14 Dec.

Forgery
suspected.

Explanation
required from
J. Stephen, jr.

I regret that you did not secure and transmit to me the original paper produced to Mr. McLeay. But of course it has been preserved, and you will call upon Mr. John Stephen to transmit it, through Yourself, to this Office. And I have to request that you will acquaint me what Vessels arrived in the Colony under your Government from any part of the United Kingdom between the 1st of January and the 5th of April, by which Letters may have been brought to New South Wales from any person in this Country professing to give information respecting the intentions of His Majesty's Government, and that, in making that Return, you will distinguish which of such Vessels were from England, which from Scotland, and which from Ireland, and add, if You have the means of doing so, the dates at which they set sail from the respective ports of the United Kingdom. I have directed Colonel Arthur to call upon Mr. Alfred Stephen* to account for the share, which he is stated to have taken in transmitting this Letter from Van Diemen's Land.

Original
paper to be
transmitted.

Return of
arrivals of
ships to be
transmitted.

Explanation
required from
A. Stephen.

Although I have thought it right both for your own satisfaction, and in justice to the persons, whose Names are implicated in this transaction, to investigate the origin of these rumours, yet I am not disposed to attach much importance to the subject, if viewed in any other light. I fear that in a Society so constituted as is that under your Government, you can never escape that petty hostility which vents itself in the dissemination of false and injurious rumours. Attacks of that nature derive their principal efficacy from the real or supposed sensibility of those against whom they are directed, and are usually better repelled by silence and indifference than by more active measures.

Letter regarded
as unimportant.

I am, &c.,
G. MURRAY.

* Note 72.

1829.
15 Dec.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Nithsdale; acknowledged by
Governor Darling, 25th May, 1830.)

Sir, Downing Street, 15th Decr., 1829.

Report required
on statements
re T. Raine.

It having been stated to Sir George Murray that Mr. Thos. Raine was indebted to the Government of New South Wales in a large sum in consequence of the defalcation of another Person for whom he was security, and that you had relieved him from any further liability on that account by the cancelling of his bond, I have received Sir George Murray's directions to request that you will be good enough to inform him if there be any truth in the above statement, and, if so, that you will state the grounds on which you were induced to adopt that measure.

I have, &c.,
HORACE TWISS.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

My dear Sir, Downing Street, 15 Decr., 1829.

Land to be
granted to
G. Mackenzie.

Mr. Huskisson has left with me a letter, addressed to Mr. Gladstone of Liverpool from Mr. George Mackenzie, a Settler in New South Wales, who has already received some land in that quarter, as a Partner to Mr. Maclean, and who applies for 1,920 acres on the north side of the Manning River. As Mr. Mackenzie appears from his letter to be a very intelligent Person, and one who is likely to become a valuable Settler, Sir George Murray will be glad to afford him all reasonable encouragement; and I am directed, therefore, to request that you will comply with any application which may be made to you officially by Mr. Mackenzie for an additional grant to the extent of 1,920 acres, should he have complied with the regulations in regard to his previous grant, and should it be possible to give him further land in the quarter, which he wishes, consistently with the established Regulations.

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

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 123, per ship Vibilia.)

Sir, Government House, 15th December, 1829.

Transmission
of return.

I have the honor to transmit in reference to your Circular Despatch dated the 12th April last, No. 6, a Statement or Return shewing the amount of Securities entered into by the Officers of this Government respectively, who are charged with the collection of the Public Money.

I have, &c.,
RA. DARLING.

* Note 7.

[Enclosure.]

RETURN of Officers in New South Wales, entrusted with Public Monies derived from the Revenue of the Colony, shewing the average Balances in their hands and the nature of the security entered into by each.

Description of the Office.	What has been or is likely to be the Amount of Balance in each officer's hands.	Nature of the Security entered into.
The Colonial Treasurer.	According to the established Regulations, the Treasurer deposits such Monies as he receives in the two Banks to the Amount of £5,000 in each, retaining in the Public Chest a sum not exceeding £100 to meet demands under £5. When the general Receipts exceed £10,000, the surplus is lodged in the Treasury Vault under three different Locks and Keys, which are kept by the Treasurer, the Auditor and the acting Secretary, and the Vault is ordered not to be opened but in the presence of those Individuals.	Security has been furnished by the present Acting Treasurer, himself £5,000 and two Sureties in £2,500 each.
The Collector of Customs.	This officer pays his Collections into the Bank of Australia <i>Weekly</i> , and transfers the amount to the Treasury <i>Monthly</i> . The average Monthly Collections in the Six Months ended the 30th June, 1829, was £6,750 3s. 9½d.	The present Collector of Customs has given Security, himself in £3,000 and two Sureties in £3,000 each.
The Post Master of the Territory.	Pays over the amount of Postage collected by him to the Collector of Internal Revenue <i>Weekly</i> . The average Weekly collection in the six months ended the 30th June last was £19 1s. 1d.	The Postmaster has given Security, himself in £200 and two Sureties in £100 each.
The Deputy Post Masters.	The Deputy Postmasters are required to pay over the Amount of Postage collected by them to the Postmaster <i>Monthly</i> . The average and Maximum Collections at the undermentioned Post Towns in the Six Months ended 30th June last were as follows; Vizt. Average, Parramatta, £8 10s. 11½d.; Windsor, £7 0s. 10½d.; Liverpool, £3 1s. 8d.; Campbell Town, £2 3s. 2½d.; Penrith, £2 12s. 2½d.; Bathurst, £6 14s. 10½d.; Newcastle, £3 15s. 4½d.	The Deputy Post Masters give Security themselves in £100 each and two Sureties in £50 each.
The Collector of Internal Revenue.	Pays his Collections into the Treasury <i>Weekly</i> . The Average Collections in the Six Months ended the 30th June last was £563 17s. 5½d.	The present Collector of Internal Revenue has given Security in his own personal Bond for £5,000, and by the Bonds of five other Sureties to the same amount.
The Surveyor of Distilleries.	This Officer does not receive any Duties, as they are paid over directly to the Collector of Internal Revenue. As however he is entrusted with the granting of permits, by any Irregularity in which the Revenue might suffer, it may probably be considered proper that he should furnish security. The Duties on Spirits distilled in the Colony amounted in the last six months to £145 10s., but may be expected to augment considerably on the return of more favourable Seasons.	
	The foregoing Statement is exclusive of Officers entrusted with the Collection of Fees, who have not hitherto been required to give Security excepting in the case of the Clerk of the Court of Magistrates in Sydney.	

1829.
15 Dec.

Return of officers entrusted with public monies with securities lodged.

1829.
16 Dec.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 179, per ship Nithsdale.)

Sir,

Downing Street, 16 Decr., 1829.

The numerous escapes, which have recently been effected by Convicts from both the Australian Provinces, have attracted the attention of His Majesty's Government, and have impressed upon them the necessity of some preventive measures for the future. I have therefore to desire that you will, with your Council, take the subject into consideration, and report to me what course you may adopt.

I am, &c.,

G. MURRAY.

Measures to be adopted for prevention of escape of convicts.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 124, per ship Vibilia; acknowledged by Sir George Murray, 8th July, 1830.)

Sir,

Government House, 16th December, 1829.

I do myself the honor to forward, at the desire of the Sheriff Mr. Macquoid, the enclosed Letter, which he has addressed to you on the subject of his Name not being included in the Warrant appointing a Legislative Council for this Colony, and further with respect to the omission of the Sheriff in the Table of Precedence established according to the Instructions contained in Mr. Twiss's Letter, dated the 30th of November, 1828.

With respect to the first subject of Mr. Macquoid's Letter, it is due to that Gentleman I should inform you that he appears on every ground to have a strong claim to the confidence and attention of Government. He is a person of experience and has acquired considerable information by his long residence in this part of the World; and his Character and deportment are such as cannot fail to make a very useful impression on the community of New South Wales.

I do not presume to offer any observations on Mr. Macquoid's representation respecting the precedence of the Sheriff, it appearing, by the Under Secretary of State's Letter above referred to, that you consider the matter too trivial to require any decision.

I do myself the honor to transmit for your information Copy of the Government Order, which was issued to give effect to the Instructions conveyed to me in Mr. Twiss's Letter of the 30th of November, 1828, which I hope will be found correct.

I have, &c.,

RA. DARLING.

Transmission of letter from T. Macquoid.

Testimony in favour of T. Macquoid.

[Enclosure No. 1.]

1829.
16 Dec.

MR. T. MACQUOID TO SIR GEORGE MURRAY.

Sir, Sydney, New South Wales, 28th November, 1829.

When I received the appointment which I have now the honor to hold as High Sheriff of this Colony, I was aware that the names of certain individuals, who were to form a legislative Council for New South Wales on a more extended scale than had hitherto existed, were about to be presented to His Majesty for approval; and, as it was understood that the principle of selection was to be an admixture of the highest class of Civil Servants with the most respectable of the landed proprietors, my friends at home led me to expect that I should not be left out. It appeared indeed probable that, holding so responsible an office in the Colony, I might be considered as one in whom His Majesty's Government would confide. Nor was it perhaps unreasonable in my friends to have formed such an expectation, since it was well known to them that I had held high and confidential Situations in India, and, by many years' active service there, had acquired experience in Colonial affairs, and had established claims to personal consideration.

Exclusion of
T. Macquoid
from legislative
council.

Under these circumstances, I need hardly say that the omission of my name in the late Warrant for the Council has produced some disappointment.

But the object, to which I take the liberty of drawing your more immediate attention, is what I trust will prove to have been an inadvertence in making out the Table of Precedence for New South Wales, by which the rank of the several Officers of the Crown and Members of both Councils is respectively fixed. In this Table, no notice whatever is taken of the Sheriff, and the rank which he is to hold, coming next after the Judges, is thus left open to doubt and objection, which I apprehend it is not in the power of His Excellency the Governor to remove.

Omission of
sheriff from
table of
precedence.

Considering the high rank in his County, which the Constitution confers on the ancient office of Sheriff, and the place in Society, which that Officer has heretofore held in this Colony, I feel justified in presuming that his Name not appearing in the List of Precedency has been occasioned rather by inadvertence, or perhaps from an idea that the order of Precedence in England has sufficiently defined his rank than from any intention to lessen his respectability. But, as unpleasant doubts may possibly arise hereafter, it cannot be viewed otherwise than as a point of natural and honorable ambition with me that the Office should not in my hands be permitted to deteriorate or to sink into insignificance.

I disclaim all private feeling on the subject. It is simply on public grounds that I am induced respectfully to make this appeal, which I shall take the liberty to forward open through His Excellency the Governor, who will, I am persuaded, give it that support which the state of Society in New South Wales may in his mind appear to demand.

I have, &c..

T. MACQUOID, Sheriff.

[Enclosure No. 2.]

GOVERNMENT ORDERS.

Colonial Secretary's Office, 20th July, 1829.

Government
orders *re*
precedence.

HIS EXCELLENCY the Governor, in pursuance of the directions of His Majesty's Principal Secretary of State for the Colonies, has been

1829.
16 Dec.
Government
orders *re*
precedence.

pleased to order that the following Table of Precedence to be observed in the Colony of New South Wales be published for general information, Vizt. :—

The Governor.

The Chief Justice of the Colony.

All Persons having the rank of Privy Counsellors, or any higher rank in England, according to their respective Ranks.

The Members of the Executive Council.

The Puisne or Assistant Judges of the Supreme Court.

Persons of the degree of Knighthood, or any higher degree, under that of Privy Counsellors.

The Attorney General.

The Solicitor General.

The Members of the Legislative Council.

All other persons under the degree of Knights according to the order of Precedency in England.

By His Excellency's Command,
ALEXANDER MCLEAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 180, per ship Nithsdale.)

17 Dec.
Claim of
J. T. Morisset
to land.

Sir, Downing Street, 17 Decr., 1829.

I have the honor to acknowledge the receipt of your despatch of the 20th of June last, No. 73, relative to a selection of land made by Lieut. Colonel Morisset during the time that he held a civil situation in New South Wales, and contemplated retirement from the Military service, and whose claim still to retain this land you refer to my consideration in consequence of his subsequent return to his Military capacity.

Refusal of
claim.

Upon reference to my recent despatches of the 1st Ultimo, No. 159, and of the 16th Ultimo, No. 169, you will find fully explained the opinion of His Majesty's Government on the inconvenience of suffering Officers in His Majesty's service to hold land in the Colony, where they may be employed in a Military or Naval capacity; and, in conformity with that opinion, I am obliged, however reluctantly, to say that Lieut. Colonel Morisset cannot be permitted to receive either the land originally granted to him, or any other land in substitution for it, so long as he shall hold any Military situation under your Government.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 125, per ship Vibilia; acknowledged by Sir George Murray, 9th July, 1830.)

Request by
T. Macquoid
for increased
salary.

Sir, Government House, 17th December, 1829.

I do myself the honor to transmit for your consideration the accompanying Copy of a Letter, which has been addressed to me by Mr. Macquoid, requesting an augmentation to his

Salary on the ground of the increased duties and responsibility of his Office as Sheriff.

1829.
17 Dec.

Mr. Macquoid's Statement is so clear and satisfactory that it would be a waste of time were I to enter into any further explanation of the matter. But it is necessary I should add for your information, and I have very much pleasure in doing so, that Mr. Macquoid's zeal in the performance of his laborious and important duties and his conduct on all occasions entitle him to the unqualified approbation of this Government and to its warmest commendation.

Commendation
of services of
T. Macquoid.

I beg, Sir, it may be understood that, in thus bearing testimony to the merits of Mr. McQuoid, that I have not given him any reason to expect an augmentation to his Salary. I pointed out to him, on the contrary, the difficulties in a pecuniary point of view to which the Government was exposed, and, as I could not comply with his request, I should forward his application for your determination.

Difficulty in
increase of
salary.

I shall not trespass, Sir, on your time by offering any remarks on the Statements contained in Mr. Macquoid's Letter, but I think you will find the facts, which are important, deserving attention.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. T. MACQUOID TO GOVERNOR DARLING.

Sir, Sheriff's Office, Sydney, 29th November, 1829.

The desire, which your Excellency has manifested, to render comfortable, as far as circumstances admitted of, every public Officer placed under your Authority, induces me respectfully to lay before you the following representation, which I feel persuaded will meet with every consideration; and I venture to flatter myself, if the rules of the Service will not admit of the request, by which it is followed up, being complied with by the local Government, that my application will be transmitted to His Majesty's Secretary of State with such a recommendation from Your Excellency as I trust the case will be found to merit.

Request for
support of
claim.

The object of this Letter is to make appear to your Excellency the total inadequacy of the Salary attached to the Office of Sheriff, when compared with the increased duties he has to perform and the responsibility with which he is surrounded in every direction. These duties and this responsibility have increased of late in a most alarming degree without any concurrent encrease of emolument.

Inadequacy
of salary of
sheriff.

When Mr. Mackaness was appointed Sheriff in 1825, the Salary was fixed at £1,000 per annum in lieu of all perquisites or Fees, which were directed in future to be paid into the Treasury. The Colony was then in a state of comparative abundance and prosperity. House Rent was not within 50 per cent. of what it is at present, and most of the necessaries of Life were proportionately moderate, while the Duties and responsibility of the Sheriff have

Fixed rate
of salary.

since *encreased in a five fold degree*, as the following authentic return of the Process of the Supreme Court, passing through the Office for the last five Years, will clearly shew.

1829.
17 Dec.
Evidence re
increase in
duties of
sheriff.

		Total Writs annually.
In 1825—		
Executions agst. person or Property	107	
Mesne Process or ca. res.	166	
Summonses	283	
	—	556
In 1826—		
Executions agst. person or Property	129	
Mesne Process or ca. res.	231	
Summonses	250	
	—	610
In 1827—		
Executions agst. person or Property	216	
Mesne Process or ca. res.	240	
Summonses	464	
	—	920
In 1828—		
Executions agst. person or Property	456	
Mesne Process or ca. res.	329	
Summonses	964	
	—	1,749
In 10 months ending with 31st October, 1829—		
Executions agst. person or Property	670	
Mesne Process or ca. res.	251	
Summonses	1,305	
	—	2,226
And, if the Business continues for this Month and December in the same proportion, the Number of Writs of every kind for the Year 1829 will be ..		
		2,671

During the same Years, the Fees from the Sheriff's Office were as follows:—

	£	s.	d.
In 1825 Spanish Dollars 515, or say	111	10	9
1826	544	9	0
1827	855	4	9
1828	760	11	10

I took charge of my Office on the 1st February of the present Year, and the Fees from that date to the 31st October being 9 Months amount to £1,335 5s. 6d. or in the same proportion for the whole Year will amount to

	1,669	1	10
--	-------	---	----

From this Statement, it is clear that the Business of the Sheriff's Office has increased by a fraction only short of a *five fold ratio* since 1825, and the Fees in a *Twelve fold ratio*. The responsibility has more than kept pace with the encrease of Business, and I am assured by my Predecessor, Mr. Carter, that his own Lawyer's Fees alone would have cost him upwards of £300, had he been obliged to pay the Professional Gentleman, who kindly undertook to defend the Actions brought against him during the short period of 13 Months which he held the Office, independent of the Costs on the other side; and the Judgments which, had they gone against him, might have amounted to £3,000.

Fees taken
in sheriff's
office.

Increase of
responsibility.

To form a just estimate in regard to the Amount of Fees paid into the Treasury from the Sheriff's Office during the five Years above stated, it must be taken into consideration that, in consequence of the late great depression in the value of most kind of Property, it is probable, I will not say in 1825 but in the years following that the *Executions* (upon which the Bulk of the Fees are levied) brought as great an amount into the Treasury, as the same kind of Writs will have done in 1829, or, in other words, if the *Property*, sold in Execution in 1829, had been sold in 1826, it would probably have realised in Fees to Government three times the amount it has done in the present Year, owing to the great fall in its value in consequence of the Distresses of the times from the long continued Drought.

It is a singular state for a young Colony to be in, and perhaps worthy of being placed on record, that during the 10 Months of this Year ending in October, one in $4\frac{1}{3}$ persons liable to such Process has been served with a Writ of one kind or another. That, during the same period, one in every $10\frac{2}{3}$ has had an Execution against Person or Property, or has been held to Bail. That, during the same period, one in every $14\frac{1}{3}$ Persons has had execution against Person or Property through the Sheriff's Office without reference to the Court of Requests.

Another extraordinary circumstance, which the foregoing Return enables me to notice, is that in the whole Population of London, exceeding 1,200,000, the number of Persons taken in Execution during the Year 1827 appears, from a Document presented to the House of Commons, to have been 1,799; while, in New South Wales during 1829 (supposing that November and December keep up the average proportion of the preceding Months of the Year) the Number of Persons taken under the same writ will be 284. If therefore New South Wales had only kept pace with the Metropolis of Great Britain, the Number of Writs in Execution against persons should not have exceeded 60, so that, referring to the Population liable to such Process, almost 5 to 1 of these Writs have been issued in this Infant Colony as compared with London.

The points just noticed are strikingly interesting in a general view as regards the Colony; and, at the same time, they will satisfactorily shew that the Office of Sheriff of New South Wales is any thing but a *Sinecure*.

I have hitherto confined my observations to the duties of the Sheriff in the Civil side of the Courts. To prove that his Duties have awfully increased under the Criminal Jurisdiction of the Court, it may be sufficient to mention to Your Excellency that 28 Persons were executed during the Year 1828, while, in the preceding 10 months of the present Year, the Number of wretched beings who suffered the extreme Sentence of the Law amounts to 50!

In conclusion, I will briefly notice to Your Excellency the constant and necessary attendance which the Sheriff is obliged to give either in Person or by Deputy in the Courts when Sitting, the insecurity of the Gaols, unavoidable in the present state of the Colony; the great and daily increasing extent of, it may be said, undefined Territory, over which the population is very thinly spread, rendering more difficult and hazardous, from the character of the Inhabitants than in any European Country, the due Execution of the Court's Process; the late Jury Bill which imposes New

1829.
17 Dec.

Result of depressed values of property.

Proportion of writs and executions to population.

Comparison of figures in London.

Increase in duties of sheriff in criminal jurisdiction.

Other causes of increase in labours of sheriff.

1829.
17 Dec.

and onerous Duties on the Sheriff; and the late Establishment of the Circuit Courts; all of which obviously either much encrease the Sheriff's responsibility or add to his present Duties.

Inadequacy
of salary.

I would put it to the Judges, I would put it to the most experienced of the professional Men in the Colony to say if the present Salary is anything like an adequate remuneration for these encreasing Duties, or at all equal to cover him from the appalling risk to which he is sometimes unavoidably exposed, to say nothing of the anxiety of mind consequent to his Office, nor of the Rank he has to maintain with a Family in an expensive Colony, where more than a bare subsistence is naturally looked for. Indeed I feel assured that the Judges would bear testimony to the Statement I have here given not being overdrawn, should Your Excellency deem it necessary to refer to them.

Request for
increase.

Having thus, as I trust by the facts which I have felt it due to myself and my Family most respectfully to place before your Excellency, furnished ample grounds to justify an adequate addition to my present Salary, I venture confidently to express my hope and request that an encrease may be made to it in some measure commensurable with the risk, to which I am exposed, and the duties I am called upon to perform.

I have, &c.,

T. MACQUOID, Sheriff.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 181, per ship Nithsdale.)

18 Dec.

Sir,

Downing Street, 18 Decr., 1829.

Approval of
reimbursement
to D. Reid.

I have the honor to acknowledge the receipt of your despatch of the 27th of June last, No. 79, enclosing a copy of a letter from Dr. Reid, a Magistrate of the County of Argyle in the Colony under your Government, from whose statement it appears that he had authorized the Clerk of the Bench of Magistrates (named Taylor) to receive the salaries of the Constables and other Persons, employed in the Police of the District, which Salaries, when collected, were appropriated by Taylor to his own use.

Under the peculiar circumstances of this case, and in accordance with the recommendation of the Council, I consider it reasonable that Dr. Reid should not be held responsible for the sum of £156 10s. 8d., being the amount of the losses sustained by the Public on this occasion; and I have therefore to convey my approval of the measure which you have adopted.

Security
required from
persons holding
public monies.

It will be expedient, however, that henceforth all Clerks and other Persons, whom in the course of their official employment it may be necessary to entrust with money, should be obliged to give security to the amount of the largest sum which they are likely to have in their hands at any one period.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY,
(Despatch No. 126, per ship *Vibilia*; acknowledged by
Sir George Murray, 9th July, 1830.)

1829.
18 Dec.

Sir, Government House, 18th December, 1829.

I have the honor to forward, for your consideration, at the desire of Mr. Carter, the late Acting Sheriff, the accompanying Copy of a Letter which he has addressed to me respecting the inadequacy of the Salary he received as Sheriff, and soliciting some pecuniary allowance in consequence.

Transmission
of letter from
W. Carter.

The Statements, contained in Mr. Sheriff Macquoid's Letter, which accompanies my Despatch No. 125, transmitted by the present opportunity, appear to render any observations on Mr. Carter's application unnecessary.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. W. CARTER TO GOVERNOR DARLING.

Sir,

15th December, 1829.

It has always been my intention to make an appeal to His Majesty's Government through Your Excellency claiming some addition to the very inadequate Salary of Sheriff. I have delayed making that appeal from a wish to have first finally arranged the whole of the transactions arising out of my late Sheriffalty, that I am unable to effect even yet, as two actions against me as late Sheriff are still undecided, and several Sums of Money due to me as Sheriff are still unpaid; but Mr. McQuoid is anxious to make his appeal to the justice of Government on the subject. He has shewn me his very clear and able Statement of the Duties and responsibilities arising out of the Situation of Sheriff; they are perfectly correct, and are stated in so clear and luminous a manner that it is unnecessary for me to make any additional Statement to shew the total inadequacy of the Salary attached to the Office of Sheriff, as a Remuneration for the trouble and responsibilities of that Office.

Request for
additional
salary as sheriff.

I solemnly declare that, if the Office of Sheriff was offered to me to-morrow, I would not accept it with a Salary less than two thousand Pounds per annum. Upon my resigning that Situation to Mr. McQuoid, I advised him immediately to represent to Government the inadequacy of his Salary, and represented to him that the Situation would be his ruin unless he possessed considerable Private Property, or the Salary attached to his Office was very much increased.

Inadequacy of
salary as sheriff.

Sixteen Actions have been brought against me as Sheriff; thirteen have been decided in my favour, one against me, solely on the ground that I could not prove a Notice served at Newcastle, and that at a time, when I had no means of forwarding the process passing through the Office, but by the Packet Boat from Sydney to Newcastle. In this case, I was saddled with One hundred Pounds Debt and Costs. The result of the other 13 Actions speak more strongly as to how the Business of the Office was conducted than any Statement it would be becoming in me to make; but, though those actions were decided in my favour, my Law Expenses, if paid, could not be much less than Three hundred Pounds.

Actions against
W. Carter as
sheriff.

1829.
18 Dec.

Expenses
as sheriff.

Claim for
special
allowance.

Two Actions are still undecided. When the Accounts of my Office are finally closed, my losses or Expenses as Sheriff will not be less than four hundred Pounds, or, in other words, I shall have received Six hundred instead of one thousand Pounds for the performance of a high, most painful and most responsible Public Situation.

I have therefore respectfully to request that Your Excellency will do me the honor to forward this short Statement, with the fuller one made by Mr. McQuoid, and I trust that His Majesty's Government will feel the justice of my claim for an Allowance of at least four hundred Pounds for the incidental Expenses of my late Office as Sheriff of this Colony and not arising from any misconduct of the Business of my Office.

I have, &c.,

WILLIAM CARTER.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Nithsdale.)

19 Dec.

Transmission
of letter re
H. Cahnac.

Sir,

Downing Street, 19 Decr., 1829.

Having laid before Secretary Sir George Murray your letter dated the 30th of January last, I am directed to transmit to you a copy of Mr. Stanley's letter to Miss Cotes, which ought to have accompanied his letter to you of the 30th of Novr., 1827, and from which you will learn the intentions of the late Secretary of State respecting Mr. Cahnac.

I am, &c.,

HORACE TWISS.

[Enclosure.]

[*A copy of this letter will be found on page 629, volume XIII.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 127, per ship Vibia; acknowledged by Sir George Murray, 24th July. 1830.)

Sir,

Government House, 19th December, 1829.

I have the honour to acknowledge the receipt of your Despatch of the 18th of December last, No. 69, as also of the Under Secretary of State's Letters, dated the 22nd of June, 1828, and the 20th of March, 1829, which I have delayed for some time answering, having understood that Mr. Dangar had actually arrived at Van Diemen's Land on his way hither; but it proved to be another Person of that name. I have been induced to reply to the above communications in the same Letter, as the Subjects are intimately connected, the 1,300 Acres of Land reserved for Mr. Dangar.

Despatches
acknowledged
re H. Dangar.

Application by
T. P. MacQueen
for land
reserved.

Mr. Twiss's Letter of June, 1828, conveys a wish on the part of Mr. Potter MacQueen to be permitted to purchase these 1,300 Acres, being *wholly surrounded* (as he has been led to suppose) *by his Property*. It is evident that Mr. McQueen has been

misinformed, as the Land in question is not surrounded by his Property, but by the Grants of Mr. Peter McIntyre, who has spared no pains to obtain possession of this Land.

1829.
19 Dec.

I am aware I recommended, when I directed that the Grant of the 1,300 Acres should be reserved for the decision of the Secretary of State, that Mr. Dangar should not be permitted to retain any Land on Hunter's River; but I suggested at the same time that Mr. McIntyre should not be allowed to obtain possession of that piece of Land, Mr. Dangar's claim to it on account of prior selection having been satisfactorily established. Mr. Dangar was considered undeserving the indulgence of being permitted to retain it, in consequence of his improper proceedings in appropriating to himself *other* Lands. Mr. McIntyre had no claim whatever to the 1,300 Acres in question, and I was certainly not satisfied with the Steps he took to obtain this Land. I shall now proceed, Sir, according to the date of the several communications above referred to, to reply to your Despatch No. 69, and shall furnish the best information in my power so as to enable you to judge of the case. Mr. Dangar had not been dispossessed of the Reserve of 1,300 Acres as you suppose, but of the 1,700 or rather 2,000 Acres, which he represents as his *Purchased Land*.

Recommendation against grant to H. Dangar or P. McIntyre.

Land resumed from H. Dangar.

It may be necessary to offer a few words in explanation of this matter. Previous to the departure of my Predecessor, Mr. Dangar, with many other Individuals, was allowed to become the purchaser of a certain quantity of Land at a given rate and immediately paid down a deposit of 10 per cent., that is they obtained a right of purchasing so much Land, as generally speaking the Land was not selected for a very considerable period afterwards, and these selections were of course subject to approval. Mr. Dangar's purchased Land was under this circumstance. He did not purchase the identical Land in question, but 2,000 Acres to be selected; and, having resorted to improper means in selecting this Land, it appeared to me he should not be allowed to retain it.

Land purchased by H. Dangar before selection.

Reasons for refusing land selected by H. Dangar.

I beg to observe there was no intention, notwithstanding Mr. Dangar's misconduct, to subject him to the loss of the Deposit money he had paid, or to prevent his taking land elsewhere, but merely to defeat his endeavours to appropriate to himself, as his purchased Land, the 2,000 Acres which Mr. McIntyre had selected and wished to obtain, but was prevented by the incorrect information given him by Mr. Dangar in his official situation as Assistant Surveyor.

Mr. Dangar has not therefore, as you appear to suppose, been dispossessed of the Reserve of 1,300 Acres, which he still holds subject to your decision, but, as I have already observed, of the

1829.
19 Dec.

Proposed
settlement of
claims.

Objections to
free grant.

Nature of title
to reserves
of land.

2,000 Acres (which he wished to take as his purchased land), to which Mr. McIntyre had undoubtedly a prior claim.

If it be considered that Mr. Dangar's misconduct has been visited with sufficient severity by the loss of his appointment (which however he had previously resigned, but was permitted to withdraw his resignation pending the Inquiry), and being dispossessed of the Land last mentioned, I am not aware of there being any objection to his retaining the Reserve of 1,300 Acres (as part of the 2,000 he had permission to purchase), which, as I have shewn, cannot be necessary to Mr. McQueen and to which Mr. McIntyre has no claim, Mr. Dangar in this case being allowed to select 700 Acres for purchase elsewhere in order to complete the 2,000. But it certainly appears to me, it would have an ill effect if Mr. Dangar were allowed to retain the 1,300 Acres as a Grant *without* purchase, or to receive any indulgence from the Government. His own letter shews how regardless he was of the Government Regulations, though in the service of the Government, by purchasing the Lands of the two Individuals alluded to; But he appears to have determined to complete his Estate at that particular place without caring as to the means. He has besides stated in his Letter to your office what is not the fact. He has not improved the Land in question; nor has he erected any Building upon it beyond a common Hut or gone to any Expense.

I shall now advert to the question stated in Mr. Twiss's Letter of the 20th of March last, "as to the nature of the Title, which Reserves of Land, afterwards confirmed by the Governor in the manner stated by Mr. Dangar, usually bestow upon the Parties in whose favour such Reserves may have been made."

The best answer to this will be found in the Copy of the Document, which Mr. Dangar quotes in his Letter of the 27th February, 1829, to Mr. Hay, and which is as follows: "Viz."—

"To John Oxley Esqr. Surveyor Genl.

"You are hereby required and directed to mark and measure for the Individuals in the foregoing List, numbered from 1 to — inclusive, the number of Acres of Land specified against each name respectively, and to place them or their legal representatives in possession thereof, the same Lands being reserved for their use with the intention of Grants being hereafter passed under the Great Seal of the Colony in the usual manner, when they may cease to be in the employment of the Crown, or when they may have complied with the Terms on which the same are now reserved.

"And for so doing this shall be your sufficient Warrant."

In the Letter above alluded to, I perceive Mr. Dangar contends that the Reserves had been converted into a Grant by the Document just quoted, which I presume however is not the fact. In Mr. Dangar's case, it will be seen, he was not to receive the Land as a Grant until he had retired from Office. Previous to this, it was found he had been guilty of such misconduct as rendered it necessary to suspend him, and to recommend to the Secretary of State that he should be deprived of the Land. This was approved and confirmed, and Mr. Dangar could not, I conceive, after his dismissal, claim the Land as having been granted to him. That this was Mr. Dangar's opinion is in some measure proved by his sending in his resignation to avert, as must be supposed, the consequences of the representations which had been made against him. It was intimated to him, as I have already stated, that it could not be acted on during the investigation into his conduct, and he was permitted to withdraw it.

I have not thought it necessary to enter into a more ample refutation of Mr. Dangar's assertions. I have satisfied myself by shewing he does not confine himself to facts, and that the Document he quotes was not tantamount to a Grant. I will suppose for example it had not been quite convenient for Mr. Dangar to resign his Office, and the Secretary of State had not thought it necessary to dismiss him, but merely to deprive him of the Land, which he certainly had the power of doing previous to the Deed of Grant being passed; could Mr. Dangar in that case, on retiring from the Service at any subsequent period, have claimed the Land under the Document in question?

I regret it is not in my power more explicitly to answer the question proposed by Mr. Twiss. The course adopted was I believe altogether new—that is, of selling a right, if I may so call it, to a certain quantity of Land to be afterwards selected. When Individuals have obtained what is termed a "Reserve," it has been some particular and specific Land; and, they having, as may be presumed, fulfilled the conditions, the "Reserve" has been confirmed by a Deed of Grant and not by an Instrument such as that quoted by Mr. Dangar. I have, &c.,

RA. DARLING.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Nithsdale.)

Sir,

Downing Street, 20 Decr., 1829.

20 Dec.

I am directed by Secretary Sir George Murray to acquaint you that Lieutt. Jas. Archdeacon Richardson, the Bearer of this letter, is about to proceed to New South Wales,

Recommendation of
J. A. Richardson
as military
settler.

1829.
19 Dec.

Validity of
claim of
H. Dangar
to land.

Unusual
procedure of
H. Dangar.

1829.
20 Dec.
Recommendation of J. A. Richardson as military settler.

with a view of Settling in that Colony under the Regulations,* which have been promulgated by His Majesty's Government for the encouragement of Officers of the Army to become Settlers in the Australian Colonies; and I am to desire that you will make a Grant of Land to that Officer, in conformity with these Regulations.

I enclose a letter from the Secretary of the General Commanding in Chief, by which you will perceive what have been the services of this Officer.

I am, &c.,
HORACE TWISS.

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY TWISS.

Sir, Horse Guards, 29th Septr., 1829.

Lieutenant James A. Richardson, late of the 16th Lt. Dragoons, having sold his half-pay . . .

[Here follows usual form of letter.†]

FITZROY SOMERSET.

Services of J. A. Richardson.

Services of Lieutenant Richardson.

Cornet, 10 Lt. Drags.	7 Jany., 1813.
Lieut.	1 April, 1813.
„ 16 Lt. Drags	12 Nov., 1814.
„ $\frac{1}{2}$ pay	25 Jany., 1816.

FITZROY SOMERSET.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Jane.)

21 Dec.

Sir, Downing Street, 21 Decr., 1829.

Accommodation at observatory for C. S. Rumker.

With reference to your despatch of the 5th of January 1828, reporting that you had caused two additional Rooms to be constructed at the Observatory at Paramatta for the accommodation of Mr. Rumker, the expence of which was sanctioned by Sir George Murray's despatch of the 7th of January last, I have the honor to acquaint you that Mr. Rumker has informed Sir George Murray that, at the time of his departure from the Colony, no accommodation of that nature had been provided for him. If, therefore, measures have not been already taken for affording Mr. Rumker the means of residing within the observatory, Sir George Murray requests that you will give orders for such additions to be made to that Building, as shall appear necessary to render his residence there as convenient to him as possible.

I have, &c.,
HORACE TWISS.

* Note 63.

† Note 73.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

1829.
22 Dec.

(Despatch No. 182, per ship Nithsdale.)

Sir,

Downing Street, 22nd Dec., 1829.

I have the honor to acknowledge the receipt of your despatch No. 80 of the 28th of June last, reporting that, in consequence of the claims which you consider Mr. Jones to have upon the indulgence of Government for the services rendered by him to the Colony in the Establishment of the Whale Fishery, for the valuable live Stock imported by him at considerable expence into the Colony, and for other reasons, you had, at the recommendation of the Executive Council, authorized Mr. Jones to select 10,000 acres of land as a Reserve.

Confirmation
of land
reserved for
R. Jones.

Upon reference to my recent despatch No. 166 of the 13th Ultimo, you will find that I directed an additional Grant of Land to be made to that Gentleman, in proportion to the benefits which he might have rendered to the Colony, and to the amount of his disposable capital.

Although, therefore, the proposed Grant is somewhat of an extensive nature, I cannot under these circumstances withhold my sanction from the confirmation of that Reserve to Mr. Jones.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Vibilia.)

Sir,

Government House, 22nd December, 1829.

I have been induced to trouble you with this Letter in order to put you in possession of the circumstances of a recent occurrence, lest from an erroneous impression the particulars should not be correctly stated by Individuals writing Home.

On Sunday last after Divine Service, I stopped for a moment in the Porch of the Church to speak to some Gentlemen, who appeared to be waiting until the body of the Congregation should have moved away, when a person of the name of *Shelly** came up and addressing himself to me, said in a loud tone, "You are a damned rascal." He repeated this, and I observed to the Sheriff and the Colonial Secretary, "the man is mad," not so much from his proceedings at the moment as from an opinion I had formed from his general conduct. Mr. Shelly was not overpowered and secured without the most violent resistance on his part, when a carving knife was found secreted under his coat,

Abuse of
R. Darling by
J. D. Shelley
on leaving
church.

* Note 74.

1829.
22 Dec.

Threat of
J. D. Shelley
to assassinate
R. Darling.

and, on being taken to the Watch House, it was discovered he had a Brace of detonating Pistols loaded with Ball in his Pocket.

When at Parramatta about two months since, I received an Express intimating that Mr. Shelly was proceeding to that place armed, and had expressed his determination to shoot me. He was of course watched, but nothing occurred and he returned in a couple of days to Sydney. Sometime after this on the occasion of the Review of the Troops here, it appears that Mr. Shelly had been practising in the morning with his Pistols at a Mark. He hired a Horse and then proceeded to the Ground where the Review took place; and remained there, but made no attempt.

Charge of
common assault
in police court.

I have troubled you with these circumstances, not as wishing to attach any undue importance to them; but conceiving it extraordinary, these facts having been proved at the Police Court, that the case should have been treated as a common assault on a private individual. Mr. Shelly has been bound over to keep the Peace, finding two Sureties to the Amount of £300 each. It may be expected I should account in some manner for this extraordinary outrage. It is not, however, in my power to do so, further than will be found in the letter, which I had the honor to address to you on the 22nd of January last, to which I beg to refer you. It will be seen that Mr. Shelly fancies himself aggrieved in not receiving a Grant of Land. From the manner in which he presented himself here, a perfect stranger to every one, not having brought out a Letter to any Individual and declining to answer all enquiries, it was impossible to view him in any other light than as a person who had absconded or fled his Country. My own opinion is that the circumstances, which led to his coming to this Colony, whether of a domestic nature or otherwise, had made so strong an impression on him as to disturb his mind. Naturally of an irascible and impetuous temperament, he has been worked upon by the Monitor Newspaper, which has espoused his cause* and exerted itself in persuading him he was ill used by the Government; and, in the ruin which was impending, being totally destitute and involved in debt, he appears to have become desperate and to have disregarded all consequences.

I have, &c.,

RA. DARLING.

P.S.—Nothing further is known of Mr. Shelly than his having drawn a Bill on a Lieut. Shelly of the Navy, whom he mentioned as his Brother; and the Landlord of the Hotel, in which he has lately resided, has understood that he had separated from

Inability to
explain cause
of assault.

Influence of
Monitor
newspaper on
J. D. Shelley.

his Wife in England. He is Gentlemanlike in his manners and appears well educated, Is about 30 years of age and constantly wears Glasses.

1829.
22 Dec.

R.D.

Description of
J. D. Shelley.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 183, per ship Nithsdale.)

Sir,

Downing Street, 23rd Decr., 1829.

23 Dec.

I have received your despatch No. 79 of the 27th May, 1828, enclosing the copy of a Report from the Civil Engineer with a plan and elevation of the Public Hospital in progress at Liverpool, a work which appears to have been undertaken during the administration of Your Predecessor.

Erection of
hospital at
Liverpool.

From the observations communicated in your despatch respecting this Building, I am led to fear that it has been commenced without due consideration. It may possibly be now too late to finish it upon a less extensive scale than that of the original plans, without sacrificing too much of the labour and expence already bestowed upon it; but, should a reduction still be prudently practicable, I am inclined to postpone the construction of one or both of the Wings, until those additions be justified by an actual necessity.

Criticism
of plans.

I agree in your opinion that the time is arrived when the Settlers should begin to make due provision for their own wants, instead of depending on the Government for assistance in all cases of difficulty. I think, therefore, that the Establishments already existing should be confined to their present scale, and that no assigned Servant, who may hereafter be admitted into a Public Hospital at the request of his Master, should be re-assigned to him, until the Government shall have been reimbursed for the Servant's maintenance during his stay in the Hospital.

Erection of
wings to be
postponed.

Masters
responsible for
treatment of
servants.

Although I am not prepared for the present to discontinue the Government Hospitals at the places where buildings for that purpose now exist in a tolerable state of repair, yet, where no Government Establishment remains, it would not be expedient that, for the mere accommodation of the sick Servants of the Settlers, the Government should either erect new Buildings, or incur any considerable expence in repairing those which may have fallen into decay. If, therefore, the Surgeon's house and the Hospital at Windsor are so much dilapidated as to require any great cost in the repair of them, they must be converted to some other purpose or sold or pulled down; nor can I sanction the erection of any other buildings in their stead.

Prohibition of
new hospitals
or extensive
repairs.

I am, &c.,

G. MURRAY.

1829.
24 Dec.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 184, per ship Nithsdale.)

Sir, Downing Street, 24 Decr., 1829.

I have the honor to acknowledge the receipt of your despatch No. 74 of the 22d of June last, reporting the appointment of a Storekeeper and a Clerk to the Establishment of the Department of Roads and Bridges, the former at a Salary of £110, and the latter at a salary of £73; and I have to convey to you my sanction of these appointments, if the arrangement, directed in my despatch of the 26th of May last No. 114, for uniting the Department of Roads and Bridges to that of the Surveyor General shall not have superseded the necessity of them.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 128, per ship Jane; acknowledged by
Sir George Murray, 21st July, 1830.)

Sir, Government House, 24th December, 1829.

I have the honor to transmit in obedience to the directions communicated in your Despatch, dated the 22nd July last, No. 126, the enclosed Copy of a Letter from Mr. Nicholson containing a Statement of his Services and private circumstances.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. JOHN NICHOLSON TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 16th December, 1829.

I have the honor to acknowledge the receipt of your letter of the 9th inst. referring to an application made by Admiral Durham in my favour to the Secretary of State for the Colonies for an additional Grant of Land, and requesting me to furnish a Report of my Services and pecuniary circumstances, the same having been called for by Sir George Murray. In reply, I have to state that I entered the Navy in the latter part of the year 1804; and in the Year 1807 I was with the Expedition against Copenhagen under Lord Gambier; on returning to England, we captured a Dutch Galliot, which I was placed in charge of, and was unfortunately wrecked during a heavy Gale of Wind in the "Texel," and was confined as a Prisoner of War for Two Years, during which time I suffered serious privations and numerous hardships. In the latter part of 1809, I was fortunate enough to make my escape, and joined the late Admiral Sir Richard Straham, who, on the 1st of January, 1810, had me promoted to the rank of Master for my Services, and in consideration of what I had suffered in the Dutch Prisons. From the date of my promotion up to the latter part of the Year 1816, I was employed in actual Service, under Captain George Downie in the "Royalist"; the Honble. Jet Maude in the

Approval of
appointments.

Transmission
of letter from
J. Nicholson.

Services of
J. Nicholson.

"Nemesis"; the Honble. A. Maitland in the "Pique," and lastly under Admiral Durham in the "Venerable" until that Ship was paid off; I was then placed on Half Pay.

1829.
24 Dec.

In the year 1817, I emigrated to this Colony, and, in February, 1821, was appointed to the situation I now have the honor to hold; I most respectfully beg to remark that, shortly after my arrival, I married, and that I now have a family of Six Children.

With respect to my pecuniary circumstances, I beg to state that I consider my Town Property worth £3,800, and my Country £1,800. On the latter I have expended £500 and upwards in Buildings and Improvements.

Value of
property.

In compliance with the latter part of your Letter, I have to state that I received from the Government 1,500 Acres of Land, 700 Acres of which from the late Major General Macquarie, as a Reward for my exertions in saving a Government Brig at Port Macquarie, and 800 from the late Governor, Sir Thomas Brisbane, upwards of four hundred Acres of which are cleared and nearly the whole of the Grants fenced in. 38 Acres of the Land is in a state of Cultivation. I have about 130 Head of Horned Cattle and 9 Horses.

Land grants
received.

I have, &c.,

JOHN NICHOLSON.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Nithsdale.)

Sir, Downing Street, 26 Decr., 1829.

26 Dec.

Since I addressed to you my letter of the 13th of October, in answer to one which I had received from you respecting the case of Mr. J. D. Shelley, Sir George Murray has received a communication from that Gentleman, to which I have by his direction returned a reply, of which the enclosed copy is transmitted for your information.

Transmission
of letter to
J. D. Shelley.

I have, &c.,

HORACE TWISS.

[Enclosure.]

UNDER SECRETARY TWISS TO MR. J. D. SHELLEY.

Sir, Downing Street, 26th Decr., 1829.

I am directed by Secretary Sir George Murray to acknowledge the receipt of your letter dated the 6th of July last, complaining that the Governor of New South Wales had refused to give you a Grant of Land.

Letter
acknowledged.

Sir George Murray has also had under his consideration a Dispatch from General Darling, together with a Report of the Land Board in explanation of your case, and as it appears that the refusal, on the part of the Local Government, to put you in possession of a Grant of Land has arisen from your not having thought proper to comply with the Regulations by adducing the usual proof of your being in possession of the sum, which you had represented as belonging to you, Sir George Murray does not see any ground for his interfering with the Governor's decision.

Refusal of
land grant to
J. D. Shelley.

I am, &c.,

HORACE TWISS.

1829.
26 Dec.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 129, per ship Jane; acknowledged by
Sir George Murray, 10th July, 1830.)

Sir, Government House, 26th December, 1829.

Compensation to
J. T. Morisset
for loss of
horses.

I have the honor to acquaint you that I have authorised Lieut. Colonel Morisset's receiving an Allowance of *Fifty Pounds eight Shillings** as an indemnification for the loss of two Horses, his first Charger and Bât Horse, when proceeding to assume the duties of his appointment as Commandant of Norfolk Island.

You will perceive, by the accompanying Certificate, that Lieut. Colonel Morisset unfortunately lost two other Horses on the same occasion, the Weather being extremely tempestuous and the Vessel, which belonged to Government (no other being permitted to go to the Penal Settlements), not being well calculated for the conveyance of Animals. I therefore trust in consideration of the heavy loss which that officer has sustained, which can in no respect be imputed to any want of attention on his part, that the Allowance, which he has received, will be authorised as a charge in the Public Accounts.

I have, &c.,

RA. DARLING.

[Enclosure.]

CERTIFICATE BY LIEUT. COLONEL MORISSET.

Certificate
re loss by
J. T. Morisset.

I CERTIFY, upon honor, that the two Horses for which I have received Indemnification were my first and second Charger; that they were Embarked with me on Board the Governor Phillip at Sydney on the 15th May, on my proceeding to Norfolk Island to assume the Command at that Settlement. That the said Horses, with two others my Property, died by Suffocation on the 20th of May during a very violent Gale of Wind, in which, for the preservation of the Ship and Cargo, it was found necessary to close the Hatches; the Horses being placed in the very bottom of the Hold, the Vessel being so deeply laden that there was no other possible place to stow them, so as to prevent injury to the Cargo.

J. T. MORISSET,

Lt. Coll. Staff Commg. Norfolk Island.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Jane.)

Sir, Government House, 26th December, 1829.

Power of
governor over
assigned
servants.

Having addressed the Secretary of State at some length in my Despatch of the 20th of May last, No. 61, on the subject of withdrawing assigned servants from their Masters, the Judges having decided, as will be seen by their Opinion which was transmitted with my Despatch above referred to, that the New South Wales Act, the 9th Geo. 4th, ch. 83d, did not vest the Governor

* Marginal note.—1st Charger £31 10s.; Bât Horse, £18 18s.—£50 8s. The Sum fixed by Regulations.

with the necessary power for this purpose; I take the opportunity of forwarding Copies of two Letters from the Superintendent of Police, in order that you may be aware that cases do occur, in which it is highly desirable, that Convicts should be removed from the control of their Masters.

1829.
26 Dec.
Necessity for
power of
withdrawal.

I beg it may not be supposed that personally I am at all desirous to possess this power, as I state the facts having recently occurred merely as a matter of duty.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MR. F. N. ROSSI TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Sydney, 2nd December, 1829.

I have the honor to report to you for the information of His Excellency The Governor that the Prisoners named in the Margin* came yesterday before me, and, in the presence of the Wife of Mr. David Hayes to whom they are assigned, preferred a complaint against their Master for not supplying them with sufficient Rations; and I have the honor to transmit you herewith copies of the depositions taken in the case.

Complaint of
assigned
servants re
insufficient
rations.

The Men were ordered to be remanded to the Service of their Master, till the pleasure of His Excellency the Governor could be taken upon the Subject.

I have, &c.,
F. Rossi, J.P., Pl. Supt. of Police.

[Sub-enclosure.]

DEPOSITIONS.

David Hayes free, appears by his Wife to answer a complaint of his assigned Servants.

Depositions
re complaint.

Sydney to wit

JAMES DAVIS maketh Oath and saith, I came by the Ship Eliza and am assigned to Mr. David Hayes; I swear I have had no Rations since Friday last excepting part of a Loaf; a two pound Loaf was shared amongst five of us.

his
JOHN X DAVIS.
mark

Sworn the 30th November 1829 before F. Rossi, J.P., Pl. Supt. of Police.

JAMES SEWELL sworn saith, I came to the Colony by the Marquis of Hastings, and am assigned to Mr. David Hayes. I swear that I and four other Men have had no Rations but a Loaf and some Potatoes since Friday last.

JAMES SEWELL.

Sworn as above. F. Rossi, J.P., Pl. Supt. of Police.

[Similar depositions, made by John Massey, Enoch Hobson, and Thomas Galligan, have been omitted.]

The Case to be submitted to His Excellency the Governor. 1st December, 1829. F.R., J.P.

* Marginal note.—James Davis, per "Eliza"; James Sewel, "Marquis of Hastings"; John Massey, Per "Manlius"; Enoch Hobson, Per "Manlius"; Thomas Galligan, Per "Albion."

1829.
26 Dec.

[Enclosure No. 2.]

MR. F. N. ROSSI TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Sydney, 10th December, 1829.

Assault by
W. Merritt
on assigned
servant.

I have the honor to report to you for the information of His Excellency the Governor that the Individual named in the Margin* was yesterday brought before the Bench on a Charge of Assaulting his Assigned Servant, and was committed for Trial, but admitted to Bail. The Bench, from the Evidence adduced, entertained no doubt of the impropriety of Mr. Merritt's conduct, and were desirous of withdrawing the Prisoner from his Service, at least till after the Trial for the Assault; but, Mr. Merritt refusing to give his consent to that step, the Bench were compelled to order the Prisoner to be remanded back to his Service.

Under these circumstances, I have the honor to submit the enclosed Copies of Depositions taken in the case for the consideration of His Excellency and for his decision thereon.

I have, &c.

F. ROSSI, J.P., and Pl. Supt. of Police.

[Sub-enclosure.]

DEPOSITIONS.

William Merritt, free, appears upon a Summons to answer a complaint of his Assigned Servant for an Assault.

Depositions
re assault.

THOMAS ARGENT, per Bussorah Merchant for Life, assigned to Mr. Merritt, being duly sworn, deposeth and saith, on Sunday last the 6th inst., by order of my Master I went to Concord, and met him there. I was employed in separating some cattle in a Stock Yard; some of them were exceedingly wild, and two or three of them got past me, when Mr. Merritt swore he would beat my head off with a stick, if I did not stop the Cattle. Sometime after this, Mr. Merritt desired me to get ready to go to Parramatta. I reminded him that he had not supplied me with any Provision since Friday, when he called me a damned lying scoundrel, struck me in the Neck and Breast two violent Blows with his fist, and pushed me out of the Hut we were in; he followed me, took up a stick, and swore that, if he got hold of me again, he would beat my brains out. I then came on my way towards Longbottom, with intention of placing myself in custody of Constable Lewis. Mr. Merritt met me on the way; he was on Horseback, and made a hit at me with his fist, and said, if I did not go back, he would knock the Teeth down my Throat; he also attempted to ride over me. I told him I insisted upon going to Longbottom. Mr. Merritt then left me, and in about ten minutes after he came after me, and endeavoured to ride over me, and, not succeeding, he caught hold of me and pulled me about the Road. I did not find Lewis at home, and came on to Sydney and placed myself in the custody of the Chief Constable. On Thursday, I was ordered to bring some Cattle to Sydney, if I could get them out of the lot. I was also ordered to bring some Sheep. Mr. Merritt did not tell me he had no Bullocks at Home to kill. I did not refuse to go for the Sheep. Mr. Merritt did not tell me to go for the Sheep on Monday, but to proceed forthwith. After I was

* Marginal note.—Wm. Merriott, Free.

going to Longbottom, Mr. Merritt told me to go to Mr. Wilmot's for Rations, and when he found I persisted in going he threatened to give me in Charge of a Constable.

THOMAS ARGENT.

Sworn the 19th December, 1829, before F. Rossi, J.P., Pl. Supt. of Police, D. McLEOD, J.P.

THOMAS CALDWELL, free man, lately hired Servant to Mr. Merritt, Butcher of George Street, sworn, saith, on Sunday last the 6th Inst. I was at Concord, and saw Mr. Merritt and Thomas Argent there. It was about one o'clock when they came. They had been parting Cattle, and Mr. Merritt ordered Argent to wash his Gig with warm water. Afterwards he gave him orders to go with them to Parramatta, either to take Cattle or receive Sheep. Argent said he was weak and faint with hunger, having received nothing to eat since Friday, and that he could not go then. When Mr. Merritt jumped up and griped him by the breast with one hand, and struck him twice with the other, and dragged him out of the Hut, and then took up a paling and threatened to beat his Brains out, if he did not go out of his sight. Argent then said he would go to Longbottom, and give himself into the Custody of a Constable; and he went on the Road for that purpose. I had given Mr. Merritt notice that I would leave him, and went on the road also, and I saw him attempt to ride over Argent. Mr. Merritt asked Argent to go for the Sheep on the Road, and he refused to go. After the Assault, I did not see Argent driving or have charge of any Cattle.

THOMAS CALDWELL.

Sworn the 9th December, 1829, before F. Rossi, J.P., Pl. Supt. of Police. A. McLEOD, J.P.

Convicted for Trial.—F.R., A.M., J.P's.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 185, per ship Nithsdale.)

Sir,

Downing Street, 28 Decr., 1829.

28 Dec.

I have the honor to acknowledge the receipt of your despatch No. 14 of the 11th of February last, reporting that, in consequence of the inconvenience which had been experienced by the Church having been so long without funds, and the probability which existed that the several formalities, required by the Public Instructions in this respect, could be complied with within any reasonable period, you had been induced to submit to the Council the expediency of dispensing with such of the preliminaries as were not essential to the due occupation of the land by the Church, and of placing the Trustees in immediate possession of such portions of Land as have been actually measured, taking care that the quantity so given is always *less* than what will ultimately be required to complete the Church and School Estates, so that the Commissioners of Land, when they shall have fixed the value of what has been granted, may be able to regulate the quality of soil to which the corporation will have claim for the remaining quantity.

Landed property transferred to corporation for clergy and school estates.

1829.
28 Dec.

Charter of
corporation to
be revoked.

The precaution was a very fit one, which you have taken for preventing the Corporation from acquiring a larger tract of Land in the several districts, in which the Grants are proposed to be made, than it was intended that they should receive; but this question has become of less importance since the determination was taken of revoking the powers of the Corporation for the purpose of substituting a different administration of the Church Property.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Nithsdale.)

Sir,

Downing Street, 28 Decr., 1829.

Application by
F. Flanagan for
land grant.

I have had the honor of receiving your letter of the 17th of March last, enclosing an application which Mr. Flanagan, a Tailor residing in Sydney, has made for a grant of Land on the plea that an indulgence has been given to a Shoemaker of the name of Hyam, in whose favor I had written to you at the request of the Chancellor of the Duchy of Lancaster.

The answer* returned by me to your letter of the 28th of January, respecting the case of Michael Hyam, will have explained to you that it was far from my intention to obtain for him any "favour which his situation or circumstances did not fairly entitle him to expect."

Instructions *re*
land grants for
tradespeople.

In consequence of the Instructions which you now solicit, as to the mode in which you are to deal with applications for land from Tradespeople of the same class as the Persons above mentioned, I have laid your letter before Sir George Murray, who desires me to acquaint you that you will be fully justified in refusing land to all persons, settled in business at Sydney, who shall not be able to prove to the satisfaction of the land Board that, in addition to their stock in trade and household furniture, they possess, after payment of all their debts, sufficient funds for the cultivation of the Land they apply for.

I am, &c.,
HORACE TWISS.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.†

Dear Sir,

Downing Street, 28 Decr., 1829.

Letter of
introduction
for W. Jaques
and sons.

I beg to introduce to your protection and good offices the Bearer of this letter, Mr. Jaques, whom Sir George Murray has appointed Assistant Surveyor at New South Wales. Mr. Jaques has had much professional practice in this Country, and I hope

* Note 75.

† Note 7.

will prove himself equal to the duties likely to be required of him in the situation which he is about to fill in your Colony.

I also beg to bespeak your kindness in favour of Mr. Jaques's two Sons, who accompany their Father in the hope of being able to get employment at Sydney.

I have, &c.,

H. TWISS.

1829.
28 Dec.

Letter of
introduction
for W. Jaques
and sons.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Jane.)

Government House,

My dear Sir,

28th December, 1829.

I beg to acknowledge the receipt of your Letter of the 1st of July last with its Enclosures respecting *Charles Stevens*, a Convict transported in the year 1825, in whose favor the Marquis of Camden had written to you. I find on enquiry that Stevens has stated his case very correctly and that he has continued to conduct himself in a very satisfactory manner. But it is not in my power consistently with the Regulations to improve his Situation, Stevens being in the receipt of two Shillings a day besides Rations and Clothing; and the Secretary of State has intimated that Prisoners should not be considered eligible for a Pardon, until they have served a period of ten years.

Inability to
improve
situation of
C. Stevens.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Jane.)

Sir,

Government House, 29th December, 1829.

29 Dec.

I beg to acquaint you, in reference to your letter of the 1st July, 1829, that directions have been given for placing Mrs. Abell in possession of 1,280 Acres of Land, conformably to the desire of the Secretary of State.

Land grant for
Mrs. Abell.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 130, per ship Jane; acknowledged by
Sir George Murray, 22nd August, 1830.)

Sir,

Government House, 30th December, 1829.

30 Dec.

I have the honor to acknowledge the receipt of your Despatch of the 17th of July last, No. 125, in reply to mine of the 18th February, representing the inconvenience which was experienced at that time from the Number of female Convicts who remained on the hands of the Government.

Despatch
acknowledged.

1829.
30 Dec.

Inability to
introduce
compulsory
assignment of
female convicts.

Having fully considered the means proposed in your Despatch for relieving the Government from the incumbrance complained of, I hope you will pardon the liberty I take in expressing my opinion that the measure proposed could not be conveniently carried into effect.

It appears I think liable to some objections, which perhaps it may not be necessary to enumerate in this place. One is, that the relief intended would be very temporary, as I have little doubt that disposing of these Women in the manner proposed would in a very short time be the cause of much additional trouble and occasion an encrease of Expense, as many of them would be returned to the Factory in a state of destitution and disease, which is sometimes the case even under present circumstances.

Advantage of
allowing female
convicts to seek
employment.

In expressing this opinion, I trust it will not be supposed that I have any desire that these Individuals should be kept in the Factory one moment longer than they can be consistently and advantageously disposed of. It will be seen that the object of my representation was to facilitate their Assignment, and I have much satisfaction in thinking that it has been promoted in a very important degree by the measure of giving the best conducted Women permission to go out for a time and look for Persons to take them into their Employment. This has had the effect of relieving the Factory, and of inducing better behaviour on the part of the Women generally, who are desirous of obtaining this indulgence.

Reduction of
number in
factory.

I am glad to be enabled to state that, under this circumstance, it will not be necessary to depart from the present system, the number in the Factory being much reduced since I had the honor of writing to you last on this subject. I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Jane; acknowledged by under secretary Hay, 11th July, 1830.)

Sir, Government House, 30th December, 1829.

Advance of
passage money
to J. T. Rodd.

I do myself the honor to acquaint you that an advance of £75 has been made to Mr. Rodd, the subject of my Letter of the 24th of August last, for the purpose of enabling him to defray the Expense of his returning Home, though, having obtained the Money, I now understand from the Captain of the Ship, with whom he had agreed for his Passage, that he has relinquished the intention of leaving the Colony.

As Mr. Rodd had obtained his first appointment as Assistant Surveyor through the interest of Lord Harrowby, and, having suffered a serious injury here, I felt, though he had behaved ill, it was desirable to prevent his complaining he had not the means of leaving the Colony, and therefore authorised his receiving the Allowance above mentioned, which I request the Secretary of State will authorise being charged in the Public accounts.

I forbear to trouble you further with Mr. Rodd's case,* respecting whom I have frequently had occasion to write; and who, I really believe, is not always in a sound state of mind.

I have, &c.,

RA. DARLING.

1829.
30 Dec.

Reasons for
advance.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Jane; acknowledged by under secretary Hay, 17th June, 1830.)

Government House,

My dear Sir,

31st December, 1829.

31 Dec.

I beg to enclose for your information Copy of a Letter from the Surveyor General, reporting the misconduct of Mr. Docker, the subject of your letter of the 22nd July, 1827, whom I had placed in the situation of Draftsman, and have now been under the necessity of removing from Employment in consequence of Major Mitchell's representation.

Transmission
of letter.

Suspension of
R. M. Docker.

I remain, &c.,

RA. DARLING.

[Enclosure.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, 28th December, 1829.

So little progress in Surveying has been made lately by this Department in the aggregate, when the Number of Members composing it is considered, that I feel compelled, by the serious responsibility of employing so many assistants, to notice those Officers, who absorb the means placed at their disposal without performing any Duty of importance or shewing the slightest zeal or desire to improve. I now allude particularly to Mr. Docker, who was sometime since attached as a Draftsman to this Department. I have no doubt His Excellency the Governor remembers that I formerly had occasion to report the bad effects of his example in the Drawing Room at this Office and his extreme idleness. He was sent to Survey in the field with Mr. Dixon and returned some time since without permission. On his return, I sent him to Survey the Swamp towards Botany Bay; but, after three weeks, I found that he had made little progress, and, having seen him going idly about Sydney, I had to employ another Draftsman upon this Duty. On my departure for Argyle, I instructed him to Survey part of the South Shore of the Harbour, a work of three days; no accounts have been received during these five weeks of his progress in this.

Idleness of
officers in survey
department.

Neglect of duty
by R. M. Docker.

* Note 76.

1829.
31 Dec.

Neglect of duty
by R. M. Docker.

and all, I have learnt of him, is by a Report of the Deputy Surveyor General received in Argyle, that one of the Office Maps after considerable search had been found in Mr. Docker's Lodgings. He has given me no explanation of this, or answered my letter to him on the subject. In short, this Officer is merely nominally a Draftsman unactuated by any feeling of zeal or perseverance.

I have, &c.,

T. L. MITCHELL,
Surveyor General.

1830.

Assignments
of convicts.

ASSIGNMENTS OF CONVICTS.

DURING the year 1830, letters, which enclosed the assignments of convicts (not available) *per* the ships named, were written by the Under Secretary of State for the Colonies, with dates as under:—

Date of letter.	Ship's name.	No. of convicts.
17th February	Roslyn Castle	128 Female.
3rd April	Lady Faversham	180 Male.
5th April	Marquis of Huntley	228 „
13th April	Adrian	167 „
29th May	Lord Melville	176 „
1st July	Royal Admiral	192 „
5th July	Kains	120 Female.
22nd July	Burrell	192 Male.
11th August	Florentia	200 „
3rd September	York	200 „
15th October	Lady Harewood	216 „
30th November	Earl of Liverpool	89 Female.

THE SECRETARY OF STATE TO GOVERNOR DARLING.

The following despatches,* written in the year 1830, have been omitted:—

Despatch dated	numbered	Transmitting
17th February	—	recommendation of Joseph Little for remission of sentence.
24th December	3	free pardon for Albert Wynand Louw.
26th December	5	conditional pardon for Nicholas Nerkenney.
30th December	—	imperial statute, 1 Wm. IV, cap. iv.

GOVERNOR DARLING TO SECRETARY OF STATE.

The following despatches,* written in the year 1830, have been omitted:—

Despatch dated	numbered	Transmitting
15th January	6	monthly return of troops.
16th February	11	„ „ „
1st April	13	twenty six pardons for approval.
3rd April	16	returns of expenditure of medicines and persons under medical treatment.
5th April	17	monthly return of troops.
23rd April	29	„ „ „
9th August	48	„ „ „
7th December	70	minutes of executive council to 31st December, 1829.
21st December	73	monthly return of troops.

* Note 77.

GOVERNOR DARLING TO UNDER SECRETARY OF STATE.

1830.

THE following despatches,* written in the year 1830, have been Despatches omitted:—

Despatch dated	Transmitting
5th January	report <i>re</i> escape of — Simcock, convict.
20th February	request for authority for payment to T. Icely mentioned in despatch dated 9th February, 1828.
26th April	report <i>re</i> William Nixon Wright, convict.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Jane.)

Sir, Government House, 1st January, 1830. 1 Jan.

I have the honor to acquaint you, in reply to your Letter of the 22nd August last, that "Phelim Hughes," the person therein mentioned, received a pardon on the receipt of Lord Goderich's Despatch, but declined returning to England; though an offer was made of providing him with a Passage free of Expense. Hughes is now residing at Illawarra. Report *re* P. Hughes.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 1, per ship Roslyn Castle; acknowledged by Governor Darling, 11th February, 1831.)

Sir, Downing Street, 1st Jany., 1830.

In acknowledging the receipt of your despatches of the dates specified in the Margin,† with their Enclosures, I request that you will make the following communication to the Revd. Mr. Wilton. Despatches acknowledged *re* Revd. C. P. N. Wilton.

While I am disposed to acquiesce in Mr. Wilton's urgent wishes for permission to recal his resignation, from a reluctance to ruin his prospects in life, yet I can not pass without reproof the impropriety of his behaviour in affixing his acceptance to Bills of doubtful character. Resignation to be withdrawn. Censure on Revd. C. P. N. Wilton.

His Majesty's Government are of opinion that Mr. Archdeacon Scott was called upon in point of duty to take notice of this very grave indiscretion; and I think it fit to admonish Mr. Wilton that, if his future conduct shall not be such as to merit the approbation of the new Archdeacon, Mr. Wilton must be removed from the benefice, which he is now permitted to retain.

The conduct of Mr. Wilkinson in absenting himself from his cure, and otherwise neglecting the duties of it, and the animosity

* Note 77.

† Marginal note.—2 Aug. 1828; 25 Aug., 1828; 4 Sept., 1828; 30 Dec., 1828; 17 May, 1829.

1830.

1 Jan.

Reasons for
leniency
to Revd.
F. Wilkinson.

Instructions
re future
treatment
of Revd.
F. Wilkinson.

and highly disrespectful behaviour manifested by him towards the late Archdeacon, would have induced me to direct his immediate removal from the service, if I had not been anxious, from feelings of compassion towards himself, to afford him the opportunity of vindicating himself to the new Archdeacon.

If Mr. Broughton,* upon a full examination of what has occurred, shall be of opinion that Mr. Wilkinson's past errors may be overlooked upon a pledge of future amendment, he may be suffered to retain his Chaplaincy; but, if it be the unprejudiced and dispassionate opinion of Mr. Broughton that Mr. Wilkinson cannot be continued in his benefice without such an injury to the Church, as ought to outweigh any feeling of personal compassion for the Incumbent, or if, in the event of the Archdeacon deciding in favour of a lenient course, such lenity should be followed by any fresh misconduct on the part of Mr. Wilkinson, which shall induce the Archdeacon hereafter to recommend his removal, I think myself warranted under all the circumstances in authorizing you to suspend him from his functions.

I am, &c.,

G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Roslyn Castle.)

3 Jan.

Sir,

Downing Street, 3d Jany., 1830.

Salary paid to
C. S. Rumker.

With reference to Secretary Sir George Murray's despatch No. 178 of the 12 Decr. last, I am directed to acquaint you that he has instructed the Colonial Agent to make a further issue to Mr. Rumker of the full Salary of his Situation at New South Wales, from the 30th June last to the 1st instant.

I am, &c.,

H. TWISS.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 2, per ship Roslyn Castle.)

4 Jan.

Sir,

Downing Street, 4 Jany., 1830.

Refusal of
copying clerk
for clerk of
councils.

I have the honor to acknowledge the receipt of your despatch No. 77 of the 25th of June last, conveying a request from the Clerk of the Councils to receive the assistance of a copying Clerk in the labours of his Office.

Although this proposition appears to be seconded by your recommendation, I regret that I do not feel myself justified in authorizing such an additional expense to the Public, and I have to desire that you will intimate to the Clerk of the Councils that,

* Note 57.

should he still consider the employment of a copying Clerk necessary, he must not expect His Majesty's Government to remunerate the Person whom he may think proper to employ.

I am, &c.,

G. MURRAY.

1830.
4 Jan.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 3, per ship Roslyn Castle.)

Sir,

Downing Street, 5 Jany., 1830.

5 Jan.

I have the honor to acknowledge the receipt of your despatch of the 28th of June last, No. 78, notifying the appointment of a Clerk, with a Salary of £150 per annum to the Office of the Commissioners of land upon the application of the Surveyor General.

Clerk in office
of commissioner
of lands.

Of the necessity of such an addition to the Establishment you must of course have the means of forming the best opinion; but, while I am disposed to approve of the appointment, I cannot but observe that the intended Salary of £150 appears to be more than an adequate remuneration, and I am of opinion that a Salary of £120 per annum would be found quite equal to the duties of such an appointinent.

I am, &c.,

G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Roslyn Castle.)

Sir,

Downing Street, 6th January, 1830.

6 Jan.

With reference to my letter of the 11th of Nov. last, transmitting for your guidance the Instructions of the Lords Commissioners of His Majesty's Treasury, respecting the Regulations to be adopted for discontinuing the issue of Rations to Civil Officers and to other Persons in the Colony under your Government, I am directed by Secretary Sir George Murray to enclose a further communication, with it's Enclosures, from that Board, regulating the issue of Rations to the Military, and Sir George Murray desires that you will cause the suggestions of their Lordships to be carried into effect, and that you will report in detail, to this Department, the measures that you may adopt for that purpose.

Transmission
of instructions
re rations for
military.

I have, &c.,

HORACE TWISS.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir,

Treasury Chambers, 5th January, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you for the information of Secretary Sir George Murray, with reference to the letter of this Board

1830.
6 Jan.

of the 20th of January, 1829, the enclosed Copies of a letter and its Enclosures from Assistant Commissary General Moodie at Van Diemens Land, dated the 4th of April last, further on the subject of the Rations issued there; and I am to acquaint you that My Lords have no doubt that the directions, given by Sir George Murray in consequence of the Minutes referred to in the Letter of this Board above mentioned, will lead to the simplification of the Convict Ration, both in New South Wales and in Van Diemens Land, to its being made a daily and not a weekly ration, and will altogether prevent the frequent changes, as well in the Articles of which it is composed, as in the quantities thereof, points of very great importance not only with reference to the amount but more especially to the due control over this large Expenditure.

Rations for
convicts;

and for
military.

With regard to the Military, My Lords are of opinion the Royal Provision Warrant should in future be strictly enforced, and that the Officers in Command should be held responsible for any deviation, it being understood that Troops, employed on Roving Parties of discovery and actually on the march, should receive the Rations of Troops on Service in the field, vizt., 1 lb. of Meat, 1½ lb. of Bread, ½ Pint of Spirits; and that, on such special occasions, a moderate advance of pay, if absolutely essential to purchase necessaries before the Troops leave, will not be objected to; and I am to request that you will move Sir George Murray, in case he concurs in the view taken by My Lords of this subject, to give corresponding directions to the Officers in Command in New South Wales and Van Diemens Land.

I am, &c.,
J. STEWART.

[Sub-enclosure No. 1.]

ASSIST. COMMISSARY GENERAL MOODIE TO MR. W. HILL.

Commissariat Office,

Hobart Town, 4 April, 1829.

Sir,

Issue of rations
in Tasmania.

With reference to my Letter No. 152 on the subject of the great variety of rations issued in this Colony thereby causing intricacy and difficulty in making up the accounts, I have the honor to enclose Copy of a Letter, which I have just received, and also of the Report of the Board of Officers therein referred to, by which the double ration to Troops on march in the Interior is recommended to be continued.

I also take leave to transmit for their Lordships' Information Copy of my reply and of the inclosure alluded to.

I have, &c.,
A. MOODIE,
A.C.G.

[Sub-enclosure No. 2.]

ENSIGN WHITE TO ASSIST. COMMISSARY GENERAL MOODIE.

Sir,

Town Adjutant's Office, 3rd April, 1829.

Transmission
of report.

I have the Honor to enclose you the Report of a Board consisting of the two Senior Officers in Garrison on the subject of the Issue of double Rations to the Troops when en route or March in the Interior, by which you will perceive their opinion as to the necessity of continuing the double Ration to Troops on their duties.

I have, &c.,
FREDERICK WHITE,
Actg. Town Adjt.

[Sub-enclosure No. 3.]

1830.
6 Jan.

PROCEEDINGS of a Board of Officers, held agreeably to the Garrison Order of the 4th Feby., Respecting the double Rations issued to the Troops on the March in the Interior.

Report by
board *re* rations
for troops on
the march.

Hobart Town, 1 April, 1829.

MEMBERS:—Major Turton, 40th Regt.; Major Douglas, 63rd Regt.

The Board proceeded to call upon the following Individuals.

SERGEANT ARMSTRONG, 40th Regt., states:—I was in Detachment at Bothwell for 10 months. For the last 3 months, there were 77 Non Comm. Officers, Rank and File under the Command of Lt. Williams, 40th Regt., who was stationed at Bothwell; of these 20 were generally at Bothwell, 32 at out-Stations, and 25 a roving party in search of the Black natives. The party at Bothwell received their regular ration including Spirits, which was watered according to order. The men at Out Stations received their regular Ration, but had Tea and Sugar in lieu of Spirits; when however any of these men went away from the Out Stations in search of the Natives, they received the Extra Ration of Men on the march.

The roving party used to leave Bothwell for 12 or 18 days at a time. They received the regular ration (inclusive of Spirits) in advance for 12 days in Salt provisions, and they drew the extra Ration from Settlers on a Route. The men were not able to take so much Rations with them especially, as they had no haversack, and they generally left part of it behind.

The Salt provisions only lasted a Month, after which the Men drew a double Ration from the Settlers and carried none with them from Bothwell.

The latter System was preferred by the men, some of the Settlers gave the men as much Bread and Meat as they could eat and took the receipts in payment. Others gave them the exact quantity and Provisions of the worst possible description. The men had frequently to march 30 or 40 Miles in a day in order to gain an Out Station, and they were very frequently lost in the Bush for 3 or 4 days together. Upon these Marches, the men had no money and generally speaking they could not use it if they had. The duties they had to perform were very fatiguing; they had to rise before daylight in order to get to the top of a Tier by break of day. Another Serjeant is sure they could not perform them with advantage to the Public Service upon a Smaller Ration than that which they now receive, more particularly as they are generally sent out in parties of 3 and 4 without Non Commisssd. Officers or at most an Acting Corporal.

The stoutest men of the Regmt. were frequently knocked up on these fatiguing Marches.

The Board, having detailed the usual routine of the duties in the Interior with the method of rationing the Troops, do not consider it necessary to call for further information.

The Board, having considered the subject in its General Bearings and having derived much information from the Officers stationed at Delalabs, some of whom have had considerable experience in their duties, are of opinion that the present Ration allowed to men on the March cannot be reduced consistently with the health of the Soldier and the due performance of the arduous duties required of him.

R. TURTON,

SHOLTO DOUGLAS,

Major 40th Regt.

Major 63 Regt.

1830.
6 Jan.

[Sub-enclosure No. 4.]

ASSIST. COMMISSARY GENERAL MOODIE TO ENSIGN WHITE.

Commissariat Office,

Sir,

Hobart Town, 4th April, 1829.

Letter
acknowledged.

I have the Honor to acknowledge receipt of your letter of yesterday, transmitting Report of a Board of Officers relative to the Double Rations issued to the Troops on March in the Interior, and which I observe they recommend to be continued.

Difficulty in
accounting for
extra rations.

In reference thereto, I beg respectfully to observe that it is of the difficulty of accounting for these rations and of obtaining correct returns for them that I chiefly complain, a difficulty which has entailed very considerable trouble upon this Department and caused great delay in the making up of my accounts. In corroboration of which, I have the Honor to enclose Copy of a letter addressed to me by the accountant in Charge of Provisions, who, if called upon by the Board, would more fully explain the difficulties attending the issue of these extra Rations.

In requesting you will be pleased to submit Mr. Neill's letter for the consideration of the Colonel commanding, I beg to refer to a letter upon same subject addressed by me to the Private Secretary on 24th Jany. last.

I have, &c.,

A. MOODIE, A.C.G.

[Sub-enclosure No. 5.]

MR. R. NEILL TO ASSIST. COMMISSARY GENERAL MOODIE.

Commissariat Provision Office,

Sir,

Hobart Town, 2nd April, 1829.

Report re
difficulty caused
by variation
in rations.

Although aware that you are fully sensible of the many difficulties that an Accountant has to contend with in this Colony in making up his Public Accounts, in consequence of the variety and frequent Change in the Ration not only in quantity but the Articles issued, I have the honor to draw your attention to the alterations, which have taken place in the ration of the Road Parties only since 1825, vizt.

Daily Scale.

12th July, 1825.—1½ lbs. of Wheatmeal, 1 lb. of F. Meat, 1 oz. of Sugar, Salt not exceeding 1½ oz., Soap not exceeding ½ oz., but to be allowed only to Convicts who dont receive pay.

Weekly Scale.

17 Decr., 1825.—8¾ lbs. of Wheat Meal; 10½ lbs. F. Meat; 7 oz. Sugar; 7 oz. Salt; 3½ oz. Soap.

Weekly Scale.

5 Jany., 1826.—7 lbs. of F. Meat; 14 lbs. of Wheat Meal; 1 lb. Sugar; ¼ lb. Salt and Soap.

Weekly Scale.

13th Octr., 1826.—8¾ lbs. F. Meat, 10½ lbs. Wheat Meal, 1 lb. Sugar; ¼ lb. Salt and Soap.

Weekly Scale for a Party employed on Special Service the following alterations have occurred.

10th Feby., 1829.—7 lbs. F. Meat, 14 lbs. Wheat Meal, ¼ lb. Soap and Salt, with ½ lb. Tobacco.

1830.
6 Jan.
Proposed
uniform ration.

As the Means in some degree of Simplifying the Accounts, I would respectfully recommend that one Common Ration be adopted, which I am of opinion could be easily done with the following exceptions, vizt.

Military; Prisoner in Gaol; Females in the House of Correction; Sick in Hospital; Children in Male and Female orphan Schools; Crews of Govt. Colonial Vessels.

I have, &c.,

R. NEILL, C.C.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Jane; acknowledged by under secretary Hay, 18th June, 1830.)

My dear sir, Government House, 6th January, 1830.

Appointment
and suspension
of
E. J. H. Knapp
as assistant
surveyor.

I do not recollect at this moment whether I informed you, in reference to your Letter of the 3rd January, 1826, enclosing Copy of one addressed to you by Mr. T. C. Brooksbank, that I had placed Mr. Knapp, the subject of that communication, in the Surveyor General's Office, where, though very inattentive to his duty on several occasions, he has remained until lately.

I have now, in consequence of a report from Major Mitchell, of which I enclose you a Copy, been under the necessity of removing Mr. Knapp, as he was of no use, and his example could not fail to be very injurious in the Department.

I remain, &c.,

RA. DARLING.

[Enclosure.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Colonial Secretary's Office,

Sir, Sydney, 28th December, 1830.

Neglect of
duty by
E. J. H. Knapp.

While various Officers of this Department are now unable for want of means of conveyance to proceed on duty, I regret to be under the necessity of bringing into the Governor's notice the slow and unsatisfactory progress of others to whom such means have been allowed. I consider it my duty now to submit for the Information of His Excellency a detail of Mr. Assistant Surveyor Knapp's progress on a Survey, proposed by the Instructions dated 10th January, 1829, whereof I have the honor to enclose a Copy; and, when it is remembered that the idleness of this Assistant Surveyor last year at Head Quarters had compelled me then to name him to the Governor and to send him on Full duty in the hope that he might be more industrious there, I am now at length, after Indulgences have been granted in vain and delays and waste of time repeatedly overlooked, under the necessity of summing up all in the hopes that His Excellency will relieve me from further responsibility with respect to the employment of Mr. Knapp. On the 10th January, 1829 (as will appear by the Instructions), this Assistant Surveyor was sent to survey certain principal features of the Country comprised in the Eastern portion of Camden; after an absence of three months and upwards, during which time no report was received, I, at the request of Mr. Knapp's friend, sent him an Official Letter of permission for him to come to Sydney on private business. He returned to Camden, but no report was sent of his

further progress; complaints were then made by the Deputy Commissary General of the manner in which he had drawn rations at Illawarra. Still, with the exception of a few Veterans' Allotments measured, little or no duty was performed. From that time, the month of July, until I went lately to Bong Bong, I could learn nothing of Mr. Knapp, having received no report or plan.

At Bong Bong when I arrived, he had been waiting for me as he said for Six Weeks, without having traced either the range or the Nepean, as required by his Instructions. As the plan of Mittagong range was now required for the immediate duty on which I went lately to Argyle, I had no alternative but to trace it with Mr. Hoddle's assistance during this warm season; and I had to send Mr. Elliot to trace the Nepean River, operations proposed for Mr. Knapp by my Instructions. Having measured the range Sixteen Miles, I left Mr. Knapp upon it with Instructions to trace it Northward, between the Sea and the Nepean to the head of the Cataract River, which he was to trace also to the Nepean. How this duty was performed may be imagined by his going to Bong Bong, a week or two afterwards, and declaring to me that, between the Sea and the Nepean, no range whatever existed! Still there was no map forthcoming of the Cataract River, which he said he had traced; it turned out however that he had not traced that River to the Nepean as instructed to do, so that his work would be of no use whatever as it could not be joined. Mr. Knapp's excuse for making no plan was that he had no table; but one was supplied to him at Sydney, indeed everything was procured to complete him, even to two Pack Horses extra, that he might be able to proceed without a dray in bad parts; but, on his joining me near Bong Bong, one of these Horses had a sore back from drawing in a dray, and the other has since been lost! so that to seek this Horse, he continues at Bong Bong. Thus the means sufficient to have enabled an active Surveyor to have completed the Map of Camden have been for nearly a year fruitlessly supplied to Mr. Knapp, and, with the exception of the Nepean surveyed in 3 weeks by Mr. Elliot, and that part of the range I have traversed myself, the whole country still remains to be gone over. I am convinced that further trouble with this young man would be useless, and, whether he remain a dead weight on the Department or not, I despair of ever advancing the survey of the Colony by his Assistance.

I have, &c.,

T. L. MITCHELL,
SURVY. GENL.

[Sub-enclosure No. 1.]

SURVEYOR-GENERAL MITCHELL TO ASSIST. SURVEYOR KNAPP.

Surveyor General's Office,

Sydney, 10th January, 1829.

Sir,

1st. You will proceed, as soon as the articles required for your equipment can be supplied, to the County of Camden for the purpose of surveying the Eastern portion of that County.

2nd. You will therefore proceed along the Argyle Road* till you reach the highest part of the Mittagong Range, where you will commence operations by turning to the left and tracing the summits of that range Eastward.

3rd. You may meet with flats upon the elevated Land or it may be broken by precipices; but, so long as you head the Gullies, ravines, or watercourses which descend in opposite directions on

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6 Jan.

Neglect of
duty of
E. J. H. Knapp.

Condemnation
of services of
E. J. H. Knapp.

Instructions to
E. J. H. Knapp
for survey in
county of
Camden.

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Instructions to
E. J. H. Knapp
for survey in
county of
Camden.

each side, you will be on that dividing feature, of which a plan is required, between the sources of the Nepean and the feeders of the Shoal Haven River.

4th. At twelve or fifteen Miles Eastward from the Road on the Mittagong Range, you would reach or at least overlook the Illawarra Lake; but it is possible that, by following the elevated Ground, you may have to make a considerable detour to the right or Southward.

5th. You will next survey the Country on the South Side of the line you will thus have traced, the waters whereof (if there are any) must fall into the Shoal Haven.

6th. The deep Gullies and Ravines descending to that River, you will survey by tracing one side, and taking angles and bearings on the other, and on the visible points of the Rivulet which may be between, intersecting especially from various stations the point of Junction of all such watercourses with the main River.

7th. In this manner, it will only be necessary for you to trace along the rocky edge of a mass of Land between any two such Ravines, and then to proceed, not down the edge of the next adjoining, but down that of the ridge or range or mass beyond that, so that each side of the intervening alternate mass, which you do not trace, may be determined by intersections on each side from the ranges which you will have traced.

8th. This species of Survey may be continued till you find Mr. Elliot's marked South line from the Swamp at the head of the Wingecarrabee.

9th. The remaining part of the Survey now assigned to you will be to the Northward of the Range first traced, and across a Country of a rather different description, of which all the waters flow into the Nepean, being the upper sources of that River.

10th. The Country being much broken, although at a distance it appears level, you must make the best arrangements you can for the encampment of your party near water, and to prevent the loss of the Cattle committed to your charge. With this, I have to inform you that no part of the duty hereby assigned to you requires any measurement across a succession of ridges or broken ground dividing or heading Gullies falling on each side or (as in this particular part) of the watercourses, being distinctly different.

11th. On this side, you will endeavour to trace the Rivulets or watercourses at the head of the Nepean and the course of the River downwards to the Farm of Broughton.

12th. Should you meet with rocky ravines, you will survey them in the manner already specified.

13th. You will be particular in making a careful plan of the Country on these principles at the head of the Cataract River and towards Bullo, and the Boundary line of Camden.

14th. You will transmit regularly a monthly Report of your progress according to the form prescribed, also the quarterly Returns, and report to me besides from time to time your progress by Letters, with small sketches of your work, for which blank ruled Squares will be supplied to you; and you will let me know, as soon as you reach that Country, whether you can communicate with Cutter's or Bowman's* that official communications may reach you without delay.

I am, &c.,

T. L. MITCHELL,
Surv. Genl.

[Sub-enclosure No. 2.]

1830.
6 Jan.

SURVEYOR-GENERAL MITCHELL TO ASSIST. SURVEYOR KNAPP.

Wingecarrabee Swamp,

22nd November, 1829.

Sir,

As time will not permit me to continue with you longer in the trace of the dividing range, which is become tedious from the thickness of the brush, I have to request that you will proceed with this duty guided by the following Instructions.

1st. You will move your Camp to the head of the Swamp, and then set out with as much provisions as can be conveniently carried, retracing your South line of yesterday to where you first commenced it; and to determine this point you will either chain back or use your compass along the marked line.

2nd. From that point on the range, the end of a line bearing 161° two chains in length and at 32 chains of the sixteenth Mile, you will continue the trace of the dividing range through the scrub by bearings between 80° and 160° more or less; the range however must be kept at any rate; but I feel pretty confident that it will lead you to a high Hill, which is certainly situate at about two miles due East of the part of the range where you left off.

3rd. The Miles you will reckon onward from the 32 chains on the range, not taking those of the South line into account, so that you will mark the 16th again in the range and so proceed forward.

4th. Another lofty Hill is situated about two Miles North from the one, two Miles East of where you left the range; and it cannot be doubted therefore that the range extends Northward to that Hill and so on towards that Hill and the head of the Cataract River; this range is what you are required to trace; and I have no doubt that, by three days chaining, you will not only have got over both these Hills but a considerable way northward of them along this range; so that, when you return to your camp, you will be enabled to move it back to the Path towards Five Islands* from Bong Bong and Eastward from that Path along the openest Ground you find, so that you may be within reach and in advance of the part of the range, to which you will have traced, in order that you may in the same manner as before continue your trace further Northward.

5th. Returning again to your Camp at the end of some days, you will be able to move it by the Five Island Path to a short distance of the North Range, of which you will again continue the tracing Northward; and, in this manner, I expect that you will finally cross the Five Island Path, where you may also have your Camp on the range; and, from this to the head of the Cataract River, the distance cannot be great near the range which you are to trace thus far difficult to find.

6th. Arriving at the head of the Cataract River, you will trace this River to its junction with the Nepean, which will terminate your duty in this part of the Colony.

7th. As I expect you will complete this work in about three weeks, and you have a months rations, allowing for bad weather I shall hope to meet you or hear of you at the junction of the Cataract River, a spot where I intend to be in about three weeks hence, to remain until I can have your plan.

8th. I need not enlarge on the necessity for perseverance and exertion in the performance of this duty, which I consider one requiring judgment also for the due performance; but I will only

Instructions to
E. J. H. Knapp
for tracing
the Mittagong
range and
Cataract river.

* Note 80.

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advert to the length of time elapsed, since first I gave you instructions to this effect, and observe that, if I hear of your quitting it for one day before your rations are out, I shall not sign at the end of the Quarter the Certificate that you have been doing your duty, the consequence of which will be that no Salary will be issued to you.

I have, &c.,

T. L. MITCHELL,
Surv. Genl.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

9 Jan.

My dear Sir,

Downing Street, 9 Jany., 1830.

Recommendation in favour of R. Ware.

This letter will be presented to you by Mr. Robert Ware, who is about to proceed to N.S. Wales as a Settler. As my friend Mr. Stace, his uncle, has favorably recommended him to me, I beg that you will have the goodness to afford him your protection and good Offices, and any assistance which it may be in your power to render him consistently with the Regulations.

I remain, &c.,

H. TWISS.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Roslyn Castle.)

11 Jan.

Dear Sir,

Downing Street, 11th Jany., 1830.

Transmission of letter.

Having communicated to the relations of the late Mr. Galway Mills the substance of your letter of the 20th of June last, respecting the property and papers of that Gentleman, I have received a further application from them thro' their Solicitor upon the same subject; and I shall be much obliged to you to convey to Mr. Moore the communication which it is requested in the enclosed letter may be made to him.

I have, &c.,

H. TWISS.

[Enclosure.]

MR. R. L. APPELYARD TO UNDER SECRETARY TWISS.

Sir,

Lincolns Inn, 23d Decr., 1829.

Letter acknowledged.

I request you will accept my best thanks for the communication just received relative to the Affairs of the late Mr. Galway Mills, which I regret to find much at variance with the Information received from a Person lately arrived from Sidney, that his Personal Property sold for £1,500 and that he owed little or nothing there.

Request for papers re estate of G. G. Mills.

May I take the liberty of requesting that you will (for the satisfaction of his relatives here) take the further trouble to have it intimated thro' the proper Channel to Mr. Moore that, when he transmits me Mr. Mills private Papers, they may be accompanied

by a Copy of his Will and a Statement of his property with Mr. Moore's Executorship account of the Application of it, for which I have repeatedly written without receiving any answer to my Applications, or those of Mr. Douglas Mills, his Son, who requested them under cover to my care as he may be absent with Regiment.

I have, &c.,

ROBT. L. APPELYARD.

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11 Jan.

Request for
papers re estate
of G. G. Mills.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 1. per ship Jane; acknowledged by
Sir George Murray. 12th July, 1830.)

Sir, Government House, 11th January, 1830.

I have the honor to forward the Copy of a Memorial from Mr. Thomson, Clerk of the Executive and Legislative Councils, praying that his Salary may be increased to £800 per Annum, the same as was paid to his predecessor.

Transmission
of memorial.

In forwarding Mr. Thomson's Memorial, I am bound in justice to that Gentleman to state that no one can evince more Zeal in the performance of his duties, the nature of which he has correctly pointed out, or discharge them in a more correct or satisfactory manner.

Testimony to
services of
E. D. Thomson.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. E. DEAS THOMSON TO GOVERNOR DARLING.

Council Chambers, Sydney, 8th January, 1830.

May it please Your Excellency,

I beg most respectfully to call your Excellency's attention to a few circumstances connected with my Situation, as Clerk of the Councils, an Examination of which will, I feel persuaded, induce Your Excellency to take a favorable view of my case, and to recommend the Prayer of this Petition to the indulgent consideration of The Right Honble. The Secretary of State for the Colonies.

Application by
E. D. Thomson
for increase
of salary.

The Salary enjoyed by my Predecessor was £800 per Annum for performing the Duties of the Clerk of the Legislative Council only. while, upon my assuming the Office, the Salary was reduced to £600 per annum, notwithstanding its Duties were increased more than two-fold, as Your Excellency and the Members are aware, by the addition of those of the Executive Council also. But I venture to state, from the circumstance of their having been always performed by Your Excellency's Private Secretary, the possibility of their devolving upon me had not been contemplated; and, independently of this, however laborious they might have been before my arrival, a comparison of the respective Minutes for the Years 1828 and 1829 will bear me out in observing that they have more than doubled during the latter period.

The operation of the New Act of Parliament (9th Geo. 4th, ch. 83) has likewise tended to encrease in a very considerable degree the Duties of the Clerk of the Legislative Council. the encreased Numbers, the right of Petition, and of being heard in person or by

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11 Jan.

Application by
E. D. Thomson
for increase
of salary.

Counsel, as accorded by the New Rules and Orders for the Proceedings, the more frequent Appointment of sub-committees, all of which I must attend, the publication of the General objects of Bills in the Newspapers, as required by Law,* and the transmitting to the Secretary of State Duplicates on Parchment of the Laws passed, are among some of the Circumstances, which has tended to throw an unprecedented Accumulation of Business into my Office, and to increase in no small degree the responsibility of my Situation. I, therefore, very respectfully but urgently request Your Excellency to bring my case under the favourable consideration of The Right Honble. Sir George Murray, in order that the Salary of the Clerk of the Councils may be again restored from the commencement of the present year to its former Rate of £800 per Annum.

I have, &c.,

E. DEAS THOMSON.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 2, per ship Jane; acknowledged by
Sir George Murray, 13th July, 1830.)

Sir, Government House, 11th January, 1830.

I have the honor to acquaint you, in reference to your Despatches dated the 26th of May last, No. 114, and the 20th of June following No. 120, which I received in the Month of November, that the Absence of the Surveyor General has prevented my carrying into effect before the present moment the arrangements you have been pleased to make for the future conduct of the Department of Roads and Bridges.

2nd. Having communicated the Instructions I had received to the Surveyor General, I do myself the honor to transmit for your information Copy of a Report, which he has sent in, pointing out the Establishment which he considers will be necessary for carrying on the duties of the Department now placed under his Superintendence. I beg at the same time to forward Copy of a Minute Authorising such of the Surveyor General's propositions as appear to me, from local experience and observation, necessary to the due performance of the duties of the important Branch of the Service placed under his direction.

3rd. I beg to observe that the arrangement, proposed by the Surveyor General, is similar to that under which the duties have hitherto been carried on. And I have been induced to authorise, as you will perceive by the enclosed Minute, the employment of an Assistant Surveyor on each of the three principal Roads, in addition to the two whom you have been pleased to appoint for the more immediate duties at the Head Quarters of the Department, being satisfied that the employment of these Surveyors is indispensable, and conceiving it may not have been adverted to, when the arrangement was made.

* Note 81.

Delay in
changes in
department of
roads and
bridges.

Establishment
proposed and
authorised for
department.

4th. Having entered at some length into the details of the Department of Roads and Bridges in the Despatch, which I had the honor to address to you on the 20th of August last, No. 98, I shall not trespass further on your time in this place. But, in assuring you of my earnest desire to give effect to your Orders on every occasion, I cannot conceal my apprehension that the present arrangement will be found materially to interfere with the general Survey of the Colony, while the provision, which is made for the Road Department, especially if two Assistant Surveyors only are to be allowed, is totally inadequate and must defeat every exertion to establish an efficient Superintendence in that Branch of the Service.

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Probable effect
of changes.

5th. The Overseers and other Persons attached to the Road Parties are all Convicts, who require to be constantly and vigilantly superintended, in order to prevent the Men from being idle and the Stores from being plundered, as they undoubtedly would be if there was no person at hand to visit them unexpectedly at short intervals.

Supervision of
road parties.

6th. I had employed the Surveyor General, previous to the receipt of your Despatch, in tracing and laying down the principal Roads, conceiving he was better qualified for this Service than any other person; the manner of performing the Work, the Superintendence of the Parties, and the conduct of the Establishment being left to the Surveyor of Roads and his Assistants. The attention of the Surveyor General, who had already more duty than he could conveniently perform, being directed more or less to those objects must unavoidably interfere with others of more importance.

Tracing and
aligning of
roads.

7th. Should you approve of the employment of the Assistant Surveyors on the three principal Roads, and I have little doubt, when you consider their extent and the number of Parties and Men generally at work, as stated in my Despatch of the 20th of August last, you will be satisfied of its expediency, the Establishment of the Surveyor General will require to be increased accordingly, and the Persons now acting can be discontinued on the arrival of others from Home.

Necessity for
increase of
surveyor-
general's
department.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, 2nd January, 1830.

I have the honor to acknowledge the receipt of your Letter No. 29/1,183, referring to your former Letter, apprising me that the Secretary of State had directed that the Department of Roads and Bridges should be considered a Branch of the Surveyor General's Department, and requesting, in the Name of His Excellency the Governor, that I should consider what Establishment will be necessary

Letter
acknowledged.

1830.
11 Jan.

for carrying on the Duties hitherto performed by the Department of Roads and Bridges, and also that I should submit to you for His Excellency's approval such arrangement as I would propose for this purpose, and the Names of the Assistant Surveyors to be employed on that Duty.

Temporary reorganisation of department of roads and bridges at Parramatta.

In answer to the above Letters, I therefore do myself the honor to report that I met Major Lockyer at Parramatta on the 30th ulto., in obedience to the Governor's Instructions, and proceeded to examine the Returns, Books, etc., in the Office of the Surveyor of Roads and Bridges, also the Stores and Lumber Yard, and that, as a temporary arrangement, I have directed Mr. Assistant Surveyor Nicholson, who accompanied me, to remain at Parramatta in Charge of the Office and Stores assisted by Mr. Dulhunty, whose continuance there for a short time I understand, by your Letter No. 20/1,144, to be the intention of His Excellency, for, until I can fix on a Surveyor to be permanently at Parramatta, it cannot be said that his Successor has arrived, it being probable that the qualifications of the Officers on their way to this Country may have been considered with a view to serving in this new Branch of the Department.

Establishment and organisation proposed for department of roads and bridges.

With respect to the Establishment necessary under this arrangement for carrying on the Duties of the Department of Roads and Bridges, I am now to report:—First, That, whereas the whole of the Official Business has hitherto been conducted at the Office at Parramatta, it will be now necessary that a Principal Branch of it, embracing the correspondence with the Government and with the Assistant Surveyors, should henceforward be continued at my office in Sydney, while the detail of Weekly and Monthly Reports from the Road Parties should be received and prepared at Parramatta by the responsible Officer as heretofore, and forwarded to this Office for revisal and transmission in due form to the Government.

Stores depot at Parramatta.

Parramatta, being the point whence most of the Roads radiate, is the best situation on that account for the Depot of Stores for Road Parties; and, this being already established there in the Lumber Yard, I would not recommend any change in that respect.

I would beg, however, to observe that part of the Lumber Yard is occupied by the Department of Public Works, and that it would be desirable, if possible, to prevent any clashing of the two Establishments, either by dividing the Premises or giving the whole up for the benefit of the Roads and Bridges, which, in His Excellency the Governor's estimation, I am sure, are considered Public Works of no trifling importance in this Country especially. In this Lumber Yard, the Surveyor of Roads and Bridges had a Blacksmith's forge, a wheelwright and Cooper's Shop, and a Sawyer's Shed, besides the Store Rooms, where Gun Powder even must be deposited occasionally; and there is also a small apartment used as an Office by the Storekeeper; spare Drays and Wheel-barrow occupy part of the Yard; and, were the whole given up to the Road Department, lofts for the construction of Tents as lately judiciously proposed by Major Lockyer for the different Road Gangs might be established there, and also an Office, in lieu of that for which Major Lockyer pays £50, having been allowed £30 per Annum for this purpose; and the resident Assistant Surveyor in charge of the Works might be allowed a Room or two here, perhaps with advantage to the Service. I ought also to mention here, for His Excellency the Governor's information, that, as the time for which Major Lockyer rented

this House was to expire on the following day. I was obliged to continue the occupation of these Premises for the present Quarter on the same terms as he had held them.

1830.
11 Jan.

I have the honor further to submit, with regard to the Assistant Surveyors in general, that four seem to me to be required for the Superintendence of Roads and Bridges, now in progress or about to be carried on: Viz. one on the Roads Southward leading thro' Argyle; another on the Roads Westward across the Blue Mountains to the Bathurst Country, and a third on the Roads Northward from Wiseman's to Hunter's River, Maitland, etc. The fourth would be employed on the Roads, which radiate from Parramatta to Sydney, Liverpool, Windsor, Richmond, and Wiseman's Ferry, taking charge of all the Roads and Bridges within the County of Cumberland, where they require more repair, from the comparatively greater thoroughfare than those of any other part of the Colony; all these Roads would be, however, easily within reach of an Assistant Surveyor, stationed at Parramatta, so that this Officer could also superintend the detail of arrangement for the supplies, required by the Road Parties, from the Stores and Lumber Yard at Parramatta. Besides these four Assistant Surveyors, the Officer, who is understood to succeed Major Lockyer, should be charged with the immediate superintendence of the whole, visiting in turn the remote Roads, and arranging the construction of Bridges, etc., and, while at Parramatta, taking part in the Duties of the Assistant Surveyor also stationed there, so that an Assistant Surveyor should be always at Parramatta to keep up an uninterrupted communication with the Road Gangs.

Assistant surveyors required for superintendence of roads.

General supervision of roads.

I regret that it is not in my power to name at present any other Assistant Surveyors for these several Duties, besides Mr. Nicholson already mentioned and Messrs. Simpson and Lambie, who have been hitherto in charge of the North and South Roads. These Gentlemen I consider well acquainted with the process of Road making, and the Country where the Roads pass; and I would strongly recommend their continuance in their present situation. I beg to add that any other Officers, who may be required for this Service, may be found in this Department.

Nomination of assistant surveyors.

In order to carry on the Correspondence, I beg to state that I intend to remove to this Office one of the Clerks of the Road Department, with the Official Correspondence and Letter Book; the others will remain at Parramatta under the Assistant Surveyor, to whom the distribution of Stores, etc., will be entrusted. In this manner, I hope to be able to separate the Duties without incumbrance, so that the correspondence may be attended to here, while the Supplies can be more readily issued from the central Station, Parramatta, which would be in short the channel through which all Returns from the Road Parties should come to this Office here, and the Depôt as already stated for the Material of the Road Department.

Correspondence clerk.

I have, &c.,

T. L. MITCHELL,
Surveyor General.

[Enclosure No. 2.]

MINUTE No. 5 TO COLONIAL SECRETARY.

Government House, 9th January, 1830.

LET it be notified that, the Department of Roads and Bridges has been abolished (Secretary of State's Despatches No. 114 and

Abolition of department of roads and bridges.

1830.
11 Jan.

Instructions
re necessary
reorganisation.

120/1829), and that the Duties, hitherto carried on by that Department, have been transferred to the Surveyor General's from the 1st inst.

2. Let the Surveyor General be informed that, having had under consideration his Report of the 2nd inst. on the subject of the Road Department, I have approved as follows, until the pleasure of the Secretary of State shall be known: Vizt.

3rd. Assistant Surveyor Nicholson to succeed Major Lockyer, and to be stationed at Parramatta, until an Assistant Surveyor shall be selected for the Duties at present performed by Mr. Dulhunty.

4. That such portion of the Business, as the Surveyor General may think necessary, be conducted at his Office at Sydney under his Superintendence; and that the rest be carried on as proposed in the Report at the Office at Parramatta.

5. The "Lumber Yard" cannot, as suggested by the Surveyor General, be given up exclusively for the use of the Road Department. But the Director of Works will make the best arrangement, of which circumstances permit, to separate the two Establishments, and to prevent the inconvenience which would be occasioned by their interfering with each other.

6. An *Office* will be allowed at Parramatta, and the Surveyor General will ascertain and Report on what terms he can obtain the Accommodation necessary for the purpose.

7. As *Four* Assistant Surveyors appear to be necessary for the Superintendence of the Northern, Western and Southern Roads, and those which radiate from Parramatta, that Number will be allowed for the present. Messrs. Simpson and Lambie will be continued, as also Mr. Dulhunty at Parramatta, until an Assistant Surveyor can be selected to undertake the Duties at that place. Let the Surveyor General nominate an Assistant Surveyor to relieve Lieutenant Kirkeley on the Western Road, and point out to him that two Assistants have been added to his Department expressly for this Service. Request he will make the necessary arrangements for the Superintendence of the Parties under Mr. Campbell at Hunter's River, in order that he may be discontinued.

8. The distribution of the Clerks as proposed, Vizt., one to be employed at the Office at Parramatta and one at Sydney, is approved.

RA DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 3, per ship Jane.)

12 Jan.

Death of
J. T. Campbell.

Sir,

Government House, 12th January, 1830.

Appointment of
H. H. Macarthur
to legislative
council.

It is my duty to report the death of Mr. John Thomas Campbell, who was appointed in pursuance of His Majesty's Warrant, dated the 30th of January, 1829, to fill the Vacancy in the Legislative Council occasioned by the absence of Captain King of the Royal Navy, and to acquaint you that Captain King, being still absent, Mr. Hannibal Hawkins McArthur,* the person next in the Warrant to the late Mr. Campbell, has succeeded that Gentleman.

I have, &c.,

RA. DARLING.

* Note 82.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

1830.
13 Jan.

(Despatch No. 4, per ship Jane.)

Sir, Government House, 13th January, 1830.

I have the honor to acknowledge the receipt of your Despatch of the 2nd June last, No. 117, directing me not to take any further steps for carrying into effect the arrangement for the adoption in this Colony of the Imperial Weights and Measures.

Non-introduction of imperial weights and measures.

I beg to acquaint you that no steps had been taken to establish the New Imperial Weights and Measures here; but it will be seen, by the enclosed Copy of a Letter from the Deputy Commissary General, that the Contracts and issues to the Troops have reference to the Imperial measures, continuing however the quantities as heretofore, as directed by the Minute of the Lords Commissioners of His Majesty's Treasury.

I have, &c.,

RA. DARLING.

[Enclosure.]

DEP. COMMISSARY GENL. LAIDLEY TO THE MILITARY SECRETARY.

Commissariat Office.

Sir, Sydney, 8th December, 1829.

I have the honor to acknowledge the receipt of your Letter of the 8th inst., relative to the adoption of the Imperial Weights and Measures in this Colony.

In reply, I beg to acquaint you, for the information of His Excellency the Governor, that Imperial Weights and Measures have been received from England, but nothing has been done with the Weights, Their Lordships Minute of the 11th April, 1826, having directed that no alteration in that Standard should be made, as the difference between the Old and the New is very trifling.

Imperial weights and measures received.

With respect to the Liquid Measures, it has been stipulated in the present contracts that all Liquids shall be delivered by that Standard, in which my Accounts are kept, and the Rations of the Troops are issued by it, changing however the proportion of a Gallon which forms the allowance. By the old measure, it was fixed at one twenty fourth of a Gallon for each Man; by the New Imperial it is fixed at one twenty eighth of a Gallon, being the same in quantity as near as can be reduced, without introducing an inconvenient fraction, as directed in the Minute referred to.

Liquid measures used in rations.

I have, &c.,

JAMES LAIDLEY,

Depy. Com. General.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Jane; acknowledged by under secretary Hay, 20th July, 1830.)

Sir, Government House, 13th January, 1830.

I beg to acquaint you, in reference to my Letter of the 22nd of last Month, that Mr. Shelly* has withdrawn from the

* Note 74.

1830.
13 Jan.

Departure of
J. D. Shelley
for India.

Colony, a Subscription having been entered into for the purpose of paying his Passage to India, where it appears he has a Brother. Mr. Shelly remained in Jail until the 11th inst., not being able to find Security for his keeping the Peace, when he was embarked, having entered into an engagement not to return for twelve months.

Details of
case of
J. D. Shelley.

Should you wish for any further particulars respecting Mr. Shelly's case, besides those communicated in my Letters of the 27th January last, and the 22nd ultimo, I beg to refer you to the Sydney Gazette* of the 5th inst., which contains a correct Summary of what took place from the time he first made application for a Grant of Land, until his Claim was finally rejected. I can only repeat my conviction that the late proceeding is to be attributed to the Monitor News Paper, which led Mr. Shelly to believe he had been treated with rigour† and injured by the Government. He associated himself with Mr. Hall, the Editor of the Monitor, when in Jail, who endeavoured to induce him to remain, but could not succeed.

Addresses
received by
R. Darling.

As proof of the manner in which Mr. Shelly's proceeding has been considered by the Inhabitants, I take the liberty of enclosing Copies of Addresses which have been presented to me here and at Parramatta.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Address to
R. Darling re
attack by
J. D. Shelly.

ADDRESS To His Excellency Lieut. General Ralph Darling, Governor and Commander in Chief of New South Wales and its Dependencies, etc., etc., etc.

WE, the undersigned, have learned, with much concern and indignation, the daring insult which was yesterday offered to Your Excellency by a Person armed with the Weapons of an Assassin at the moment of Your Excellency's leaving, in company with your Family, the Celebration of Divine Service at St. James Church.

We hasten to convey to Your Excellency our abhorrence of an act so atrocious; and, while we deeply lament that any one could be found in this community so reckless of the most sacred principles as to have been guilty of so unheard-of an outrage, we are anxious to lose no time in solemnly expressing our sincere attachment to your person and our unshaken loyalty to Your Excellency as His Majesty's Representative.

With the most fervent prayers for Your Excellency's preservation to a long and happy Life, and for the welfare and prosperity of Your Excellency's Family, we have the honor of subscribing ourselves,

Your Excellency's most faithful and most devoted Humble Servants.‡

Sydney, 21st December, 1829.

* Note 83.

† Note 74.

‡ Note 84.

[Enclosure No. 2.]

1830.
13 Jan.

ADDRESS to His Excellency Lieut. General Ralph Darling,
Governor and Commander in Chief of New South Wales
and its Dependencies, etc., etc., etc.

Address to
R. Darling re
attack by
J. D. Shelly.

WE, the undersigned Inhabitants of Parramatta and its District, have heard with the utmost indignation the daring insult, which was on Sunday the 20th ult. offered to Your Excellency on Your Excellency's leaving Divine Worship at St. James' Church, Sydney.

We beg to assure Your Excellency of our hatred of so atrocious an act, and deeply lament that any Individual could be found in the Colony to be guilty of so premeditated an outrage.

We beg leave at the same time to congratulate Your Excellency on your safe return to our small but loyal Town, and, with the most unfeigned wishes for Your Excellency's long continuance in the Administration of the Affairs of the Colony, and the prosperity of Your Excellency and Family, we beg leave to subscribe ourselves,

Your Excellency's faithful and devoted Servants.*

Parramatta, 6th January, 1830.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(A private letter per ship Jane.)

My dear Sir,

Sydney, 13th Jany., 1830.

I have not written you a private Letter for some time, as I am indeed always unwilling to intrude on those, who I know to be occupied as you are. I am desirous however, you should be informed that every thing is going on as well as possible; and that, barring the radical Press and its Supporters, who are now miserably reduced, the very best disposition prevails throughout the Colony. Though Mr. Hall has been in Jail the last Six months, the Monitor still pursues its course. In proof of which, I need only mention that the Editor was convicted of *four* Libels at the last Sessions,† written since his imprisonment. He appears to have succeeded in persuading a Mr. Shelly, who came out here some time ago, that I had treated him ill in refusing him Land, and he in consequence made up his mind to assassinate me. I shall not trouble you with the particulars, as I have stated them in a Letter to Mr. Twiss, to prevent any erroneous impression from a misrepresentation of the facts. The Inhabitants of Sydney, including *all* Classes, immediately presented an Address to me on the occasion, of which I send you a Copy, as also of one which I received at Parramatta, when I went up lately to attend the *Corrobora* of the Natives. The latter is signed by every Individual of the Town, who had not put his name to the Sydney Address, with the exception of *three* persons. You will find the names of every respectable Man residing in this part of the Colony. As Mr. *Francis Stephen's* is not in the List, I send you the "Australian" of the 9th inst., when it will be found,

Conditions
in colony.

Conviction of
E. S. Hall for
libel.

Assassination
of R. Darling
proposed by
J. D. Shelly.

Omission
of name of
F. Stephen.

* Note 84.

† Note 85.

1830.

13 Jan.

Payment of fine
for A. E. Hayes.Criticism of
F. and J.
Stephen and
C. D. Moore.Preparation
of addresses.

End of drought.

Reference to
newspaper
account of case
of Selwood.

subscribed to a Letter* to the Editor, for whose liberation it was only fair he should pay, having written the Libel for which Mr. Hayes suffered Six months Imprisonment. Mr. C. D. Moore Mr. Stephen's Assistant in this matter, is the Brother of Mr. Moore, the Solicitor, of *Turf Club* Memory,† who is now paid £500 a year for enabling our *poor* Attorney General‡ to do his duty. Whatever may have been the opinion of Your Colleague with respect to these Gentlemen, it is satisfactory to me to find that the respectable part of the Community are forward on every occasion in expressing their good will. Their opinion and support of the Government could not be more strongly evinced than by the humiliating condition of my few radical opponents, who are in fact driven from Society. I have adverted to Mr. Francis Stephen, knowing you were sometime since applied to on his account, and to convince you he is not a whit reformed since I acquainted you with his conduct in the case of his Marriage License.§ The proceedings of his Brother *John*, who sometime since left the Colony and went to the Mauritius, became the subject of Official Representation, and I therefore abstained from writing to you on the occasion. These men and their associates have laboured, through the means of the press, to spread a belief that the Govt. was held in disrepute, with a view of concealing their own degradation. But their proceedings have induced the Inhabitants to come forward and expose them by the public avowal of their Sentiments. You will not suppose that any of the 'Adresses have been promoted or encouraged by me. I assure you it is not the case, nor had I even heard of the one presented at Parramatta, until the night before I left Sydney. If I courted such things, I need only visit the other Districts, the Inhabitants of which I understand are anxious to receive me. I will not take up more of your time further than to mention that the rains, which have fallen, have in most of the Districts saved the Wheat, though the Crop is very small; an abundant Harvest of Maize which is now expected with some degree of confidence, will make up amply for any deficiency and the Poor as well as the Rich will be supplied. Many, however, have suffered severely; but I trust Providence will now continue to smile upon us and teach the unreflecting to profit by the Lesson they have recently received.

I remain, &c.,

RA. DARLING.

P.S. It having been stated in the Monitor that a Person of the name of *Selwood* under circumstances similar to those of Shelly, had left the Colony with an intention of preferring a Complaint to the Secy. of State, I am not aware I can put you more fully in possession of the facts of *Selwood's* case than by

* Note 86.

† Note 87.

‡ Note 88.

§ Note 89.

referring you to the leading Article* in the Sydney Gazette of this date, which I enclose, and which are supported by public Documents in possession of the Government. It is not improbable that the Story in the Monitor is totally unfounded; but, as it may possibly be correct, I mean as to Mr. Selwood's being dissatisfied, I have been induced to mention the circumstance and shall leave you to judge as to his claim to attention.

14th Jany.

R.D.

1830.
13 Jan.

Reference to newspaper account of case of Selwood.

[Enclosure No. 1.]

[A copy of this address will be found on page 332.]

"Gentlemen, HIS EXCELLENCY'S REPLY.†

"It is impossible I should ever cease to retain the grateful impression, which this prompt and affectionate expression of your regard has made upon my mind. The feeling, you have evinced, is an assurance that you will believe I sensibly appreciate this fresh instance of your kindness; and I anxiously hope that the same benign Providence, which has preserved me as I trust for some useful purpose, will ever watch over and protect you; and grant my earnest wishes for your happiness and the prosperity of the Colony.

"I have, &c.,

"RALPH DARLING.

"Government-house, Sydney, 24 Dec., 1829."

Reply by R. Darling to address at Sydney;

[Enclosure No. 2.]

[A copy of this address will be found on page 333.]

HIS EXCELLENCY'S REPLY.

"To the Inhabitants of the Town and District of Parramatta.

"Gentlemen,

"I receive, with sentiments of grateful acknowledgement, this proof of the interest you take in my welfare. It is the more gratifying, as it is an instance which cannot be surpassed of the unity of feeling which prevails in this loyal town and its neighbourhood, and shews, to the honour of the inhabitants, that the exertions, which have been used to propagate the seeds of discord and bring the Government into disrepute, though they appear to have succeeded in the case which has called forth this just expression of your indignation, have *here* completely and entirely failed.

"I feel, Gentlemen, very sensibly, how much I am indebted to your kindness for the wish you have expressed for my continuance in the administration of the affairs of this Colony; so long as it shall please God, and the King shall think me useful in my present station, I shall cheerfully continue to devote myself to your service.

"I am not aware, Gentlemen, I can better convey my anxious desire for your prosperity and happiness than by repeating the wish, I lately expressed on a similar occasion, that the same benign Providence, which has preserved me as I would fain hope for some useful purpose, will ever watch over and protect you, and render us all more worthy of the blessings we enjoy.

"I have, &c.,

"RALPH DARLING.

"Government House, Parramatta, 6 Jan., 1830."

and to address at Parramatta.

* Note 90.

† Note 91.

1830.
14 Jan.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 4, per ship Roslyn Castle.)

Sir, Downing Street, 14th Jany., 1830.

Increase of
salary for
P. Logan.

I have received your dispatch No. 40 of the 10th April last, bringing under my notice the case of Captain Logan, the Commandant of the Penal Settlement at Moreton Bay, and recommending that his Salary of £182 10s. should be encreased to £300 per annum.

I beg to acquaint you, in answer, that the addition which you have proposed to make to that Officer's Salary is approved by H.M.'s Government.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 5, per ship Jane; acknowledged by
Sir George Murray, 14th July, 1830.)

Sir, Government House, 14th January, 1830.

Forage
allowance for
commandants
at Bathurst and
Parramatta.

I have the honor to acquaint you that, finding when I lately visited Bathurst that the Commandant of the District could not possibly perform his duties in a proper manner without a second Horse, I authorised his receiving an allowance of 2s. 6d. per diem from the Colonial Fund, the sum granted to the Civil Officers who keep Horses in lieu of forage, he being already in the receipt of an allowance of Forage for one Horse in his Military capacity; and I have authorised the same in the case of the Commandant of the Parramatta District.

I have directed this allowance to be issued from the Colonial Fund as the duties of the Commandants and the Military in the Districts are more or less of a Civil nature, the Soldiers being stationed in the neighbourhood of the Road Parties, and generally employed in escorting Prisoners.

When the Districts of Bathurst and Parramatta were first established, the Commandant received an allowance of ten Shillings a day; but this was afterwards discontinued; and, without considering the Expense to which those officers are exposed from their public Situation, it is impossible that they can visit the detached Stations with one Horse, and the fact I find is that they have always kept two.

Areas of
districts.

The District of Bathurst extends 150 miles, and Parramatta is the centre of four Roads on which there are Military Posts at the distance of not less than 20 miles from the Head Quarters.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

1830.
14 Jan.

(Despatch per ship Jane.)

Sir, Government House, 14th January, 1830.

It having been stated in the "Sydney Monitor" News Paper that a Mr. *Selwood*, whose case is mentioned as Similar to Shelly's, has returned to England to represent to the Secretary of State certain grievances with respect to his not obtaining Land according to his expectations, I beg to refer you to the enclosed Extract from the Sydney Gazette of this date (transmitted by this opportunity), which contains the facts of Selwood's case as taken from Documents in the possession of Government, so that you may judge of his Claim to attention, should he present himself at your Office.

Transmission
of newspaper
account of case
of Selwood.

It is not improbable that the whole Statement is a fabrication of Mr. Hall's, as I never before heard of Mr. Selwood's dissatisfaction. If I had, I should certainly have prepared you before this with the particulars now communicated.

I have, &c.,

RA. DARLING.

[Enclosure.]

[*This was the leading article* from the issue of the Sydney Gazette, dated 14th January, 1830.*]

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(Despatch per ship Roslyn Castle.)

Sir, Downing Street, 15 Jany., 1830.

15 Jan.

I am directed by Secretary Sir G. Murray to transmit to you the accompanying Copy of a letter which the Secretary of the Board of Ordnance has addressed to one of the Secretaries of the Treasury, on the subject of certain Articles specified in the Requisitions for Stores for the service of the Colony under your Government during the year 1829; and I am to desire that you will take the necessary measures to enable Sir G. Murray to furnish the Board of Ordnance with the information called for in Mr. Byham's letter.

Report required
re requisitions.

I have, &c.,

H. TWISS.

[Enclosure.]

MR. R. BYHAM TO MR. G. R. DAWSON.

Sir, Office of Ordnance, 16 December, 1829.

Having laid before the Board of Ordnance your letter dated 16 Ulto., enclosing Abstracts of Requisitions for Tools, Materials, Clothing and Stores for Military Public Departments, etc., in New

1830.
15 Jan.

South Wales for one year to 24th December, 1829, I am directed to acquaint you that the Board have ordered the Articles, stated in Black Ink on the Columns "to be provided" and "required for 1829," to be forwarded to New South Wales with the following exceptions, vizt.

Articles
omitted.

200 feet of Plate Glass; 1,000 Rings; Half the Quantity (or 6,000 lbs.) of Blister Steel.

Report required.

I have the honor to request that Information be obtained as to the size of the Plates, in which the 200 feet of Plate Glass demanded are required; also as to the size and use of the 1,000 Rings; and I am directed to submit that only one half of the 12,000 lbs. of Blister Steel should be immediately provided, and that information should be required from New South Wales as to the uses to which so large a quantity as 12,000 lbs. is to be appropriated, it appearing by the requisition to be demanded for "Outstations from which no requisitions have been received," etc., etc., etc.

I have, &c.,
R. BYHAM.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 5. per ship Roslyn Castle.)

20 Jan.

Sir,

Downing Street, 20th Jany., 1830.

In the report of the proceedings of the Trustees of Clergy and School lands in N.S. Wales from the 9th of March, 1826, to 29th of February, 1828, transmitted with your Despatch of the 19th February 1829, No. 20, appears the following paragraph:

"No. 6. The Treasurer's Salary.

Allowance as
treasurer to
trustees of
clergy and
school lands.

"For the additional duty imposed upon the Colonial Treasurer, as Treasurer of the Corporation, the Trustees have given him a Salary of £250 Sterling per annum, upon his furnishing security for £500 Sterling. And they take this opportunity of humbly praying that, *under the present state of the funds of the Corporation that sum should be defrayed by the Government.*"

Disapproval
of allowance.

As it does not appear from any of the dispatches which I have received from you that this application on the part of the corporation has been acceded to, I have great hopes that you have declined making to the Colonial Treasurer any separate remuneration on this account; but, if unfortunately you should have given your consent to the proposition, I am under the necessity of directing the discontinuance of any such separate allowance to him. In withdrawing from him, however, the separate allowance, you will relieve him from the necessity of furnishing the additional security, which it was proposed by the corporation to require of him.

I have, &c.,
G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

1830.
20 Jan.(Despatch per ship *Jane*; acknowledged by Viscount Goderich,
6th January, 1831.)

Sir, Government House, 20th January, 1830.

I do myself the honor to transmit for the information of the Right Honble. the Secretary of State, in reference to the Despatch which I had the honor to receive from him, dated the 31st of July, 1828, marked "Separate," a Bill which I have felt it necessary to bring under the consideration of the Legislative Council, in order to restrain the publication of Libellous matter in the Colonial Newspapers.

Act of council
for restraint of
newspapers.

Mr. Hayes, the Editor of the "Australian," has been just now liberated from Jail, after an Imprisonment for Libel of Six Months, and having been further punished by a Fine of £100, which, being unable to pay, is stated in a Letter* signed by Mr. Francis Stephen (the supposed author of the Libel in question) and Mr. C. D. Moore (the Brother of the Crown Solicitor) inserted in the "Australian" of the 9th inst. to have been raised by subscription.

Liberation of
A. E. Hayes and
payment of fine.

It may not be irrelevant to state that Mr. Hall, the Editor of the "Sydney Monitor," is still in Jail, having some time since been convicted of two Libels† and adjudged to fifteen months Imprisonment. It might be stated, as a further proof of the insufficiency of the existing Laws in this respect and as a reason for bringing forward the enclosed Bill, that the Editor of the "Monitor" was again convicted during the last Sittings of the Supreme Court of the publication of *four* several Libels on different Individuals, written during his confinement, and that he has declared his determination of continuing his present course, having secured his Property and made up his mind to his being kept in Jail during the existence of the present Government.

Convictions of
E. S. Hall for
libel.

Mr. Hall, having prepared a Petition to Parliament, which appears in the "Sydney Monitor" of the 16th inst. on the subject of the Bill now under the consideration of the Legislative Council, I have been induced, as the best and easiest reply to the Petition, to forward the accompanying Article from the "Sydney Gazette" of the 19th inst., assuring you that no Individual connected with the Government was concerned either directly or indirectly with its preparation, nor had I ever heard of it before its publication.

Petition
prepared by
E. S. Hall.Criticism in
Gazette.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

[This was a copy of the act of council, 11 Geo. IV, No. 1.]

* Note 86.

† Note 85.

1830.
20 Jan.

[Enclosure No. 2.]

MESSRS. STEPHEN AND MOORE TO MR. A. E. HAYES.

Dear Sir,

Sydney, 5th January, 1830.

Payment
of fine for
A. E. Hayes.

We have been deputed by a Number of the most respectable Colonists to present for your acceptance the Sum of £100, to be applied in payment of the Fine which forms part of the heavy Sentence passed upon you in the Month of June last.

In selecting us as the medium of conveying to you this testimony of their feelings, your friends desire to unite in congratulating you on the termination of your Imprisonment.

Hoping that you may long continue the fearless advocate of the Liberty of the Press without incurring the Penalties, which may in this Colony attach to the slightest infringement of the Anomalous Law of Libel.

We remain, &c.,

FRANCIS STEPHEN.

CHARLES D. MOORE.

[Enclosures Nos. 3 and 4.]

[These were copies of the Sydney Monitor, dated 16th January, 1830, and Sydney Gazette, dated 19th January, 1830.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 7, per ship Jane; acknowledged by
Sir George Murray, 8th August, 1830.)

Sir,

Government House, 23rd January, 1830.

23 Jan.
Transmission
of petition.

I have this moment, at a late hour of the night, received from the Landed Proprietors of the Colony the accompanying Petition, praying for a reduction of the Duties on Tobacco to one third of the present amount, and that no further restriction be imposed than that the weight of each Package shall not be less than 100 lbs.

Being about to send off my Despatches as the Ship is expected to sail at daybreak, it is not in my power to examine the Petition with the attention I could have wished; but I have no doubt that the facts are correctly stated; and I cannot hesitate, believing the object in the present circumstances of the Colony to be of great importance to its welfare, strongly to recommend the subject to your early and favorable consideration.

Necessity for
immediate
transmission.

I should under other circumstances have detained the Petition for another opportunity; but the Gentlemen interested in it attach so much importance to its being received before the present Sessions of Parliament is too far advanced to admit of the measure being brought forward, that I have felt it due to them, under the difficulties they have had to contend with the last three years, which have led to general distress and occasioned the total ruin of many, not to expose to disappointment by any

delay, which can possibly be avoided, a measure which they consider so likely to relieve them and promote the interests of the Mother Country and the Colony.

I have, &c.,

RA. DARLING.

1830.
23 Jan.

[Enclosure.]

PETITION.

To The Right Honourable Sir George Murray, G.C.B., G.C.H.,
etc., etc., etc.

Sir,

We, the Undersigned Landed Proprietors of New South Wales, Beg leave most respectfully but *earnestly* to represent the present Difficulties of the Colony, and humbly to submit certain Propositions, which, if favourably considered, will we trust not only promote the Welfare of our Country, but conduce in some degree to increase the Prosperity of Great Britain.

On the Settlement of this Colony, the Attention of the few Emigrants, who comprised the Free Population at that Period, was directed solely to the Growth of Wheat and other Grain for the Supply of Food for the Convicts and to the Breeding and Rearing of Live Stock.

The Growth of Grain has been found unprofitable, as well as uncertain, the remote situation of the Colony precluding it from the Advantage of a Foreign Market in Years of Plenty, whilst no means have yet been discovered to preserve it against the attacks of Weevil so as to provide against years of Scarcity.

Breeding and Rearing of Stock have hitherto been attended with more success, and our Wools have met a ready Sale in the Markets of the Mother Country.

Cattle and Sheep have, however, now increased beyond the Consumption of the Population, and Contracts for Meat have been completed at One penny and one eighth per Pound, whilst our most improved Wools have scarcely reached a remunerating Price.

Three Seasons of unprecedented Drought have conspired with other Causes to produce much Distress and to occasion great depression throughout the Colony. Unfavourable Seasons being common to every other Country in the World as well as to our own; the above fact is not dwelt upon further than to shew that even when plenty succeeds to our present state of want, the Difficulties of the Settlers will not cease under the existing Commercial Circumstances of the Colony with regard to its Exports.

The present appears to be a Crisis of much importance to the Colony. It is of necessity changing the Direction of its Industry from Pastoral to Agricultural Pursuits; but it needs the fostering Hand of the Mother Country to aid in the Development of its Resources, and to raise it to that degree of Importance, which its Soil and Climate entitle it to command. With this view, it will be necessary for some time to come that such Exportable Articles, as can be raised, be admitted into the Markets of England on payment of moderate Duties.

The Admission Free of Duty of our Wools and of our Timber, when squaring Eight Inches, as well as the favourable Terms on which Colonial Oils are now received, demand our grateful Acknowledgments. The Boon however falls short of its gracious purpose in consequence of the Nature of our Timber, which seldom reaches

Petition from landed proprietors for reduction of duty on tobacco and removal of restrictions.

Want of profit in agriculture.

Cattle and sheep grazing.

Effects of drought.

Preference for agricultural over pastoral pursuits.

Freedom of wools and timber from duty.

1830.
23 Jan.

Petition from
landed
proprietors for
reduction of
duty on tobacco
and removal of
restrictions.

Necessity for
developing new
industries.

the prescribed Dimensions; and the Trade in this Article would have been extinct, were the Wood not necessary as Ballast and Dunnage for the Ships which load with Wool.

Our former Means of Industry appearing no longer available, we have been constrained to seek for other Sources of Profit; and none appear so obvious as those which would result from the Growth of Tobacco.

Some Years ago, its culture was eagerly commenced in consequence of a Protecting Duty of Four Shillings per pound being levied on its Importation. But, this Duty having been suddenly reduced to One Shilling per Pound, the Settlers abandoned its Cultivation in Despair of being able to compete on such Terms with their Foreign Rivals. Nine months ago, the Duty was raised to Two Shillings per Pound, and the Culture of this Plant has recommenced with much activity. But our Colonial Market will be speedily supplied, when Langour and Depression will succeed our present Ardour, as we cannot pretend to compete with the Americans in the Markets of Great Britain on the existing Scale of Duties. Nor will this be a facile undertaking, even under more favourable circumstances, as Prejudices are to be overcome and the conflicting Interests of the Dealers connected with the American Trade to be reconciled.

We would, therefore, earnestly solicit that Tobacco, the Growth of this Colony, be admitted into Great Britain at one Third of the present Rate of Duty, and that we may not be restricted in the size of our Packages beyond making them One Hundred Pounds at least in weight. With this encouragement, we confidently believe that the quality of our Tobacco would soon rival that of "Virginia," and we are strengthened in this opinion by the circumstance of a quantity of Leaf Tobacco, the Produce of the Government Penal Establishment at Emu Plains, sent Home as a sample in 1822, having been most favourably reported on at the Time by an eminent London Broker.

Amongst the advantages, which would result from Tobacco becoming an Export, may be instanced the Cultivation of immeasurable Tracts of the richest Country, which without some powerful Agricultural Stimulus of this nature will lie waste for Ages; as the enormous Expence of Clearing these Lands, at present covered with impervious Thickets, is far beyond the Means of the Colonists; and the attempt will never be made without the certain prospect of a highly remunerating Crop. Were such a certainty established, Capital would be abundantly furnished by London Merchants, and small Settlers would be induced to emigrate under their Auspices, encouraged by a certain means of lucrative Industry. A wholesome Admixture of Society would result from this measure, and an intermediate Class would rapidly spring up between the present extensive Land Proprietors and the Prison Population, a Circumstance of much Importance to the Moral and Political Condition of this Country. A more concentrated Population and more settled Habits would likewise result from the Cultivation of the rich Districts alluded to, and Convicts, who are now employed in the wandering Occupations of Shepherds and Herdsmen, entirely remote from all Controul, would be brought within the reach of Discipline and the Effect of good Example.

The Expence of this Colony to England arises entirely from the Cost of Convicts, who are annually Transported to our Shores; and,

although the greater portion of these is now maintained by us without Expence to the Government, yet many of the more vicious continue to be a burthen on it, and are subsisted at the Public Cost. These might for the most part be employed by Settlers, could they be so occupied as to admit of their more vigilant Superintendance. It may further be asserted that, unless some means be adopted of a similar Tendency to those pointed out, our meagre Population will of necessity spread over immeasurable Tracts of Country in search of Food for their Stock; and the Experience of these last Three Years has shown that Settlers in the Interior will at times be subject to afflictive Droughts, and much uncertainty with respect to their Means of Existence, whilst the Lands alluded to, which are mostly on the Sea Coast or form the Margins of extensive Waters, are visited with frequent Rains, and may at all Seasons, when no longer fit for the Growth of Tobacco, be depended on for abundant supplies of Wheat and Maize.

But, whilst we are anxiously bent on the Prosperity of our adopted Land, we cherish a Hope that the Advantages we seek will be reflected back on the Mother Country. The Colonist, to whom Articles of British Manufacture are almost essential, as well from Habit as from Prejudice, would consume a greater quantity, were their Exports carried to a greater Extent; the Demand for British Shipping would likewise be much increased, inasmuch as the greater length of the voyage would require Three Times the number of Vessels to supply the same quantity of Tobacco from this Country, as would be furnished from America; and Government would be enabled to Charter Ships at a much easier Rate for the Transport of Convicts, were there a certainty of obtaining a Return Cargo. The importance of this point will at once be obvious, when the Fact is stated that no less than Seventy four Vessels, measuring 26,185 Tons, have entered inwards from England within these last Twelve Months: Twenty of which were Transports measuring 9,187 Tons.

The Growth of Tobacco has, for upwards of Two Centuries, been a source of Wealth to one of the principal States of the American Union; the Protection, we solicit, would gradually transfer this Trade to the Shores of a Colony, whose Wants, Habits and Relations are peculiarly and essentially British.

The astonishing Effects, which have already resulted from the removal of certain Disabilities under which the Colony formerly laboured, further demonstrate the Importance of calling forth and aiding its nascent Resources and Industry.

Ten Years back, a Ship of 300 Tons transported the whole of our exportable Produce for that Year to England. From the 18th June, 1828, to the 18th June, 1829, Twenty four Vessels, measuring 6,752 Tons, have cleared out to various Ports of the United Kingdom with Cargoes of Colonial Produce to the Value of £154,614. During the same periods, our Exports to other Places have amounted to £30,106, making a Total of £184,720. Our Imports from Great Britain, during the above mentioned Twelve Months, have amounted to £508,434, and from other parts to £170,229; forming a Total of £678,663, and shewing an *Excess of Imports over Exports* with England amounting to £353,820, and with other Countries of £140,123, leaving a Total Deficiency on Exports of £493,943.

Our principal Mercantile Relations, besides England, are with the Cape of Good Hope, Mauritius, China and Van Diemen's

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Petition from landed proprietors for reduction of duty on tobacco and removal of restrictions.

Advantages expected from growth of tobacco.

Comparative statements re trade.

1830.
23 Jan.

Petition from
landed
proprietors for
reduction of
duty on tobacco
and removal of
restrictions.

Land. The Cargoes from the latter Places are mostly paid for previous to Shipment; and it is a singular coincidence that our Imports from thence exceed our Exports by £140,123, being nearly the exact Sum drawn annually by the Commissary General on the British Treasury on account of Colonial Disbursements.

Great part of our Imports from England being on Consignment, the Mother Country is mainly interested in the Increase of our Articles of Export as a means of payment for the Goods she supplies.

Comparison
of commissariat
expenditure.

We beg to conclude our Statement by contrasting the present Commissariat Expenditure of £140,000 with that of 1821, the last Year of Governor Macquarie's Administration, when this Country was of no Mercantile Importance, being little else than an appendage to the English Gaols. In that Year, the Total Expenditure amounted to £189,000, whilst the Prison Population was not half its present Extent. But, unless some Stimulus to Agriculture be devised, our Means of giving Employment to Convict Labourers will necessarily be limited, and New South Wales will cease to be available as a Place of Deportation for the Criminals of England.

We humbly hope that a favourable view will be taken of our Case, and respectfully entreat that such Indulgence may be granted to us, as our Circumstances seem to require, and as may be deemed compatible with the Interests of the Mother Country.

[Here followed a list of one hundred and ninety-two names, alphabetically arranged.]

Certificate by
J. Norton as
notary public.

I, James Norton, of Sydney in the Colony of New South Wales, Notary Public by Royal Authority, duly admitted and sworn, Do Hereby Certify and attest unto all whom it may concern That the above and before written is and contains a True Copy of a certain original Letter to me produced and shewn, and of the several names subscribed thereto; I the said Notary having this day collated the same and found the said Letter with the said subscribed names to agree in every respect therewith, Act whereof being requested of me the said Notary: I have granted these Presents under my Notarial Form and Seal of Office to serve and avail, as occasion shall or may require. Done and Passed at Sydney aforesaid, this twenty third day of January in the Year of our Lord, one thousand, eight hundred and thirty.

L.S.

JAS. NORTON,
Not. Pub.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Jane.)

My dear Sir, Sydney, 23rd Jany., 1830.

As the circumstance of the Editor of the "Monitor" being in Jail under Conviction of *Six Libels*,* four of which I think have been written during his Imprisonment, furnishes a pretty good proof of the insufficiency of the Law in this respect, I have felt it necessary to bring forward a Bill, as suggested in the

Necessity for
act for restraint
of press.

* Note 85.

Secy. of State's Despatch of the 31st of July last, for further restraining the Press; and I beg to enclose a Copy for your information. The Opposition Papers have of course endeavoured to excite a ferment on the occasion by appealing to the Public, but have completely failed; and Mr. Hall, the Editor of the "Monitor," has in his Paper of the 16th inst. published a Petition, which he has addressed to the House of Commons on the subject of the Bill in question. As I cannot at this moment get a spare Copy of the "Monitor," I must refer you to the Series sent to your Office by this opportunity; but you will find a pretty good exposition of facts in the enclosed Extract* from the Sydney Gazette, in the publication of which, however, no person connected with me has had any concern, nor was I aware of it until I saw it in the Paper.

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23 Jan.
Opposition to
proposed act.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 8, per ship Sovereign; acknowledged by
Sir George Murray, 15th July, 1830.)

Sir,

Government House, 26th January, 1830.

26 Jan.

I willingly avail myself of this opportunity of forwarding for your perusal the accompanying Copy of the "Charge," lately delivered by Archdeacon Broughton† to the Clergy of this Archdeaconry, conceiving as the Public is indebted to you, for placing a person of his worth and qualifications in the eminent and important station he holds, that it will be satisfactory to you to receive this earnest of the Zeal, with which he has commenced and with which his character affords the best assurance, he will continue to discharge the duties of his sacred office.

Transmission
of Revd.
W. Broughton's
charge to
clergy.

It may not be altogether irrelevant to add, and it is due to Mr. Broughton that I should acquaint you that he affords me on all occasions, in his several situations as Member of the Executive and Legislative Councils, the most cordial assistance and cooperation in conducting the business of the Government.

Services
of Revd.
W. Broughton.

I have, &c.,

RA. DARLING.

[Enclosure.]

[This was a printed copy of the "Charge delivered to the Clergy of the Archdeaconry of New South Wales at the Primary Visitation, Holden at Sydney, In the Church of St. James, on Thursday, the 3d of December, 1829. By the Venerable William Grant Broughton, M.A., Archdeacon of New South Wales;" see volume in series VII.]

* Note 92.

† Note 57.

1830.
30 Jan.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch marked "Separate," per ship Roslyn Castle; acknowledged by Governor Darling, 9th August, 1830.)

Sir, Downing Street, 30th January, 1830.

Despatch
acknowledged.

I have received your despatch dated the 20th of May, 1829, enclosing a Report of the proceedings in the Supreme Court of New South Wales in the case of the female Convict "Jane New," with a Copy of the Judgment pronounced in that case by the Chief Justice and two Assistant Judges.

Problem of
control of
governor over
assigned
convicts.

His Majesty's Government having framed the Enactment* of the 9th Geo. 4, Cap. 83, S. 9, and recommended it to Parliament with distinct intention of conferring on the Governors of the Australian Colonies an unlimited discretion to revoke the Assignments of Convicts, I did not receive without surprize the information, conveyed by your despatch, of the construction which the Judges of New South Wales had given to this part of the Statute. On adverting to the reasons adduced in support of their opinion, my distrust of its accuracy was much increased, and I therefore desired my Under Secretary, Mr. Twiss, to investigate the subject more fully. The result of his enquiries was entirely to confirm my first impressions; and I now enclose, for your information, a copy of the Paper drawn up by Mr. Twiss, which explains at length the grounds of my non-acquiescence in the opinion given by the Judges of New South Wales, and which traces the history of the Transportation Laws from their commencement to the present time.

Disagreement
with opinion
of judges.

The importance of the subject induced me likewise to transmit your despatch, with a Copy of the Judgment of the Supreme Court of New South Wales, to His Majesty's Attorney and Solicitor General, desiring them to report to me their opinion, whether, under the 9th Geo. 4th, Cap. 83, S. 9, a Governor can revoke the assignment of a Convict, of whose sentence it is not intended to grant any remission, general or partial.

Opinion of
attorney and
solicitor
general.

In answer to this reference, I have received from the Attorney and Solicitor General a Report expressed in the following terms:

"We are clearly of opinion that, under the 9th Section of the 9th Geo. 4, Cap. 83, a Governor can revoke the Assignment of a Convict, of whose sentence it is not intended to grant any remission; and we think that there is nothing, either in the context or the apparent policy of the Act, which militates against this construction."

When I advert not only to the Official Situation, but at the same time also to the very high professional authority of the learned Persons, from whom this opinion proceeds, I cannot but regard it as conclusive upon the question under consideration.

* Note 93.

It is important also to remark that the opinions, delivered by the Judges in New South Wales in the case of "Jane New," are destitute of the authority, which would ordinarily attach to the Judgments of the Supreme Court, because, as is distinctly admitted by Mr. Forbes and by Mr. Dowling, the extent of your power to revoke Assignments was not necessarily brought under their consideration in that case.

Notwithstanding, therefore, the Judgment which the Court has pronounced, you will proceed to carry the Act of Parliament into execution according to that construction of its terms which the Attorney and Solicitor General have sanctioned. Should the lawfulness of any measure, which you may adopt in the exercise of this authority be brought into discussion in the Supreme Court, you will instruct the Colonial law Officers of the Crown to sustain before that Tribunal the rights of the Colonial Government, and for their assistance you will place in their hands the Paper prepared by Mr. Twiss on this subject. It may be hoped that, when the question shall be brought before the Court in a distinct and substantive form, they will alter an opinion, which, as hitherto given by them, can be considered only as Extra-Judicial. If so, the evil will have been repaired, and I hope without any lasting inconvenience. If, on the contrary, they adhere to their first impression by deciding under circumstances where the question shall clearly and directly arise for decision, that the Governor does not possess the power of revoking an Assignment except for the purpose of remitting the sentence, you will, of course, abstain from the further exercise of that authority, until either the Judgment shall have been reviewed by His Majesty in Council, or the law placed beyond doubt by the authority of Parliament.

A just consideration for the professional character of the Court at New South Wales must make it a very painful duty to a Secretary of State to introduce into Parliament a declaratory Act, on the ground of the difficulties imposed on the Colonial Government by an error of the Judges, when that error is declared by the highest legal authorities here to be destitute of even a plausible foundation. But it is a duty from which I shall not shrink, if no other method can be found of enabling you to exercise those powers, which His Majesty's Government with the sanction of Parliament has considered essential to the peace and good order of the Colony of New South Wales.

If the Judges had been compelled by circumstances beyond their own controul to decide the question of the Governor's powers, I should not have thought myself at liberty to express any dissatisfaction, however I might have lamented their

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30 Jan.

Criticism of
opinion given
by judges.

Power of
governor to
revoke
assignments to
be maintained.

Objections to
a declaratory
act.

Criticism of
decision of
judges.

1830.
30 Jan.

Criticism of
decision of
judges.

misconception of the Law. But neither the respect due to the Judicial Office, nor the indulgence, which even the most eminent Judges may sometimes have occasion to claim for mistakes, would warrant me to pass over in silence the error, which appears to have been gratuitously committed upon the case of "Jane New." I do not allow myself to suppose that Mr. Forbes or that either of his Colleagues permitted their Judgment to be swayed by the desire of that popular applause, which the expression of such an opinion might bring along with it. But the charge of extreme indiscretion in entering without necessity into a Public discussion, which there were so many motives to avoid, is one from which I am at a loss to exonerate the Chief Justice. The Senior assistant Judge, Mr. Stephen, appears to have confined himself to a simple acquiescence in the Chief Justice's Judgment, and Mr. Dowling, though adding the weight of his authority to their's, seems, with more discretion, to have expressly reserved to himself the opportunity of reviewing that part of the subject which was not then properly before the Court.

Criticism of
conduct of
F. Forbes.

Adverting to the long series of unpleasant discussions respecting the Judges of New South Wales, which have been forced on the notice of myself and my Predecessors in this Office, I am under the necessity of stating that the conduct of the Chief Justice, in wandering from the question really before him to express an opinion pronounced by the authorities above mentioned to be erroneous on a subject of such peculiar delicacy and popular excitement, has produced in my mind an impression, which I earnestly hope that nothing will occur to strengthen.

Power of
governor to
alter destination
of convicts.

On the question, whether the Governor of the Australian Colonies may transfer Convicts from one of those Colonies to the Other, His Majesty's Government are of opinion that the Governors have not the power to alter the destinations of Convicts, except for the purpose of transporting those who shall have committed new Offences from New South Wales or Van Diemen's Land, as the case may be, to some Settlement of a more penal character; nor does it appear to His Majesty's Government to be requisite that any addition should be made to the powers of the Governors in these respects.

Despatch to be
transmitted to
judges.

You will transmit to the Chief Justice, for the information of himself and his Colleagues, a copy of this despatch and of its Enclosure.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. TWISS'S PAPER.

Power of gover-
nor over assigned
servants.

THE first observation which strikes me, upon reading the Judgments of the Court at Sydney respecting the Governor's power of revoking assignments, is that the Judges have travelled out of their straight

path to give an opinion upon a question not raised by the proceedings before them. It was an opinion which, with the party opposing the Government, was but too sure to be popular; and every one will readily perceive how prejudicially it must work against the authority of the Government, in a Colony where a great majority of the Population are either Convict Servants assigned, or Convicts who have served out their terms and obtained the assigned services of other Convicts to themselves as Masters.

It is not for the Colonial Office to determine whether the decision, thus *obiter dictum*, be or be not a true construction of the 9th Geo. 4, Ch. 83, S. 9; but this I can venture to say (because, tho' I did not frame the clause in discussion, I carried the Bill thro' its latter stages in the House of Commons) that the real intention of the Enactment was the very opposite of that which the Sydney Judges have construed its words to import, and I cannot help thinking, even now, that the real intention is plainly enough expressed.

The Chief Justice, however, prefaces his argument* by stating that the clause is expressed in an ambiguous manner; and (intending to shew that the object of the 9th Section is not to give the Governor an unqualified power of revoking assignments, but to protect the Settlers' property in the labourers assigned to them) he begins by quoting the recital in that Section, by which, says he, a property in the Service of transported Offenders is vested in the Assignees of such Offenders. The words of the recital, however, are, "Whereas by a certain Act (5 Geo. 4, Ch. 84) etc., provision is made for vesting, in the *Governor of the Colony* to which Offenders may be transported, or in such other Person, as therein mentioned, the property in the service of such Offenders," etc.; Surely the words, "*in the Governor of the Colony*," were very material to the view which the Judge has taken of the argument respecting the right to the service. I cannot suppose him to have omitted words of so much importance by design; and, if his omission has been from mere inaccuracy, the weight of his legal authority is a little impaired by such an inadvertence.

I pass over that part of the argument, in which the Chief Justice contends that an Assignment of a Convict, made by the Governor of the Colony to which he was transported, cannot be afterwards revoked by the Governor of another Colony to which that Convict may remove. It was a question, from which, as well as from the more general question of the Governor's right to revoke, the Judges might well have kept aloof as being irrelevant to the case before them, which turned merely on the right of a Convict, transported to V.D. Land, to be resident in N.S. Wales before the term of transportation was expired.

But the general power of the Governor to revoke assignments, at his discretion, is now the main subject, and that to which I will confine myself. It is one, says the Chief Justice, of vital importance to the Colonists, since without labour their land would be useless, and the only labourers who can be held securely are Convicts; very likely, but what right has the Colonist to the Services of the Convict, whom the Government may have lent to him, for any longer time than the Government may please to continue the loan. The Chief Justice meets that by an argument to shew, that the objects of the Transportation Acts are two: first the punishment of Criminals, and secondly, not, (as might have been supposed from the Acts themselves, and from the whole history of the

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30 Jan.

Prejudicial
effect of
opinion by
Judges.

Intention of
section of
statute.

Criticism of
argument by
F. Forbes.

* Note 94.

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30 Jan.

land and Convict questions) not to save to Government the expence of maintaining those Criminals, but the other object of the Government, according to the apprehension of the Chief Justice, was the supply of the Colonists with labour.

Objects of
transportation
laws.

That the Acts of Parliament, relative to transported Convicts, had in view the saving of Expence to the Government, and not the dispensation of mere boons to the Settlers, will be very apparent from the history of the conditions respecting such Convicts, which have been successively annexed to such Grants of Land as have been received by Settlers.

Conditions of
land grants.

In an early stage of colonization, residence and improvement became very general conditions of such grants; and, to these was added afterwards, the maintenance* of a certain number of Convict Servants.

Lord Bathurst, in his dispatches of the 30 and 31 of May, 1823, desired that the maintenance of Convicts should no longer be an absolute condition of Grants; and he added that, where *any considerable saving to Government* was effected in this way, the Individual, who effected it, should be entitled to *some degree of favour*.

By the Royal Instructions of the 17th July, 1825, the Settlers were to be allowed certain advantages in consideration of such sums as they might *save to Government by the maintenance of Convicts*.

In progress of time, the demand of the Settlers for Convict Labourers proved so great as to need no encouragement, and therefore the advantages allowed for maintaining them were discontinued. (See the Governor's dispatches of the 12th July, and 5th Sept., 1826, and Lord Bathurst's of the 2d April, 1827.)

Object of
assignment
of convicts.

The foregoing references to the dispatches of the Secretary of State prove that the *saving of Expense to the Public* and not the provision of labour for the Settlers was the object of His Majesty's Government; and the following extract from the Statute respecting the Australian Company will shew that the object of Parliament was the same.

(5 Geo. 4, c. 86.) "Whereas there are in the Colony of N.S. Wales divers waste lands, which might be cultivated to advantage, if sufficient capital were raised and advanced for that purpose, and whereas there are in the said Colony a large number of Convicts, *who are at present maintained at the public expence*, but who might be advantageously employed in the cultivation of such waste lands as aforesaid, and thereby *a considerable annual saving would accrue to the Public*: and whereas divers Persons are willing to contribute and raise, by subscription among themselves, such a capital sum as will be necessary for bringing into cultivation such of the said waste lands as His Majesty may be pleased to grant to them, and for the employment thereon of a large number of Convicts," etc.

Interpretation
of transporta-
tion laws by
F. Forbes.

The Chief Justice relies upon the early transportation acts, under which the Crown, when it remitted the sentence of a transported Felon, was bound to pay an equivalent to the Owner of him; and all the successive acts, says the Chief Justice, proceed upon and recognise this groundwork of the Owner's right of property in the services of the Convict; no doubt, they acknowledge this right; but why? because by the earlier acts the Government were enabled to contract with private Individuals to bear the charge of transporting the Convicts, and to give security against their return from

* Note 95.

transportation; and no Owner would have undertaken this outlay and this responsibility under the Acts, if the Acts had not secured him against any unforeseen exercise of the Royal Mercy at his expense. This was the state of things under the Statutes,* 4 Geo. 1, C. 11, 6 Geo. 1, C. 23, 8 Geo. 3, C. 15, 19 Geo. 3, C. 74; the act of 24 Geo. 3, C. 56, and that which was passed for Scotland 25 Geo. C. 46, and the act of 28 Geo. 3, C. 24, omitted all express provision for indemnity to the owner in the remission of a Sentence; but, as they recognize his property in the service, the indemnity may probably be taken to have continued, as a necessary tho' tacit consequence. The 30 Geo. 3, C. 47 too (which declared that the King, with the advice of His Privy Council, had resolved on sending the Convicts to N.S. Wales, and gave the Governor power to remit sentences) was without any express provision as to the Persons, who might bear the charges of the transportation, or as to assignments or indemnifications or property in the service. The 43 Geo. 3, C. 15, the first Statute, which authorized the giving of a *property* in the services of Convicts to a person who *had not transported them, vests the power of so assigning such property in the Crown, without any words to limit its discretion.* The 55th Geo. 3, C. 156, which repealed 24th Geo. 3, C. 56, maintained the original principle by enacting that *any one, contracting for the transportation, should have the property in the service; and was itself remodelled by 56 Geo. 3, C. 27, which reenacted these particular provisions.* These are all the Statutes on the old system. The modern method, which is now in discussion, was begun by the 5th Geo. 4, C. 84, which made a new set of arrangements, vesting the property in the Governor or other Assignee. This is the Statute so imperfectly cited by the Chief Justice in the outset of his argument.

The whole of the assumption, then, that the Settler has a *right* of property in the labour of the Convict, assigned to him either under the former or under the present system, is a mistake. What the Settler is now allowed by the law to enjoy is a mere *indulgence*: a temporary, revocable loan of services, for which he has given no consideration, and to which he has therefore no title but thro' favour of the Grantor; a benefit held at the pleasure of the Crown.

Proceeding with his argument, the Chief Justice maintains that the 9th clause of the 9th Geo. 4, C. 83, was intended merely to declare lawful those remissions of sentence, from which, before that enactment, the Governor had been considered as precluded by the Settlers' right of property in the service. The recital, which serves as the preamble of this 9th clause, intimates no such object. A less curious interpreter would probably have perceived the more obvious intentions of the enactment, which were that Convicts should be encouraged to good conduct by the Establishment of a lawful authority to remit their labours; that meritorious Prisoners should not be detained in the custody of harsh or unworthy Masters, nor intractable Prisoners left in the care of Masters too lax or lenient; and that (after the determination of the old contracts made with Settlers under the former system) a right of property in the labour of a Convict should never more be set up against the Government, which had the charge of him. The Chief Justice, while he thus contends that the whole object is to enable the Governor to grant

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30 Jan.

Modifications in
transportation
laws.

Right of
property not
conferred on
settler by
assignment.

Erroneous
interpretation
of statute by
F. Forbes.

1830.
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Erroneous
interpretation
of statute by
F. Forbes.

temporary or partial remissions, admits that the power of previous revocation is given; but maintains that it is given only as auxiliary to the power of temporary or partial remission; for which end, he says, it was necessary to cancel the Assignment, and destroy the residuary right of property in the Assignee. What then is to be done with the Convict at the end of his leave? If the Chief Justice be right in his position that the Governor, when he means to give the temporary leave, is previously to cancel the Assignment, it follows that, when the leave expires which may have been but for a month, a week, nay a day, the Convict, being no longer the property of the original Assignee, is of necessity once more at the disposal of the Governor, who of course may then either employ him in public labour, or grant him to a new Assignee. So that, even on the Chief Justice's construction of the words, the Governor, by merely interposing the shortest term of remission to satisfy that construction, would derive from the Statute all the powers, which the Chief Justice maintains that the Statute intended to withhold from him.

Now I do not agree with the Chief Justice even in his opinion that it was necessary to cancel the assignment and destroy the Master's residuary right for the purpose of granting a temporary or partial remission. For this purpose, a mere suspension of the Master's controul would be sufficient: I rather say that the two phrases of the enactment relate to two distinct cases. The words of the Enactment are as follows:

"It shall and may be lawful for the Governors of the said Colonies respectively from time to time as to them shall seem meet,

(1st) "To revoke any such assignments of Offenders, as may have been, or as shall hereafter be, made in pursuance of the Act,"

(2nd) "and to grant to any Offender or Offenders transported to the said Colonies such temporary or partial remissions of their Sentences, as to such Governors may seem best adapted for the reformation of such Offenders," etc.

The figures (1) and (2) I have inserted to denote the two respective passages, which in what follows I will take the liberty of calling the first and second set.

My apprehension is that the power of revoking assignments, conveyed by the first of these two sets of words, (that is, the power of the setting the Convict entirely free from the master) relates to the case of an intention to emancipate the *convict altogether*, which, if he happened to be an assigned servant, could be effected only by a total revocation; But that the power of granting remission, conveyed by the second set of words, relates to the case of an intention to give a temporary or partial leave, which, under this phrase, might be effected for the intended period without any absolute revocation, even tho' there were an existing assignment to a Master. Therefore the Chief Justice seems to me to be altogether mistaken, when he says that the granting of the temporary leave required a cancellation of the Assignment. Had his argument been good, the enactment ought to have been that the Governor should have power to revoke assignments, and grant *permanent or temporary* remissions: for, if the power to revoke was necessary as a preliminary to a temporary remission, much more was it necessary as a preliminary to a permanent one; but, as there is no provision for a permanent remission in the 2d branch of the enactment, where temporary remissions are authorized, the only purpose

Enactments
in statute.

Power of
governor over
assigned
convicts.

for which a revocation of the assignment would be really necessary, namely the purpose of permanent remission, is left unprovided for by the construction of the Sydney Bench, who hold the words conveying the power of revocation inseparable from the words conveying the power of temporary remission. But, if the two sets of words are kept distinct, as I think they ought to be, they will both have their full value; the power of revocation will be available for the permanent emancipation of the Convict, and the power of temporary remission will be available for his occasional indulgence.

That the two sets of words have these two distinct references is further proved by the omission of the word "*such*" as applied to the Offenders destined for only temporary remissions; the first set of words authorizes the revocation of any *such* assignments of Offenders, as may have been or shall be made; and, if this power of revocation had only been introductory or auxiliary to the power of partial remission which follows, if it had been meant to apply to the same class of Offenders who were to receive partial or temporary remissions, the clause would probably have proceeded thus: and to grant to *such* Offender or Offenders, (i.e. to those, whose assignments had been revoked) *such* temporary or partial remissions, etc., instead of which it drops all reference to the particular Offenders before designated as the objects for the revoking power, and opens, with a new and more comprehensive description of Convicts, by saying, "and to grant to *any* Offender or Offenders transported to the *said* Colonies such temporary or partial remission," etc.

The meaning of the whole, then, is this. If you, the Governor, wish to give to any assigned Convict a permanent emancipation, you must do it by previously revoking the assignment of him, which shall operate as a determination of his Master's tenancy at will in his services; but your power of giving a mere temporary or partial leave is not confined to those Convicts, whose assignments you may have previously revoked; this power you may exercise with respect to *any* Offender or Offenders, transported to your Colony.

Mr. Justice Stephen concurs without giving his reasons.

Mr. Justice Dowling takes nearly the same grounds as the Chief Justice, proceeding throughout upon the fallacy that the Settler has the same right of property in the labour of the convicts at this day, as he had under the old system, when he paid for their transportation and gave security against their return. Judge Dowling, however, twice in the course of his Judgment guards himself by observing that, as the question is not actually raised by the facts before the Court, he wishes to reconsider it when it shall come directly for decision.

The Chief Justice in like manner had observed that the decision of the question was not essential to the disposal of the case then before the Court. These admissions, while they make it matter of regret that any Judge should have travelled out of his road to adjudicate this irrelevant question (for which Mr. Justice Dowling gives but an indifferent reason, when he says, *the Court was urged to it by the Counsel*) bring with them, however, this consolation that the opinions of the Judges *so given* are but *obiter dicta*, and destitute, therefore, of the authority which belongs to legal Judgment duly and directly obtained.

1st Decr., 1829.

HORACE TWISS.

1830.
30 Jan.

Power of
governor over
assigned
convicts.

Fallacious
opinion given
by J. Dowling.

Unnecessary
decision given
by judges.

1830.
30 Jan.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch marked "Private," per ship Roslyn Castle.)

My Dear Sir, Downing Street, 30th January, 1830.

Despatch to be
communicated
to judges only.

By the same conveyance which brings you this note, you will receive Sir George Murray's Despatch on the subject of Jane New's case. He desires me to beg that the portion of it which contains a censure on the Judges may not be communicated except to themselves, because, though he much disapproves their conduct in this affair, he feels that anything, which would tend to detract from their respectability in the eyes of the Public, would be a disparagement to the Government itself and a check to the general well-being of the Colony. I am, &c.,

HORACE TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 9, per ship Sovereign; acknowledged by
Sir George Murray, 16th July, 1830.)

1 Feb.

Sir, Government House, 1st February, 1830.

Reimbursement
of magistrates
for cost of
action.

Having brought under the consideration of the Executive Council the case of the Magistrates at Parramatta, who had been subjected to the payment of £57 17s. 8d. for imposing a Penalty on one Bardsley for selling Spirits* without License, I do myself the honor to acquaint you that, on the grounds stated in the enclosed Extract from the Minute of Proceedings of the Council and at the recommendation of the Council as therein expressed, I have directed that the Magistrates be reimbursed, and request you will be pleased to authorise the amount being charged in the accounts of this Government. I have, &c.,

RA. DARLING.

[Enclosure.]

Recommendation by
executive
council.

EXTRACT from Minute No. 48 of the Proceedings of the Executive Council, on the 28th December, 1829.

PRESENT:—His Excellency the Governor; The Venerable The Archdeacon; The Honble. the Colonial Secretary; The Honble. Colonel Lindesay.

"His Excellency then laid before the Council an application on the part of the Bench of Magistrates at Parramatta to be allowed the costs and damages awarded against them in the case of a prosecution against one Bardsley for the illicit vending of Spirits, amounting to £57 17s. 8d.

"It appearing that the Magistrates had not acted either corruptly or maliciously in this case, and that the conviction had been quashed merely on the ground of informality, the Council recommended that the damages and costs should be paid."

A true Extract:—E. DEAS THOMSON, Clk. Col.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

1830.
2 Feb.

Dear Sir, Downing Street, 2d Febr., 1830.

At the request of the Right Honble. C. Arbuthnot, I beg to introduce to your notice and protection Major Bouverie of the 17th Regt., who is going with his wife to N.S. Wales. Major Bouverie is very nearly related to Lord Radnor, and I shall be much obliged to you for any kindness or attention, which you may have it in your power on his arrival in the Colony to shew him.

Letter of
introduction
for Bouverie.

I remain, &c.,

H. TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Sovereign; acknowledged by Viscount Goderich, 6th January, 1831.)

Sir, Government House, 4th February, 1830.

4 Feb.

I have the honor to transmit for your information, in reference to your Despatch dated the 31st of July, 1828, marked Separate, the accompanying copy of An Act of Council,† passed the 29th of last month, for amending an Act intituled "An Act for preventing the mischiefs, arising from the Printing and publishing Newspapers and papers of a like nature by persons not known, and for regulating the Printing and publication of such Papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious Libels and for further restraining the abuses arising from the publication of slanderous and libellous matter."

Act of council
for restraint
of press.

The determined perseverance of the Editors of the "Sydney Monitor," and the "Australian," who, though in Jail under conviction for Libel, continued their scandalous publications, the former having been found guilty of four Libels written since his committal, rendered it indispensable to have recourse to additional restraints, the better to ensure that protection to Individuals for which the existing Laws had proved insufficient.

Reasons for
passing act.

The Council entered very fully into the different bearings of the Bill as originally submitted, but appeared averse from encreasing the amount of the Securities to be given by Editors from an apprehension that it might have the effect of preventing well disposed Persons, who might find it impossible to obtain sureties to any great amount, from setting up Newspapers, while the object was to punish those who should transgress the bounds that ought to be observed by the Press.

It is conceived that the latter object has been accomplished by the several provisions of the Act, which oblige the Editors to find security for the payment of all Penalties in the case of Libels

* Note 7.

† Note 85.

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4 Feb.
Provisions
of act.

on private Individuals, the same as in the case of Libels of a Seditious or Blasphemous nature; and which further subject them to Banishment on a second Conviction of the latter description of Libel, or of Libels against the Local Government.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 10, per ship Sovereign.)

10 Feb.

Sir,

Government House, 10th February, 1830.

Transmission
of papers re
education.

I do myself the honor to transmit for your consideration the accompanying Copies of Documents, which have been addressed to me by the Archdeacon and the Committee of the Trustees of the Clergy and School Lands, on the subject of a communication which Mr. Broughton informs me you were pleased to honor him with soon after his appointment.

As the subject of extending the means of Education in this Colony has already engaged your attention, and the Archdeacon has entered into it so fully in the enclosed Documents, it appears unnecessary for me to offer any observations upon it, or to recommend a Measure, the advantage and importance of which are so justly appreciated.

The arrangements and Establishment, proposed by the Archdeacon, are as follows:—

1st.—That two Schools should be established, to be designated “The King’s Schools,” one at Sydney as a Day School, capable of receiving 100 Scholars; the other* at Parramatta, capable of accommodating from 60 to 80 Boarders and day Scholars.

2nd.—That the Masters of these Schools should be Clergymen of the established Church, and, as a means of identifying them more immediately with the Government, that they should act as Assistant Chaplains, the Clergymen both in Sydney and Parramatta being, from the extensive and laborious nature of their Duties, much in need of assistance, the former to be allowed a Salary of £150, and the latter £100 per Annum.

3rd.—That, in addition to their Salaries from the Government, the Master at Sydney should receive an Allowance for House Rent of £120 a year for 3 years certain, by which time it is supposed that the school, should it succeed, will be established on such a footing as to render any assistance from the Government in this respect unnecessary; or, that the allowance of £120, should be liable to a deduction of £3 a year for every Scholar beyond Sixty, which, supposing 100 Boys to attend, would relieve the Government from all Expense on Account of House Rent for the Master.

Proposal for
establishment
of King’s
schools.

* Note 98.

As to the *School Room*, there is a suitable one in Sydney, built some years ago by the Government and transferred to the Corporation on the Establishment of that Body.

With respect to a residence for the Master of the School at Parramatta and the necessary accommodation for the Boarders, it is proposed that a House be built, there being no other means of providing what is required, and that the necessary portion of Land for a Garden and "Play Ground" be attached to the Building.

4th.—It is further proposed, as an inducement to Men of respectable Character and acquirements accepting the Situation of Masters of the two Schools, that they should be allowed Land, the same as the established Chaplains, that is, 1,280 Acres at the end of 5 years, and a like quantity at the expiration of ten years.

5th.—And, with the same view as expressed in the last article, that, in the event of the schools not succeeding, the Masters should be appointed to the first Vacancies amongst the Colonial Chaplains.

6th.—That, as the greatest importance is attached to the selection of proper and competent Persons for the situation of Masters, the Ecclesiastical Board would probably undertake to provide suitable Individuals should it be thought necessary to have recourse to the assistance of that Board.

I have, &c.,

[Enclosure No. 1.]

RA. DARLING.

PLAN for the Formation and Regulating of the King's Schools Preparatory to the Institution of a College in New South Wales.

Submission of plans proposed for King's schools.

To His Excellency Lieutenant General Darling, etc., etc., etc.

Church Corporation Office, 25th January, 1830.

May it please your Excellency,

The Committee of the Trustees of the Clergy and School Lands in the Colony of New South Wales have the honor to lay before you the outlines of a plan, on which it appears to them desirable that increased facilities should be afforded for obtaining a useful and liberal education. The Committee most respectfully request that, so soon as their proceedings shall have been confirmed by a General Court of the Corporation, these propositions may be transmitted with Your Excellency's favourable recommendation to the Right Honourable the Secretary of State for the Colonies, in order to obtain the sanction of His Majesty's Government to an undertaking so closely connected with the future welfare of this Colony, and likely to have so important an influence on the character and principles of its inhabitants.

The Committee would express a confident hope that, in fixing the conditions of education in the proposed schools, they have pursued a course, which will satisfy Your Excellency no less than His Majesty's Government that they have not been unmindful of

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Submission of
plans proposed
for King's
schools.

the duties, with the fulfilment of which it was His Majesty's pleasure to invest this Corporation. It is made imperative on them by the Charter* (see XXVIII), and it is no less coincident with their own views and persuasions to maintain and support schools in connexion with the Established Church, and under and subject to the visitation and control of the Bishop, or in his absence of the Archdeacon for the time-being. Anxiously desirous, however, that all classes of the community should equally participate in the benefits of the projected course of education, they have strenuously endeavoured to accomplish the purpose with which they are charged, upon terms as little exclusive as the very nature of the case would admit. While, therefore, they have made provision for the maintenance of their own principles, and above all of the great principle that revealed religion should form the basis of education, they have considered it the soundest policy to trust the extension of the Established Church to the influence of a general persuasion of her desire to promote the good of all, and to the inculcation of those Chief Truths, which, in common with other Christian Churches, she holds as a sacred deposit rather than to any direct interference with the opinions of those who are not attached to her communion.

We have the honour to subscribe ourselves, your Excellency's most obedient humble Servants,

W. G. BROUGHTON.

Vice-President.

ALEXANDER M^rLEAY.

M. C. COTTON.

WILLIAM LITHGOW.

ROBERT CAMPBELL.

RICHARD JONES.

SAMUEL MARSDEN.

WILLIAM COWPER.

RICHARD HILL.

[Sub-enclosure No. 1.]

Plan for King's
schools and
college.

PLAN prepared by the Venerable Archdeacon Broughton, upon which to form Grammar Schools and eventually a College in New South Wales.

1. It is proposed that the opportunities of obtaining a complete Education within this Colony should be increased by the foundation of a College, and the endowment of Public Schools, in which a systematical and connected course of instruction shall be pursued; commencing with the Elements communicated at the earliest age fixed for the admission of Pupils into the Schools, and ascending gradually until it terminates on their quitting the College at the age of manhood.

2. That no test or subscription be required from or on behalf of the Scholars, at their admission into or during their progress through or on their finally quitting these Schools and College; and that every individual, maintaining a good character and a correct behaviour, shall be at liberty to avail himself of the means of instruction hereby afforded for any period of time, which may be suitable to his views; and so long as he shall conform to the Rules and Regulations of the Institution.

3. That, as the population of New South Wales and its circumstances in other respects are not at present adequate to the support of a Collegiate Establishment, the commencement of the plan be made by the establishment of two Schools, contemplating its ultimate completion by the institution of a College, so soon as it shall appear that there are in the Colony a competent number of

young men, who have received a classical education and are desirous of advancing to the higher classes of learning and philosophy, experimental and moral.

4. That the Schools shall be of Royal Foundation, under the patronage and sanction of His Most Excellent Majesty King George the IVth, and his Successors upon the Throne of England; and shall, in consideration hereof, be termed "The King's Schools."

5. That in the Deed of Endowment of these Schools shall be contained and set forth a declaration that they are established with a view to the sole honour of Almighty God, and to promote a reverence for His Commandments, by training up the rising generation and all succeeding generations in this Colony for ever in the Faith of Jesus Christ, the Redeemer of the world, and in a firm assurance of the sufficiency of His Atonement for the Salvation of Mankind; to the encouragement and maintenance of piety and virtue, and of a holy, sober and religious character among all classes of this Community.

6. That, with a view to effect these purposes, religious instruction, according to the preceding Rule, shall be sedulously and systematically combined with the course of Study pursued in these Establishments.

7. That one School for the reception of Day-scholars shall be founded in the Town of Sydney, and one School for Day-scholars and Boarders in the Town of Parramatta.

8. That the charge for Instruction in the King's Schools for Day-scholars shall be £8 sterling per Annum; and for Boarders, £28 per Annum for each Scholar: and that an annual stipend of £150, with a house and School-room, be allowed to the Master of the School at Sydney, and a stipend of £100, with a house and School-room and a moderate portion of land, to the Master at Parramatta; those Gentlemen acting as Assistants to the Chaplains of the Churches in those Towns respectively.

9. That, as the Archdeacon has obtained, in reply to his Circular Letter to the Clergy, some statements of the probable number of persons of respectability, who might be expected to avail themselves of this opportunity of educating their children, and, subsequently to the date of his Minute of 9th December last, has been in communication with the Governor upon the subject of establishing such Schools, he be requested to lay these propositions before His Excellency, with the fullest information he is able to furnish of the probable success of such Establishments, as are herein contemplated, for the purpose of obtaining the sanction of the Colonial Government, as well as of His Majesty's Government in England.

10. That the Committee is not prepared at this time to make any more definite statement of the extent to which Education shall be pursued in these Schools, than that it shall include every department of useful and polite learning and science, as far as can be advantageously attempted with due consideration to the ages and capacities of the scholars; regard being always had to the intention of hereafter annexing a Collegiate Establishment for the completion of the Plan.

11. That the Archdeacon be requested to draw up and propose to the Committee for consideration a scheme of religious, moral, classical, scientific, and general Instruction, such as he may conceive best adapted to the circumstances of the Colony, and qualified most effectually to promote the improvement of the scholars.

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Plan for King's
schools and
college.

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schools and
college.

12. That, as it is well known that many residents in India are anxious to avail themselves of this Colony as a place for the education of their Children, provided competent means of effecting that object were in existence, the Archdeacon be requested, in his correspondence with the Bishop of Calcutta, to make known to His Lordship the designs herein entertained and described, so soon as they shall have received the approbation of the Governor; and to request his recommendation of these Schools to the notice of that other portion of his extensive Diocese, in which he is personally resident.

[Sub-enclosure No. 2.]

Plan for
regulation of
King's schools.

PLAN for the Regulation of the "King's Schools" in Sydney and Parramatta, and for settling the Course of Study to be pursued therein.

1. It is proposed that the age fixed for admission into the Schools be 9 years, and the period of Study therein 7 years; that the earliest age of Admission into the College, hereafter to be annexed, shall be 16 years and-a-half, and the period of Study 3 years and-a-half.

2. That the Schools shall be divided into five classes; in each of the first three of which, one year is to be spent, and two years in each of the two higher.

3. That the daily period of School attendance shall be seven hours in Summer, and six hours in the Winter.

4. That the Vacations shall extend from the 15th June to the 15th July in each year, and from the 24th December to the 31st January following.

5. That the 4th and 5th Classes shall superintend, under the direction of the Master, the studies of the 1st, 2d, and 3rd Classes, by examination in all lessons, and by inspection of all exercises, previously to their repetition before the Master.

6. That, as it is presumed one Master upon the above system will be competent to superintend the Classical, Mathematical, and Religious Instruction of 100 Boys, an Assistant Master be appointed to teach Writing and Arithmetic, and to give Instruction to the three lower classes in the Elements of History, Geography, and Chronology.

7. That the payment to such Assistant Master shall be £4 per annum from each Scholar.

8. At the assembling and rising of the Schools, a daily form of Prayer, to be selected and appointed by the Visitor, shall be invariably used.

9. That the Masters and Scholars shall attend Divine Service in the Established Church every Sunday morning and afternoon, and on all the great Festivals; reservation being made that the parents or guardians of any Scholar may obtain for him exemption from this Regulation, by certifying at the time of his admission to the School their desire that he should attend at some other Place of Worship.

10. That the Books of a Religious character, appointed by the following scheme to be used in the Schools, are intended to embrace, as far as is possible, only those points of belief on which there is an accordance throughout the greater portion of the Christian Church; and to this extent shall be considered as expository of the

Holy Scriptures, in constant connexion with which they shall be studied in the way of Lecture and subsequent examination, as the Master shall deem most compatible with the age and progress of the Scholars.

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Plan for
regulation of
King's schools.

11. That, in addition to the above, the Master shall be required to explain to the two higher Classes, in two weekly Lectures of one hour each, the origin and history of the Christian Church, the history of the Reformation, the purposes and obligations of Church Communion; the nature, duties, and claims of the Ministerial Office and Character; the intention and efficacy of the Sacraments, as set forth in the Church Catechism; and generally the doctrines, ordinances, and discipline of the Established Church: the substance and arrangement of such Lectures being left to the discretion of the Master, subject only to the above direction, and to the provision that, at the periods of Epiphany, Lent, Easter, Whitsuntide, Trinity, the Ember Weeks, and Christmas, he shall more particularly advert to the doctrines and ordinances therewith connected, and shall carefully explain the Services appointed by the Church for the celebration of such Festivals and Seasons.

N.B.—At these Lectures, Bishop Andrewe's Devotions in Greek and Ken's Manual for Winchester Scholars are to be used.

12. That the parents or guardians of any Scholar may obtain for him exemption from attendance at the Lectures last described, upon certifying, at the period of his admission, that such attendance would interfere with the religious principles on which they are desirous he should be educated.

13. That, upon the Establishment of a College for the completion of the above plan of education, admission thereto shall be granted to any individuals who may be desirous of prosecuting their studies even though they may not have been educated in the "King's Schools."

[Sub-enclosure No. 3.]

PROPOSED COURSE OF STUDY AND INSTRUCTION.

1st Class.—Latin Rudiments, Writing, Arithmetic, first four Rules, Elements of Geography; Archbishop Leighton's Short Catechism. Proposed course of study and instruction.

2nd Class.—Latin Syntax, Exempla-Minora; Valpy's Latin Delectus; Elements of General History; Arithmetic, Rule of Three and Practise; Chief Truths of the Christian Religion; Examinations in the former Year's Subjects.

3rd Class.—Latin—English Translation and Re-translation; Cornelius Nepos; Elements of Chronology and Astronomy; Vulgar and Decimal Fractions; Simple Interest, etc.; Tomline's Introduction to the Bible, and Gastrell's Christian Institutes; Examinations in the Two former Years' Subjects.

4th Class.—Greek Grammar; Ovid's Metamorphoses, with Repetitions; Latin-English and English-Latin, Translation and Re-translation; Euclid's Elements, first six Books and part of eleventh; Paley's Natural Theology.

In the second half-year, Latin Prosody; Valpy's Greek Delectus; Algebra, Part I; Examinations in the Two former Years' Subjects.

4th Class. (2d. Year).—Greek Syntax; Huntingford's, or Neilson's Greek Exercises; Homer; Dalzell's Collectanea Minora Prose Writers; Virgil, with Repetitions; Latin Themes and Versification;

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Proposed course
of study and
instruction.

Logarithms and Plane Trigonometry; Porteus on the Truth and Divine Origin of the Christian Revelation; Examinations in the Two former Years' Subjects.

5th Class.—Herodotus, with Schweighæuser's Lexicon; Cicero de Officiis, Amicitia, Senectute, or Oratore; Exercises and Examinations on Greek and Roman Antiquities, from Potter, Kennett, Adam, and similar Books; Horace, with Repetitions; Livy; Latin and English Themes and Versification; Mathias' Greek Syntax; Greek Testament, with Schleusner's Lexicon and Beausobre's Introduction; Conic Sections; Spherical Trigonometry and Elements of Plane Astronomy.

5th Class, (2nd Year).—Xenophon; Sophocles and Euripides, one Tragedy of each, with Seale's or Tate's Greek Metres; Newton's Principia, Section I, with Elements of Differential and Integral Calculus; Watts on the Improvement of the Mind, Part I; and Paley's Horæ Paullinæ.

In the second half year Thucydides and Tacitus.

[Enclosure No. 2.]

ARCHDEACON BROUGHTON TO GOVERNOR DARLING.

Sir,

Sydney, 26th January, 1830.

Explanation of
proposed plans
re education.

As Vice President of the Corporation of Trustees of the Clergy and School Lands, and Chairman of the Committee of the same, I have had the honor to convey to your Excellency the outlines of a Plan for affording generally the means of a liberal Education in New South Wales. Having introduced this measure to the attention of the Committee, and having strongly urged its adoption under a sense of its necessity for the extension of good morals and the support of good Government in the Colony, I feel it incumbent on me to explain my views unreservedly to Your Excellency, in the hope that the observations, which I shall offer, may dispose the Government here to look favourably on these Proceedings, and induce His Majesty's Government at home to lend the sanction and support which are requisite for carrying into effect and consolidating such a system.

Necessity for
improved
educational
facilities.

Upon the necessity of affording more extended means of obtaining instruction of a higher character than has heretofore been supplied, there can scarcely be any division of opinion. Your Excellency must be fully aware that the very elements of a liberal Education are with difficulty to be acquired here, in consequence of the paucity of Teachers, in whose competency and principles confidence may be placed. Unless some preventive step be immediately taken, the generation now rising up can be at best but half informed, and in general must remain deplorably ignorant. Few have the means and still fewer the disposition to avert this evil consequence by sending their Children to England for Education; as a natural result, the inheritors even of large Properties, who are hereafter to take the lead in Society and to occupy a station of importance in the Country, are too often destitute of the acquirements, which should qualify them for such a Situation. In too many instances, I have heard of their sacrificing all their respectability and influence by associating habitually with their own Convict Servants. Such a forgetfulness of what is due to themselves and to Society, I need scarcely remark, could not occur, if their minds were duly cultivated. At the same time, I must in justice

observe that, from what I have heard and witnessed in different parts of the Country, it does not appear to me that there is any insensibility to the advantages of Education; but the contrary my persuasion is, that very few Parents would hesitate to avail themselves on their Children's behalf of the means of good instruction, if the same were made of easy attainment both as to locality and Expence.

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These considerations have led me to propose to the committee the organization of a system of public Instruction, which to a limited extent might forthwith be brought into operation; a more Scientific, and according to modern theories, a more enlarged scheme of education may be proposed for adoption, in lieu of that which I have now the honor to recommend for Your Excellency's approbation. I beg leave, therefore, to observe that my preference for the system, long established and proved in the Public Schools of England, arises from a Conviction that the plans, by which it is now proposed to be superseded, do not sufficiently exercise the reasoning powers, or encourage habits of patient investigation. Their principal effect, as it is also the end at which they aim, is to communicate the knowledge of a number of facts connected with the different sciences. The learner, being thus enabled to make a display of information, is elevated in his opinion of his own powers, and experience proves that persons, so educated, having their memories cultivated at the expense of judgment, are prone to contravene all established opinions, to despise the authority of all former times, and to decide without any hesitation upon points which have exercised for Ages the minds of the most reflective men.

Organisation
of system for
public
instruction.

I trust that Your Excellency will pardon the introduction of these remarks, which I feel to be important, not only as they tend to explain my views upon the subject of Education and to justify the course, which I have recommended; but much more as they have, I am convinced, a direct bearing upon the maintenance of order and prosperity in this and every other human Society. With a view of checking that disposition to dogmatize upon questions relative to Government and Religion, which I discover existing in embryo here, my endeavour has been to introduce the spirit of our English Institutions, avoiding only that exclusive attention to classical pursuits, which may, I acknowledge, be carried to excess, and, in the present state of society, is perhaps not precedent or desirable.

Necessity for
general
education.

In deciding upon a scheme of education, it would be impracticable, if it were even wished, to exclude the consideration of Religion. There are three principles upon which, with reference to the question thus forced upon us, Education may be conducted. First, that of inculcating exclusively some one particular profession of faith, and making an adherence to this the condition of admittance to the School. Secondly that of systematically excluding Religious Instruction, or, if the name be retained, of affording it only in such general and indefinite terms, as no Christian Church ever did, or could recognize as conveying an adequate impression of Religious Truth. Thirdly—The principle of forming a decidedly Christian Establishment by providing for Instruction in Doctrines and Evidences to the extent, in which they are admitted by nearly all denominations and persuasions; confining the more specific inculcation of our own particular views to those alone who do not express their dissent from them.

Religious
instruction.

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Religious
instruction.

With respect to the first of these suggested Plans, it is obvious that an Institution, professedly designed for the general good, cannot consistently be conducted upon a principle, which would exclude great numbers from any share of its advantages. The Second proposal, that of altogether excluding Religion from our course of Instruction, whatever appearances of liberality and impartiality it may present, and however speciously it may be advocated, can have, I am persuaded, but one result, that of generating a spirit, first of indifference and finally of positive hostility to Revelation. The only remaining course is that which has been pursued, of explicitly asserting the authority of religion and providing for general Instruction in the Chief Articles of the Christian faith; at the same time affording every relief which can be fairly claimed or expected by those who are, upon principle, separatists from the Established Church. I venture to express a hope that the conceptions, which the Committee have formed upon this subject, are such as will meet the approbation of His Majesty's Government, inasmuch as, upon the most candid consideration of the proposals submitted to Your Excellency, I think they contain as little to which other persuasions can object, as in the nature of Things is possible, if a Religious Education be at all attempted. The principal difficulty, which, it is conceived, may be alleged, arises from the provision that the Masters of the Schools shall necessarily be Clergymen of the Established Church. But obviously education cannot be carried on without placing confidence in some persons, who are to be the conductors of it; and I am at a loss to discover any other class of Men, concerning whose character and attainments we can have more satisfactory assurance than we possess respecting the Clergy of the Church of England, or any who are more entitled to expect general confidence, than they, who, in the Office of established Instructors, already enjoy the confidence of the State. From the vigilant attention with which the proceedings of all who have any connection with the Government are here observed, it will be requisite that the Masters should be men, not only of acknowledged Learning and unquestionable piety, but also of the greatest prudence, temper and forbearance. By any deviation from these properties, they would quickly forfeit the confidence and good opinion of the jealous community, which surrounds them, and the entire scheme will be rendered abortive. I trust I may be pardoned in adverting to these particulars, in the correctness of which I have no doubt of being supported by Your Excellency for the information of their Lordships the Members of the Ecclesiastical Board, by whose recommendation it is presumed the selection of the Masters will be decided upon.

Qualifications
of masters.

Remuneration
proposed for
masters.

At the same time, I request permission to bring under the notice of Your Excellency the question of the remuneration and encouragement, which, in addition to the emolument derived from the Scholars, it is proposed that Government should afford to the Gentlemen who may receive the appointments in question. It is suggested that the Annual Sum £150 with a House and School room should be allowed to the Master of the School at Sydney, and the sum of £100 with a house and moderate portion of Land to the Master of the School at Parramatta, they being appointed to act as Assistants to the Chaplains in those Towns respectively.

Independently of any such projected establishment of Schools, I should have felt it my Duty to represent to His Majesty's

Government, through Your Excellency, the great and pressing necessity which exists for additional aid in the performance of the Clerical Duties in this Town and Parramatta. The health of the Reverend Messrs. Cowper and Hill, the Chaplains in Sydney, and especially of the latter, is much impaired. Each of these Gentlemen has three Services to perform every Sunday throughout the Year, from which, during the periods of my unavoidable absence, they can obtain no relief, however unequal they may be to such fatigue. Their parochial Duties during the Week, among a crowded Population, are also continually increasing, as their own vigor and activity decline. Mr. Marsden, the Senior Chaplain and officiating Minister at Parramatta, is now in the 37th or 38th Year of his Service in this Colony; and few men it is known to your Excellency have encountered a severer share of Duty during that long period. Mr. Marsden is still in the performance of three entire Services every Sunday, and in the sole charge of a very extensive Parish, and at his time of Life there is, I conceive, a very urgent necessity for a partial respite from Labour. In proposing that the Masters of the Foundation Schools should be employed as Assistants in the Churches of Sydney and Parramatta, I have it in view to combine several purposes, that is to say, to increase the influence and estimation with the Public of the Clergymen so employed, to consult economy in obtaining such assistance at a very moderate Salary, and to afford relief from exertion in cases where it is daily becoming more requisite.

In connection herewith, there are still two points to which it is necessary to advert. The first is, to request Your Excellency's recommendation to The Right Honble. The Secretary of State that, as His Majesty's Government have decided on granting 1,280 Acres of Land to each Chaplain after five Years Service, and again to a like extent at the end of ten Years Service, a corresponding Indulgence may be held out to the Masters of the proposed Schools. Secondly, as the entire plan of Education in these Schools can be considered only as an experiment, the success of which is still doubtful, it is scarcely to be expected that well qualified Teachers will be induced to emigrate on a mere contingency, or unless some certain provision be at all events promised. This Security, I beg leave to submit, would be afforded, were it provided that, in the event of the Schools not succeeding according to expectation after Three Years Trial, and its appearing to the satisfaction of the Governor that the failure does not proceed from any failure or neglect of the Masters, they should be entitled to receive appointments to the Chaplainships, which thereafter should first become vacant in the Colony.

In conclusion, apologising to Your Excellency for so long trespassing upon your attention, I have the honor to request, on the part of the Trustees of the Church and School Lands, that, as the Sanction of His Majesty to these Foundations and the annexation to them of His Royal Name are considered essential to express their true design and to uphold them in estimation, a respectful application for that gracious Indulgence may be tendered through the medium of The Right Honorable The Secretary of State for the Colonies. Sensible of their own devoted and loyal attachment to His Majesty's Government, no less than of His Majesty's anxiety to promote the interests of learning and Religion in every part of His Dominions, they rely on obtaining His Royal approbation of a

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Necessity for assistance to chaplains at Sydney and Parramatta.

Land grants proposed for masters.

Position of masters to be secured.

Request for sanction for name and foundation of schools.

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design conducive, they trust, to the advancement of both, and calculated, by extending an attachment for English Institutions, to have a powerful effect in preserving this Colony for a long series of Years in cheerful dependence upon the Crown of Great Britain.

I have, &c.,

W. G. BROUGHTON.

[Enclosure No. 3.]

ARCHDEACON BROUGHTON TO GOVERNOR DARLING.

Sir,

Sydney, 4th February, 1830.

As supplementary to my Letter of the 26th ult. relating to the proposed Establishment of Public Schools in New South Wales, I beg leave to proceed with some observations upon the extent to which they may be expected to contribute to the Maintenance of the Masters. From the best Information which I have been able to collect from the Clergy and other well informed Persons, I am led to think that, if such Schools were ably conducted and enjoyed the confidence of the Public, the number of day Scholars in the Town of Sydney might ultimately be not less than One hundred, and that of Boarders and day Scholars at Parramatta from sixty to eighty.

Probable
attendance
at schools.

It is plain, however, that an Infant and untried Institution cannot be expected to attain at once to these the extreme limits; and therefore, for the purpose of estimating the Incomes of the Masters according to a rational calculation, I shall suppose that, within three Years from its opening, the School at Sydney may reckon Sixty day Scholars as its average Number, and shall assume forty Boarders and day Scholars for Parramatta.

Estimate of
attendance in
three years.

In the Sydney School, the Master is to receive Eight Pounds per Annum for each Pupil, which will give him an Income of £480 (four hundred and eighty pounds) from the School, or a gross Income of £630 (six hundred and thirty Pounds) if the proposed allowance of £150 a year for his Services as Assistant to the Chaplains be sanctioned by His Majesty's Government. Considering that there must inevitably be some degree of uncertainty of the School realizing, at its first Institution, the expectations here held out as to the Number of Scholars, it can scarcely be expected that any able Instructor will surrender his prospects in England for an Income of this Amount not positively ensured, unless there be superadded the advantage of a residence rent free.

Income of
master at
Sydney from
pupils' fees.

At the same time, it will be proper to consider that, by the prospective enlargement of the School, the Master's pecuniary advantages will be very much increased, inasmuch that, on its attaining to the full number of 100 Scholars, his Income including the £150 to be allowed to him for his Clerical Services will Amount to £950. It may appear reasonable to His Majesty's Government that, when such shall be the actual pecuniary Receipts, the Allowance for House Rent ought to be withdrawn. Upon the supposition therefore that £120 per Annum might in the first instance be allowed for Residence, I would propose that it should be withdrawn in the ratio of £3 for every Scholar above the Number of 60, so that, on the School arriving at the number of one hundred, the Allowance for a House would totally cease, or, if it be thought preferable, such Allowance might be absolutely fixed for three Years certain, and, at the expiration of that period, be at once wholly withdrawn, upon the presumption that the School, if well conducted, would then contain the full complement of one hundred scholars.

The Assistant Master would receive four Pounds per Annum from each Boy, and it might be considered equitable to make him a moderate Allowance for Rent, to be withdrawn gradually or at a fixed period as may be decided on in the case of the other Master.

In the School at Parramatta, the Number of Boarders at twenty eight Pounds per Annum being thirty, and of day Scholars at twelve pounds per Annum, being ten, and £100 being allowed to the Master for his Services as Assistant in the Church, he will receive from these combined Sources a gross Income of one thousand and Sixty Pounds, encreasing as the Number of Scholars shall exceed what is here assumed. Upon this Sum, it is however to be remembered the Master will be required to maintain his Boarders and to provide his Assistant Teacher; and therefore the suggestion of the Committee, that he should be allowed a House and moderate portion of Laud, may not be considered unreasonable by Your Excellency.

In connection with the subject, I have the honor to state that an intimation has been made to me by John Macarthur, Esqr., Member of the Legislative Council, of his willingness to appropriate from his Establishment at Parramatta such a portion of Laud, as may be requisite for the erection of a School and of the necessary Annexed Buildings. The terms of this proposed Grant have not yet been stated to me with sufficient precision or regularity to enable me to offer any opinion as to the expediency of fixing on the site in question. It is, however, worthy of consideration whether, as the School is designed to be of Royal foundation, it may not be more consonant with that intention that the Land attached to it should be wholly derived from the bounty of the Crown.

To carry this design into effect, there would be requisite the following Buildings

- 1 School room 60 feet by 25, 12 feet high
- 1 Dining Room 30 by 25 ,,
- 5 Sleeping Rooms, to contain Six Beds each, to be encreased in Number as the state of the School shall require.

The Master's Dwelling House to contain two sitting Rooms, a Study, three or four Bed Chambers, with Kitchen, Offices and Servants' Apartments detached.

About one hundred Acres of Land to be appropriated for Gardens and play grounds and for the accommodation of the Master.

These suggestions, I have the honor of conveying to Your Excellency in accordance with the desire expressed by The Right Honble. Secretary Sir George Murray, in a conversation I had the honor to hold with him in Downing Street, that I would direct my intention to the means of introducing a superior description of education into New South Wales. The execution of such a plan cannot be unattended with expense; but it has been my endeavour to circumscribe it within the narrowest limits by admitting nothing superfluous. I trust also that I shall be pardoned for adding an expression of my opinion that the benefit, conferred upon Society here by a well conducted Institution of the character proposed, will greatly overpay any Expense which can reasonably be incurred in its foundation and Management.

I have, &c.,

W. G. BROUGHTON.

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Salary of
assistant
master.
Income of
master at
Parramatta.

Site for school
at Parramatta
offered by
J. Macarthur.

Buildings and
land proposed
at Parramatta.

Reasons for
submitting
proposals.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

1830.
11 Feb.Transmission of
memorial from
J. Forlong.Land grant
recommended.

Dear Sir, Downing Street, 11th Feby., 1830.

By direction of Sir George Murray, I do myself the honor of forwarding to you the copy of a Memorial from Mr. John Forlong, who states that he has one Son already in New South Wales, and that he is about to become a Settler there himself with the remainder of his Family. The attention, which, from the contents of his memorial, this Gentleman seems to have devoted to the subject connected with the improvement of the Saxon Breed of Sheep in New South Wales, added to the respectability of his character, induces Sir George Murray to take some interest in his success. I beg therefore to recommend him to you for such a Grant of Land as he may appear to have the means of cultivating, and for such further facilities as can be rendered him without infringing any of the Established Regulations.

I remain, &c.,

R. W. HAY.

[Enclosure.]

Memorial of
J. Forlong
soliciting
concessions for
improvement of
sheep and
introduction of
Cashmere goats.

THE MEMORIAL OF JOHN FORLONG, MERCHANT IN GLASGOW.

To the Right Honorable Sir George Murray, His Majesty's
Principal Secretary of State for the Colonies,

Respectfully represents—

That hitherto the finest wools used in the manufactures of England have been the growth of Saxony of the sort called Electoral.

That, in the apprehension of the Memorialist, the great and admitted Superiority of these wools has not been owing to the presence of peculiar natural advantages, but to the introduction at an early period of a fine woolled breed of Sheep, fostered at first by the protection of the Government, and afterwards improved with great Care by private breeders, under a system of management directed anxiously to the excellence of the Fleece.

This primary object attained for the benefit of the Grower, the wool passes into the hands of the Stapler, who, by a Scientific Separation of the Fleece, or sorting as it is termed, confers additional Value.

In the British Islands, it is not possible to hope that the cultivation of wool to a fine-ness approaching the Saxon can ever be remunerating, since, to Countervail the variableness and humidity of the Climate, the grower would be forced to an expence of Shelter and Superintendance that would make his position quite an unequal one, and, at the same time, from the incompatibility of the co-existence of perfection of wool and carcass, he could not afford to sacrifice the latter to the former, which, he would have to do, if wool were his object.

In Saxony, by a nicely balanced system of feeding, they keep the Condition of the animal at the lowest point consistently with Sound health, by which management, it is understood, the wool is much

* Note 7.

benefited; indeed, the sheep husbandry of that territory is one of unceasing Care and watchfulness, since it has been found that the neglect of a single year has reduced the Value of the fleece one half.

But, if the British Islands be not the Soil of fine wool, the British Colony of New South Wales certainly is; *there*, the natural advantages of unlimited pasture and the beauty of the climate ensure a simplicity of management and an absence of expence, that, if duly co-operated with by Science and information and the proper breed of Animals, ought to defy all Competition.

The expence of transportation of Wool from New S. Wales to England would not, under Current circumstances, be more than from the Interior of Germany, but, in neither case, is the expence such as to be felt on an article worth £560 p. Ton, or probably a great deal more. When the great value of the article is considered, that it has been tried in the United States of America and failed, thus limiting the Competition to detached portions of the Continent of Europe and our own Colonies, perhaps no one article, essential to the prosperity of the Manufactures of England, would more merit the paternal regard of Government than the fine wool of New Holland.

That this object has not been one of indifference hitherto is seen in the protection extended by Government to the Tasmanian and Australian Agricultural Companies.

But, great as the efforts of these Companies have been and extended as their means, your Memorialist with great Humility ventures to affirm that no solitary individual in the British Empire has, for a length of time, pursued with a better directed enthusiasm or more enlarged personal sacrifice the attempt to apply the best Saxon Stock and management of Wool to the Colony of New South Wales.

Your Memorialists son William, after obtaining at considerable difficulty and expence access to the wool-lofts at Leipsic, wrought there as a Common Working Stapler for two years, and Sailed last June for New South Wales with 7 Rams and 90 Ewes, Carried with him from Saxony, of the purest Electoral blood.

Your Memorialists son Andrew, after having passed three years in Saxony, will Sail for the Colony next June. Another member of the Memorialist's family has made three expeditions (one by way of France to observe the husbandry there) to Saxony during the last three years, remaining from four to Six months each time; and your memorialist himself spent part of the Summer of 1828 there, all for the purpose just stated.

Your memorialist, conceiving that he has at length Concentrated in his own family all that is valuable to be known as to the management of fine Sheep, Stock and Wool, as practiced in Saxony, has resolved to proceed with his Wife and Sons to the Colony of N.S. Wales, taking out an additional number of the best Saxon Sheep, in the procuring of which of first rate excellency the residence of his Sons has given him great advantages, and Servants of a description suitable to this Husbandry. Your memorialist has also made preparations to introduce into New South Wales the Cashmere Goat, which, so far as he is informed, has not been done by any individual hitherto, but which at any rate he will do.

Under all these circumstances, your memorialist hopes he will not be deemed presumptuous in expecting some specialty in his

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Memorial of
J. Forlong
soliciting
concessions for
improvement of
sheep and
introduction of
Cashmere goats.

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favor, either in the way of recommendation to His Excellency the Governor of New South Wales or otherwise, as to The Right Honorable the Secretary for the Colonies may appear right and calculated to lighten the Commencement of his labours in New Holland.

JOHN FORLONG.

Merchant in Glasgow at No. 408 Oxford Street.
6th February, 1830.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 6, per ship Roslyn Castle.)

12 Feb.

Sir, Downing Street, 12 February, 1830.

Instructions re
glebe lands for
clergy.

In my dispatch of the 25th of May last, is contained an Instruction respecting the small Glebes, not exceeding 40 acres, which is as follows:

“You will understand that it is not my intention, under any arrangement respecting the Lands to be given to the Clergy, to interfere with the small Glebes (in any case not to exceed 40 Acres), which have been allotted to them by the corporation: and, if this Land or parts of it be judiciously selected, adjoining to his house, I cannot doubt that it will become in time a source of profit to the Incumbent.”

As the benefit of 40 acres, in addition to the other Grants mentioned in that dispatch, will, by this Instruction, have been confirmed to those to whom allotments of such 40 acres have already been made, it will be proper to make up the same Glebe of 40 acres to those Clergymen also, who have not yet had this amount of Glebe allotted to them. This should be over and above any grants of Land, which they may hold or receive, or any pecuniary compensation, which they may enjoy in substitution for such Grants; it being always provided that the allotment thus made to any Clergyman in the nature of Glebe is not to exceed 40 acres in the whole.

To compensate the augmentations which may henceforth be thus made to the Glebes, it will be proper, as all interest of the corporation in the Church Lands will soon have ceased, that an equal amount be deducted from the seventh destined for Ecclesiastical and Pious Uses.

There will be no objection to your giving the Clergy a certain advantage over ordinary Settlers by allowing to each Clergyman, on the usual conditions but without reference to the proportions of his land, one or two Convict Labourers, if he desire them, by whose assistance the small quantity of Glebe allowed him may be sufficiently kept in order.

I have, &c.,

G. MURRAY.

Assigned
servants for
clergy.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

1830.
12 Feb.

(Despatch per ship Sovereign.)

Sir, Government House, 12th February, 1830.

I do myself the honor to transmit to you, for the information of the Right Honble. the Secretary of State, as directed by your Circular Letter, dated the 31st of May, 1829, the accompanying Copies of Replies by Mr. Bowman, Inspector of Colonial Hospitals, and Dr. McLeod, Deputy Inspector of Military Hospitals, to the questions proposed by the Royal College of Physicians, which I hope will be found to contain the information required.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

QUESTIONS proposed by the Royal College of Physicians.

1st. What is the population of the place?

Replies by
D. McLeod,
Population
of colony.

Answer 1st. The fullest information that can be afforded on this subject will be found in the Appended Census. The general Opinion is that the Population is considerably greater than is here stated, and I am inclined to entertain a similar Opinion.

2. What proportion do the Annual Deaths bear to the Population?

2. It is utterly impossible to answer this question with accuracy: but, from particular attention to the question for the last nine Months, my results are nearly $\frac{1}{63}$. Could I only procure Tables of Marriages, Births and Deaths, from the Archdeacon's Court, so long as such records have been kept, this question could be answered with tolerable precision. Applying the question exclusively to the Military and their Families, the proportion will be nearly $\frac{1}{75}$.

Mortality
rates.

3. Are there any remarkable instances of Longevity amongst the Inhabitants?

3. The appearance of some Blacks about 180 Miles West of Bathurst in the Neighbourhood of the Murrumbidgee River, who have not been debased by intercourse with Europeans, warrants the supposition that they are 65 or 70 Years of Age, and are likely to live 10 or 12 more. The Young Men are well made and form a perfect Contrast with the Natives of the same Age near the Coast. Only one Native was found with the scabbed head in a Journey of 500 Miles; whilst, in Cumberland, almost every other Black will be laboring under this loathsome disease.

Instances of
longevity.

The recent Colonization of the Colony prevents any particular and striking instances of Longevity from coming under our notice. Whether the Colonial Youth will be long lived or not is a question that time only will shew; many presume they will not arrive at an advanced period of Life, whilst others entertain an Opinion entirely opposite.

The Benevolent Asylum may be considered as affording the best information. At this time, there are upwards of 100 Inmates; the third of whom are upwards of 70 years of age; Some have reached 90, and One is 103 Years of Age. Of these, 5 came in the first Fleet. One of the first Fleeters died a few Years ago at the advanced Age of 104 Years without having lost a Tooth or a Hair of his Head

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Instances of
longevity.

being grey. His Wife is still living, aged 96, and can see to read moderately small print and hem the Border of a Cap without the aid of Glasses.

There are great Numbers of Men and Women that are certainly upwards of 70, who are capable of performing ordinary field Labour and going long Journeys in the Woods.

In Windsor Burial Ground, of the Men and Women who could afford to have a Stone placed over their Graves, there are eight from 50 to 60, Nine from 60 to 70, two from 70 to 80, and one 98 Years of Age, when they died.

4. What are the features, Color of the Hair, and average Stature of the Aborigines?

Physical char-
acteristics of
aborigines;

4. The features of the Aborigines are far from being pleasing. The facial angle is little different from that of the Hottentot. The eyebrows are large and bushy, the cheek bone high, the Nose flat and nostrils wide, the Mouth large, lips thick, Teeth strong and almost universally of a beautiful white Colour; the Beard is something partially scattered over the face, but is always strong; Complexion of a deep dun Color, Hair universally black except in cases of Age, generally strong and straight, particularly among the Females. The average Stature of the Man is 5 ft. 6½ inches, of the Woman 5 feet.

A considerable difference of Stature is observed between the Tribes on the Coast, in the Towns, and far in the Interior. On the Coast. they are generally tall, thin and active; in the Towns. diminutive and emaciated; in the Country, about Bathurst and Argyle, they are well proportioned, and, beyond these Countries, Captain Sturt, 39th Regt., in his Journey to explore the Interior, met with Natives more wretched than those about even our Towns; the Women universally are low in Stature and perhaps the average of 5 feet is too high.

and of colonial
natives.

The British Colonial Natives have fine open pale and lively features, generally fair Complexion and light Hair in early Life; after puberty, it becomes dark. The Average Stature of the Males is 5 feet 9½ Inches, and the Females 5 feet 4½ Inches.

5. What is the Medium Height of the Thermometer in the Summer and Winter Months?

Observations on
temperatures.

5. The mean Temperature of the Year is about 64° of Fartht. June, July and August are the Months that shew the greatest Cold in Sydney; but, in these Months, the Thermometer falls even to 20° lower in Parramatta than in Sydney. January and February are the hottest Months in Sydney, as also in Parramatta; but, in the latter place, the Mercury rises nearly 20° higher than in the former. The greatest cold observed in Sydney, in the Years 1821-27-28-29 was 48°, 51°, 40°, and 52° respectively. In Parramatta, the greatest Cold, observed in the Years 1822, 1823 and 1829, stands at 27°, 28° and 27°. The medium Range however of Cold does not exceed 7° in the average in Sydney.

The average Temperature of the Spring Months is 65° 5" in Sydney; the same Months in Parramatta 67° 3"; Summer Temperature in Sydney 72°, in Parramatta 74°; Autumn 66° in Sydney, 59° 6" in Parramatta; Winter 53° in Parramatta, and 55° in Sydney. The mean average of five Years observations makes the Temperature 65° 2".

6. What quarter do Winds chiefly prevail and during what Months?

1830.
12 Feb.

Medicinal
substances.

in cases of Dysentery and Diarrhea are in high repute; and, in some Stages of this disease, I have no doubt are of some efficiency.

This question requires much time and means and opportunities of making experiments before any definite answer can be given. General replies to such a question are of no utility.

As experiments have rarely been made except in the popular Articles I have mentioned, which are alleged to have produced wonderful Cures, I have only further to add that I have been long using all the means in my power to acquire a definite and distinct knowledge of the Medical substances of the Colony; but I am far from being ready to give the results to the Public, because I am not satisfied with them myself.

10. What diseases prevail there?

Diseases
prevalent.

10. Diseases of a purely febrile Character are not very common among any order of the Community. July, August and September are the Months in which Fevers are most prevalent, and the simple Continued is the usual form; such as occasionally resume a remittant Type mostly affect Children and elderly persons; among the middle aged, they are not so common; and Intermittent as an endemic is entirely unknown.

The rapid and frequent changes of the Winds and the great extent of forest Land over which it blows may have some influence in preventing the recurrence of Marsh fevers. To this may be added the generally good ventilation of the Dwellings, the exercise which is taken by People in the open air, and the frequent Bathing that is resorted to by all Classes. It may also be borne in mind that one great predisposing cause of disease, arising from an inadequate Quantity and an inferior quality of Food, is not known here; while on the other hand the effects of intemperance and the dissolute lives of many are moderated by the Salubrity of the Climate.

Erysipelatous affections are common in Summer, and principally attack the young, but are never dangerous; as a mild purgative is generally sufficient to remove the Complaint, unless the Patient by scratching ruptures the Vesicles so as to cause ulceration, which is sometimes troublesome.

In April, 1794, Inflammation of the Eyes was observed for the first time and was generally prevalent among all descriptions of people. It raged at first among Children; but, when it got into a House, scarcely any person escaped it. They account for this Complaint by the variable Weather, which then prevailed. Since that time, the same disease has been very general at different periods; November, December and January are the Months in which it most prevails. The Orphan Institutions has been on several occasions distressingly affected with this Complaint under different degrees of violence and duration. Cold Water, Vinegar, or Brandy and Water are the Common domestic applications, and, if used in time and with Care and a little attention to the State of the Bowels, little more is required to effect a Cure: but, when this Complaint is neglected or treated improperly, the Cure is difficult and protracted: loss of Vision has been the consequence in a few instances. Some of the Children of the above Institutions were frequently observed to go to Bed without the least appearance of Ophthalmia and rise in the Morning with the eyes completely closed up and the conjunctiva highly inflamed. From this circumstance, a belief arises that Musquitoes or small Flies carry the Infection from one

Person to another. It is however only a form of common conjunctival inflammation, and its treatment does not necessarily differ from the ordinary forms of that affection. It is well known to the Colonists by the Name of "Blight." A different affection has existed among the Troops, but is now declining.

1830.
12 Feb.

Diseases
prevalent.

In 1824, Mumps were Epidemic; the glandular Swellings were almost universally on both sides of the Neck, accompanied with unusual pain; suppuration took place in a few instances, succeeded by obstinate ulcers. In all other cases, the disease was removed in the usual time.

In July and August, 1820, an Epidemic Catarrh* prevailed throughout the Colony; occasional cases of it had been appearing from the beginning of the Year, but most Families began at this time to suffer severely, there being hardly a House that had not cases of more or less danger. It proved chiefly fatal to infancy and old age; the symptoms of this Complaint were common Cold, Cough, pains in the forehead, sneezing, Soreness and Spasms in the Chest, copious discharge of mucous of various Colours from consistencies from the Lungs.

Dysentery* is the most prevalent and most fatal disease, to which the Colonists are Subject. Few new Comers escape an attack of this Malady, and it carries off above one Half of the Convicts, who die in the Civil Hospitals; the ravages of some Years are much greater than others; 1788-90-91-99 and 1823 are Years in which this disease was exceedingly severe and fatal.

In March, 1828, a kind of Hooping Cough made its appearance in Sydney and spread over the whole Colony. It was supposed to be introduced† by the Convict Ship "Morley"; this however is very doubtful, and the Medical profession differed much in opinion not only concerning the origin but the specific Characters of this Complaint. It proved fatal to a few Children; the Numbers are very small, compared to those attacked.

Consumption of the Lungs (Phthisis Pulmonalis) is much more frequent than from the mildness of the Climate might be expected, and more in advanced Life suffer from this disease than in England. It is remarked that, in people who arrive in this Colony laboring under this Complaint, it runs a much more rapid course than it is observed to do in Colder Climates.

11. In what Season of the Year does illness most prevail, and what are the Seasons incidental to diseases?

11th. See reply to 10th Question.

12. What remedies do the Natives employ in the diseases to which they are subject?

12. First topical bleeding by means generally of a String, and sometimes with sharp Quartz or a piece of broken Glass; with the two latter Substances, the Natives are known to open a vein; frequent ablutions, exposure to the Air, great abstinence, friction, heat to the feet, and a long unmeaning process of superstitious incantations, which Commonly attends any of the above named operations.

Remedies
employed by
aborigines.

In the Species of Porrigo to which the Natives are subject, nothing like which has yet been described, fat or any kind of grease is applied, but, with what specific object, I have not been able to find out. It has been asserted by many Practitioners in the Colony that the diseased Head of the Aborigines is Contagious, and that various Children in the Colony and especially in the female Orphan Institution have taken the disease from them. I cannot give an

* Note 101.

† Note 102.

1830.
12 Feb.

Remedies
employed by
aborigines.

Opinion regarding the Contagious Character of the disease of the Aborigines; but, from a vast variety of Circumstances, I should strongly doubt, if any adult Native would be infected by ordinary Communion with each other; and I further think that it would be extremely difficult to infect a healthy European.

This disease appears in some cases to spread over the body; and, in such a state of the disease, it has never come to my knowledge that any means have been resorted to by them to affect a Cure.

When a Native is bitten by a Snake, a ligature is placed above the puncture, and one of the Tribe sucks the Wound, while another rubs the part about it.

Immersion in salt water is always practised in such cases, whenever it is practicable.

13. What is the Education of those, who practice Medicine?

Education
of medical
practitioners.

13. I do not know all the Gentlemen practising in the Colony sufficiently well to answer the question; but there are some, with whom I am acquainted, whose Education is of a very superior Character.

No aboriginal
writings.

14. Have the Natives any Writing or Tradition on Medical Subjects?

14. None.

15. What is the chief diet of the Natives?

Diet of
aborigines.

15. Animal Food of every kind they can catch; Vegetables rarely taken except in cases of extreme Hunger. The Chief Vegetable they use is the root of the Fern.

16. Do they practice Vaccination? if so, where do they obtain Lymph?

Vaccination.

16. No aboriginal Native has ever been subjected to Vaccination,* Vaccine Lymph has been several times introduced from the Mauritius; but it has been always lost from the prejudices of the Colonists in bringing forward their Children, and from there being no Institution for the express purpose of propagating it. Lymph sent from England has never once succeeded. Several Native born Youth, who were supposed to have been vaccinated successfully in the Colony, were attacked with Small Pox soon after their arrival in Europe.

DONALD MCLEOD, M.D., Dep. Inspector of Hospitals.

[Sub-enclosure.]

[The census returns,† published in the Sydney Gazette, were attached to this statement.]

[Enclosure No. 2.]

Replies by
J. Bowman.

QUESTIONS proposed by the Royal Colledge of Physicians in London, and answered by James Bowman, Inspector of Hospitals in New South Wales.

1. What is the population of the Place?

Males, above 12, 24,776; Under 12, 2,835; Total, 27,611.

Females, above 12, 6,051; Under 12, 2,936; Total, 8,987.

Grand Total, 36,598.

2. What proportion do the Annual Deaths bear to the population?

Mortality rates.

The proportion of Deaths must for many Years appear to be much greater in this Colony than in Old Established Countries, where the Inhabitants are encouraged to emigrate. The Number of Convicts and Emigrants annually sent here is very considerable, few

* Note 103.

† Note 104.

of whom leave the Colony; therefore the Number of Deaths will for some time exceed the Births; in consequence of a great extent of this Territory being thinly populated, a correct Register of Births and Deaths cannot be kept especially in remote places in the Interior.

1830.
12 Feb.

3. Are there any remarkable instances of Longevity among the Inhabitants?

The Colony having been established in 1788 does not afford sufficient Data to enable me to answer the question. Longevity.

Many of the Black Natives, who were Children at that time (42 Years ago), appear old and infirm now; therefore, I presume Longevity is not commonly known among that race of Inhabitants.

4. What are the features, Complexion, Colour of Hair and average Stature of the Aborigines? Physical characteristics of aborigines.

This question I presume alludes to the Aborigines only. Their features are very different in the various Tribes on the Coast and in the Interior; most of them coarse and irregular; Their Complexion and Hair Black; The Average height of the Men on the Coast is about 5 feet 9 inches. In the Mountain Districts, some of them are considerably shorter and more muscular, evidently capable of more exertion.

5. What is the Medium height of the Thermometer in the Winter and Summer Months?

From several Years' Observation, the Medium height of the Thermometer at Sydney is $63\frac{1}{2}$. At the other Stations, there has not yet been sufficient attention paid to the Thermometer to make a correct Statement. Mean temperature.

6. From what Quarter do the Winds chiefly prevail and during what Months?

The Surgeons have observed on all places on this Island the Winds prevail from the Sea in the Summer Months. On this part of the Coast, the Sea breeze is about North east, and the reverse on the opposite side. In Winter, the Winds are very variable from the South, and frequently at Sydney very cold from the Westward blowing over the Mountains. Prevailing winds.

7. What is the Nature of the Soil?

There is a great variety of Soil in the Interior, fit for every kind of Culture. About the Coast, it is chiefly unproductive Clay. Soils.

8. Are there any Mineral Springs there? If so, are they saline, Chalybeate, Sulphureous or of what Nature? Springs.

None.

9. What are the Medical Substances of the Country, and how are they prepared? Medicinal substances.

What Native Substances have been made use of?

Many Medicinal Plants might be Cultivated in this Climate with great advantage.

10. What Diseases prevail there?

There are no diseases incidental to the Climate. The Colony has always been remarkably healthy. New Comers are frequently attacked with dysenteric Affections, and the Hepatic Functions are very irregularly performed, especially in the Summer. Fevers seldom occur. Diseases prevalent.

I do not believe there is any case on Record of Intermittent Fever having originated in the Colony previous to the Year 1825. Since that period, several Cases have occurred during a long Continued Drought. The subjects of this Disease were chiefly those, who had

1830.
12 Feb.
Diseases
prevalent.

resided in the Vicinity of Lagoons or Marshes, which had evaporated. Some of the cases however could not be traced to that cause.

Intermittents have occasionally been Imported into the Colony, and were not found difficult to Cure.

Dropsy in all its varieties is more common here than any other Country I have visited, which may be accounted for by the dissipated Lives most of the prison population have led previous to their Conviction.

Seasonal
diseases.

11. In what Season of the Year does illness most prevail, and what are the diseases incidental to the Seasons?

Dysentery and acute diseases are most frequent in the hot Weather, and ophthalmia has occasionally been very troublesome in some of the Districts at that Season.

Chronic and Catarrhal Affections occur in the Winter. Rheumatism is common at all Seasons. The Black Natives are subject to cutaneous affections from their filthy habits and peculiar mode of Life.

12. What remedies do the natives employ in the diseases to which they are subject?

Treatment of
aborigines.

None that I am aware of; and it is with great difficulty that the Natives can be persuaded to submit to remedies administered by European Practitioners.

Education of
medical
practitioners.

13. What is the Education of those, who practice Medicine?

There are several Individuals in the Colony, who have been educated at the Medical Schools in London, Edinburgh and Dublin, and many others who have not received any regular professional Instruction.

No aboriginal
writings.

14. Have the Natives any Writings or Traditions on Medical Subjects?

None.

Diet of
aborigines.

15. What is the Diet of the Natives?

On the Coast their Diet is chiefly Fish and Animal Food in the Interior. Vegetables are seldom used by the Natives, when other Food can be procured.

Vaccination.

16. Do they practise Vaccination; if so, where do they obtain the Lymph?

No.

JAMES BOWMAN.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 7, per ship Roslyn Castle.)

16 Feb.
Instructions
re disposal of
stores from
convict ships.

Sir,

Downing Street, 16 February, 1830.

With reference to my despatch No. 176 of the 10th Ultimo, conveying to you Instructions relative to the disposal of such Stores, etc., put on board convict Ships for the use of the Prisoners, as may remain after the arrival of those Vessels at New South Wales, I do myself the honor to transmit to you a copy of a letter from the Commissioners of Victualling, in consequence of which I have consented to a modification of those Instructions. I have now to desire that you will cause such portions of those Stores, etc., as may not be applicable to the purposes for which you have been authorized to receive them, to be

sold by Public auction. You will furnish the Board of Victualling with an account of the sales, whenever any of the articles in question may be disposed of, and remit the amount to them through such channel as you may deem most convenient.

I am, &c.,
G. MURRAY.

1830.
16 Feb.

[Enclosure.]

THE VICTUALLING COMMISSIONERS TO UNDER SECRETARY TWISS.

Sir, Victualling Office, 28th Decr., 1829.

We have to acknowledge the receipt of your letter of the 23d instant, transmitting for our information a Copy of a Dispatch, which Secretary Sir George Murray has addressed to General Darling at New South Wales, relative to receiving from Convict Ships any surplus Wine or other articles of Provisions, etc., which may have been put on board them for the use of the prisoners. And we beg to acquaint you that the Owners of all Convict Ships are bound by their Charter Parties to cause all the King's Provisions, Medicines, etc., which may remain on board, to be landed and delivered into Store when the Convicts are landed in New South Wales: And we request, therefore, that Sir George Murray will be pleased to instruct the Authorities to receive the whole of the Provisions, etc., so returned, as heretofore, disposing by public sale of such as may not be required for the use of the Colonial Department or be applicable to its purposes.

Instructions
re public sale
of surplus
stores.

We are, &c.,
G. A. C. STAPYLTON.
N. BROWN.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

Sir, Downing Street, 18th Feby., 1830.

18 Feb.

I am directed by Secretary Sir George Murray to transmit to you the enclosed copy of a letter from Dr. Douglass, in answer to a communication which was addressed to him upon the subject of the double issue of half salary amounting to £100, which it would appear, from your letter of the 30 of June last, had been made to him; and, as it is stated by Dr. Douglass that he will direct his Agent, Mr. Francis Stephen, to refund the amount, I am to request that you will forward a copy of Dr. Douglass's letter to Mr. Stephen, and call upon him to repay this sum accordingly to the Colonial Government.

Instructions
re refund by
H. G. Douglass.

I am, &c.,

H. TWISS.

[Enclosure.]

DR. H. G. DOUGLASS TO UNDER SECRETARY TWISS.

Sir, London, 4th February, 1830.

I have the honor to acknowledge the receipt of your letter of the 2d Inst., acquainting me that Sir George Murray could not see me personally, but that he would take into consideration any written evidence which I might think proper to send to his office.

Letter
acknowledged.

Your letter, dated November, 1829, acquainted me that, in consequence of my having made verbal and written Statements purporting that His Majesty's Government had recalled or resolved in

* Note 7.

1830.
18 Feb.

Denial of
allegations
against
H. G. Douglass.

recalling the present Governor and Colonial Secretary from New South Wales, and for other equally groundless assertions, Sir George Murray had laid aside all intention of appointing me to office and had ordered my Pension to be discontinued. In my reply, I assured the Secretary of State that the information, which had been conveyed to him, was without foundation; and I proved, as well as it was possible to prove a negative, that, from the fact of there not having been a letter from me at the time of these reports in the Colony, it was impossible I could have been the Promulgator or Author of them; And Mrs. John Stephen, who was represented as having written such reports, and as having derived them from me, assured you, Sir, that I had never communicated any thing of the kind to her. I believed that the Disseminators of the report had attached my name to them for their own purposes, and the event has proved that I was right; for, on my arrival, I find an Officer in His Majesty's Service, a Man of Honor and Veracity, Totally disconnected from the Parties or Politics of the Colony, who was in the Colony when these rumours were set afloat, who knows the Author of them, and who, incited only by a love of Justice, is ready to attend at Your Office, and prove that I was not directly or indirectly connected with them; the Officer I allude to is Dr. Carlyle, Surgeon R.N.

Persecution of
H. G. Douglass.

For some Years past, I have been made the Victim of a Systematic Persecution peculiar to New South Wales by several persons in and connected with that Colony. I know well that their object is to make me appear in the eyes of your Department as a restless and troublesome character, by frequently associating my name with every Slander of their own Invention. My fidelity to Sir Thomas Brisbane and Major Goulburn was my first and great offence in their eyes. My repudiation of their attacks has but increased the venom of their Malignity. I cannot think, Sir, after the generous and Kind Manner in which I was treated by The Right Honble. Secretary and yourself upon my return from the Colony, that such Machinations will be allowed to succeed. To keep clear of all Persons connected with the Colony, I have lived principally on the Continent since my return to Europe, And in no one instance have I directly or indirectly interfered in the Politics of it. Sir, I most respectfully request you will be pleased to move the Secretary of State to admit Dr. Carlyle to an Audience; he will satisfactorily prove that I have been falsely accused.

Permit me to go to any part of the World you please, in any Capacity, and you will find, from the whole tenor of my future life, that I have been a Calumniated and injured Person.

I have the honor, &c.,
HENRY G. DOUGLASS.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Sovereign.)

Sir, Government House, 20th February, 1830.

Mr. Macquoid being desirous to amend a Statement in his Letter of the 29th November last, which was transmitted with my Dispatch dated the 17th of December last, No. 125, I do

20 Feb.

Correction of
statement by
T. Macquoid.

myself the honor of transmitting to you with this view the accompanying Copy of a Letter addressed to me by that Gentleman, by which it appears that the amount of Fees collected in the Sheriff's Office in the year 1829 was £1,869 11s. 6d., instead of £1,669 1s. 11d., as estimated in his former Letter.

1830.
20 Feb.

Correction of
statement by
T. Macquoid.

I have, &c.,

RA. DARLING.

[Enclosure.]

MR. T. MACQUOID TO GOVERNOR DARLING.

Sir, Sheriff's Office, Sydney, 16th February, 1830.

In transmitting a Duplicate of the Letter, which I had the honor to address to your Excellency dated the 29th November, I avail myself of the occasion to mention that, the account of Fees in the Sheriff's Department for the past year having now been made up, the actual Amount from the 1st of February to the end of December appears to be £1,725 14s. 6d., and, if the Month of January previous to my taking charge bears the same average with the Subsequent Months of the year, the total Amount of Fees in the Sheriff's Office for the year 1829 will be £1,869 11s. 6d., instead of £1,669 1s. 11d., as estimated in my former Letter.

Fees collected
in sheriff's
office.

I have, &c.,

T. MACQUOID,
Sheriff.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 8, per ship Lady Faversham.)

Sir, Downing Street, 24 February, 1830.

24 Feb.

I have received your letter of the 29th of July last, with a Memorial from Mrs. Balcombe, Widow of the late Colonial Treasurer of New South Wales, praying to be allowed a Pension on account of her late Husband's services, and you report that, in consideration of the state of utter destitution in which Mrs. Balcombe and her Daughter have been left, you have with the advice of the Council authorized a quarterly allowance of Thirty pounds to be made to her.

Refusal of
pension for
widow of
W. Balcombe.

It has been my painful duty in several instances to decline to provide for the families of deceased Civil Servants, and I am sorry to add that I see nothing in the case of Mrs. Balcombe to justify my giving a Pension to her, which may not be urged in every other case of distress which has been brought under the notice of His Majesty's Government. I have, therefore, no alternative but to act according to the Rule, which has been adopted in all other instances, and which I regret to state will preclude my continuing to Mrs. Balcombe, for any period subsequent

1830.
24 Feb.

to the date at which this dispatch may arrive in the Colony, the quarterly allowance which you have permitted her to receive.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 12, per ship Percy; acknowledged by
Sir George Murray, 15th November, 1830.)

16 March.

Sir,

Government House, 16th March, 1830.

Death of
Revd. D. Power.

I beg leave to report to you the death of the Revd. Daniel Power, the only Roman Catholic Priest, accredited by the Government in this Colony. The Revd. Mr. Therry still continues here, notwithstanding his dismissal from the Situation he had held, and has retained possession of the Chapel House in defiance of every exertion, which has been made to remove him. In sending out a Successor to the late Mr. Power, it may therefore be advisable to furnish him with the necessary means of obliging Mr. Therry to relinquish the Chapel House, which Mr. Power was never able to effect.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

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

Sir,

Government House, 16th March, 1830.

Necessity for
two Roman
Catholic
chaplains.

I have had the honor to report to you, in my Despatch of this date No. 12, the death of Mr. Power the Roman Catholic Priest; and I beg to point out the necessity of two Clergymen of that Church being sent out as soon as circumstances may permit, it being quite impossible that any one person can discharge the duties, which the Roman Catholic Clergy have to perform in this Colony. Mr. Power's appointment became almost nugatory from the craftiness and Superior Talent of his Adversary Mr. Therry. I say Adversary, for they were always in a State of hostility, and some very indecorous proceedings have taken place between them, even in the Chapel. Mr. Therry has continued, notwithstanding his dismissal from the appointment he had held here, to retain possession of the Chapel House, as I have stated in my public Letter, to the exclusion of Mr. Power the accredited Chaplain, who was obliged to hire a small Lodging and was therefore on his very inadequate Income unable to support himself in a becoming manner. Besides, being unfortunately addicted to drinking to excess, his Character was not of

Opposition
of Revd.
J. J. Therry to
Revd. D. Power.

that description to give weight to the Situation he held, and his Artful opponent immediately saw and took advantage of this Circumstances.

1830.
16 March.

In selecting Individuals for the Situations in question, I would take leave to suggest that the principal Person should be capable of asserting and supporting the rights (if I may so term it) of his Situation, which Mr. Power was not; otherwise Mr. Therry will assert the same independence and continue the same course of proceedings as in the case of Mr. Power.

Necessity for
control of Revd.
J. J. Therry.

I have, &c.,
RA. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(A private despatch, per ship Lady Faversham.)

My dear Sir, Downing Street, 20th March, 1830.

20 March.

A different arrangement, as to the division of the business of this Department between the two Under Secretaries, having been desired by Sir George Murray, I enclose a Memorandum shewing the manner in which it will in future be divided between Mr. Twiss and myself.

Division of
business of
colonies.

I remain, &c.,

R. W. HAY.

[Enclosure.]

MEMORANDUM.

R. W. HAY, Esq.:—Gibraltar, Malta, Ionian Islands, Morocco, Algiers, Tunis, Tripoli, Sierra Leone, River Gambia, Fernando Po, Cape of Good Hope, Ceylon and the Comm'rs of Enquiry, New South Wales, Van Diemen's Land, Swan River, Lower Canada, Upper Canada, Nova Scotia and Cape Breton, New Brunswick, Prince Edward's Island, Newfoundland, Bermuda, Heligoland.

Groups of
colonies.

HORACE TWISS, Esq.:—Jamaica, Barbadoes, St. Christopher, Nevis, Tortola, Antigua, Montserrat, Dominica, Grenada, St. Lucia, St. Vincent, Tobago, Trinidad, Demerara and Essequibo, Berbice, Honduras, Bahamas, Mauritius.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private." per ship Lady Faversham; acknowledged by Governor Darling, 1st September, 1830.)

My dear Sir, Downing Street, 29th March, 1830.

29 March.

I have only this day discovered that a Letter dated the 12th of March 1828, which Colonel Dumaresq addressed to me, when in England, containing representations reflecting on the moral character of Mr. Stephen, one of the Judges of the Supreme Court, has remained unnoticed, a circumstance which I can only account for from the change which took place in the Business of this Department about the time when that Letter was received.

Report *re*
character of
J. Stephen.

1830.
29 March.
—
Explanation
required from
J. Stephen.

The particulars, communicated by Colonel Dumaresq in this Letter, by way of substantiating his former assertions against Mr. Stephen, cannot be allowed to stand recorded in this Department without some explanation from the Judge; and Sir George Murray therefore considers it to be his duty (notwithstanding the very satisfactory explanation which has been received from him in regard to the particular incident related by Colonel Dumaresq on the authority of Major Gillman) to place Mr. Stephen in possession of the Contents of Colonel Dumaresq's Letter (a Copy of which I now enclose) in order that the Judge may have an opportunity of replying to the further Imputations which are preferred in that Letter against him. You will be good enough to request Mr. Stephen to send his reply through you, and you will express to him Sir George Murray's regret that circumstances should again oblige him to revert to so painful a subject.

I am, &c.,

R. W. HAY.

[Enclosure.]

COLONEL DUMARESQ TO UNDER SECRETARY HAY.

My dear Sir,

London, 12th March, 1828.

Report *re*
intemperance
of J. Stephen.

It has been intimated to me this Morning that Parties interested in proving Judge Stephen not to be addicted to habits of Intemperance, such as he is stated to indulge in, pretend that this grave accusation rests on the circumstance alone "of his having been seen to take refreshment on the Windsor Road in the middle of the day."

Now, although extremely reluctant to charge a Gentleman in his sphere of Life, and entrusted with duties of so important a nature, with habits derogating so essentially from his character and respectability; yet I am bound to shew that, altho' I mentioned the subject to you rather incidentally and with a view to expose the state of our judicial establishment in N.S. Wales, than to bring forward a serious accusation against Mr. Stephen, I did not even venture to do thus much on grounds so slight as the above incident alone affords. I shall therefore state with less reserve that I have *known* repeated instances of excesses on the part of Mr. Stephen; that I have *seen him* in a state bordering on Intoxication, when submitting to General Darling his official report of the cases of Prisoners condemned to death: that, on the occasion alluded to, Mr. Forbes was present and lamented in terms of extreme regret (he being then on the point of proceeding to Bathurst for the benefit of his health) the necessity of leaving General Darling at such a moment. But he assured him that the circumstance, they had just witnessed, would render him still more anxious to return to his Post the moment he could do so.

I may add that Mr. Stephen's habits are the common Theme of comment and reprobation in the Colony, and have given rise within my knowledge to scenes of a very painful and embarrassing nature.

I have also been assured no later than this morning by Sir Thomas Brisbane's Aid de Camp that Mr. Forbes considered it

necessary to apprize Sir Thomas, when he urged the necessity of Mr. Stephen being appointed to assist him on the Bench, that his habits of Intemperance were not unknown to him, but, he added, he had obtained a promise from Mr. Stephen that he would overcome them.

I cannot be ignorant of the invidious task of making accusations such as the above, the more especially when they are levelled against a Gentleman from whom I received much personal attention; But I am bound in justice to myself (if driven to this expedient) to shew that I have not adverted to the private habits of Mr. Stephen's Life on the slight foundation of one *equivocal* instance.

I have, &c.,
H. DUMARESQ.

1830.
29 March.
Report *re*
intemperance
of J. Stephen.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 14. per ship Surrey.)

Sir, Government House, 2nd April, 1830. 2 April.

In compliance with the orders conveyed to me in the Several Despatches specified in the margin,* I do myself the honor to transmit herewith the following Annual Returns "Vizt."

Transmission of
annual returns
re convicts.

1st.—Return of applications for Convict Servants, shewing the manner in which they have been answered respectively.

2nd.—Return of Convicts employed by the Government, in the several Departments and Public Establishments.

3rd.—Return of Convicts necessarily maintained by the Government, being under Judicial Sentence, to which is added the Number of Convicts employed by the Government, as detailed in Enclosure No. 2.

4th.—Return of the Tickets of Leave granted during the past year, with a Statement of the Prisoners original sentences and of the circumstances which have led to their receiving this indulgence.

5th.—Return of the Convicts, who are supposed to have escaped from the Colony during the year.

6th.—Return of the Persons, who have been Prisoners that have cleared out during the year at the Office of the Principal Superintendent of Convicts and left the Colony.

I have, &c.,
RA. DARLING.

[Enclosures Nos. 1, 4, 5 and 6.]

[These returns have been omitted.]

* Marginal note.—No. 28, 2nd April, 1827; No. 26, 18th March, 1825; No. 17, 22nd Augt., 1825.

[Enclosure No. 2.]

1830.
2 April.
Return of
convicts
employed by
government.

RETURN of the average Number of Convicts Employed in the
Several Departments and Establishments of the Govern-
ment during the year 1829.

Station.	Department or Establishment.	Average number of men employed.		Total.
		Mechanics.	Laborers.	
Sydney	Department of Works	183	194	377
	Dock Yard	25	87	112
	Carters' Barrack	14	86	100
	Shoemakers	30	—	30
	Botanic Garden and Govt. Domain	1	27	28
	Commissariat	5	39	44
	Customs Department	1	23	24
	Mineral Surveyor	8	129	137
	Ordnance	—	12	12
	Surveyor General's Dept.	1	4	5
	Attached to the Convict Barrack	—	45	45
	Average number of men remaining in Barrack in unappropriated waiting until arrangements can be made for their disposal	—	30	30
	Paramatta	Public Works	19	31	50
Government Demesne		—	30	30
Weaving Establishment		20	5	25
Commissariat		1	6	7
Attached to Convict Barrack		—	8	8
Liverpool	Public Works	14	51	65
	Commissariat	1	3	4
	General purposes	—	6	6
Bathurst	Public Works	17	29	46
	Agricultural and Stock	—	5	5
	Commissariat	1	2	3
Wellington Valley..	Stock and Agricultural	—	92	92
	General purposes	—	6	6
Newcastle	Public Works	10	64	74
	Coal Mines	—	34	34
Barren Hills	Wood cutting Establishment	—	44	44
Emu Plains	Agricultural	7	54	61
Grose Farm and Lorgbottom.	Agricultural	—	29	29
		258	1,169	1,527

FREDK. A. HELY.

Principal Suptd. of Conv. Office, Sydney, 1 January, 1830.

[Enclosure No. 3.]

Return of
convicts
maintained by
government.

RETURN of the Average Number of Convicts maintained by the
Government during the year 1829.

Particulars.	Average Numbers.
Total employed by Government as per enclosure No. 1	1,527
Port Macquarie	261
Moreton Bay	752
Norfolk Island	206
Roads and Bridges	1,165
Working on the Roads in Irons	452
On the Tread Mill	31
Port Raffles	41
King George's Sound	22
Invalides, Cripples and Idiots	342
Boys at Carters' Barrack	80
Total	4,879

FREDK. A. HELY.

Princl. Supt. of Convicts' Office, 1 January, 1830.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 9, per ship Marquis of Huntley; acknowledged by Governor Darling, 23rd September, 1830.)

1830.
6 April.

Sir, Downing Street, 6 April, 1830.

I have received your dispatch No. 89 of the 1st of August last, enclosing the copy of an application from Lieut. Coll. Snodgrass for an allotment of Land in the neighbourhood of Sydney for the purpose of erecting a House thereon as a residence.

Letter acknowledged.

I regret that you did not accompany this application with such observations as would have enabled me to decide upon it; for, although I feel every disposition to afford to Colonel Snodgrass such reasonable facility as he may desire for the construction of a House near to Sydney, yet, having no means of judging whether it would be consistent with the public interests to accede to his request, I should not feel myself justified in authorising an allotment of land to be made to him for that purpose without first receiving from you an assurance that such applications are not unusual, and that no inconvenience would result to the Colonial Government from a compliance in this case, or in the case of other applications from Officers holding employments of a Civil or Military character, who, with a view either to the immediate accommodation of their families or to the investment of funds upon Building Speculations, may be desirous of obtaining a similar Indulgence.

Further report required before grant of town allotment to K. Snodgrass.

Upon these points you will report to me in detail, before making any allotment of Land in favor of Colonel Snodgrass; and I request that you will in future accompany all applications of this nature with the necessary information for my guidance.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 10, per ship Marquis of Huntley.)

Sir, Downing Street, 6 April, 1830.

I have received your dispatch No. 92 of the 5th of August, 1829, requesting authority for an expence amounting to about £350 Stirling, which you have found it necessary to incur in the hire of the Ship "Waterloo" for the conveyance to Moreton Bay of certain Prisoners under sentence of Transportation to that Settlement; and I beg to acquaint you in answer that, under the circumstances which have occasioned this expenditure, the charge will be allowed in the public accounts of the Colony, when they shall come under examination.

Approval of freight of ship Waterloo.

I have, &c.,

G. MURRAY.

1830.
6 April.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 11, per ship Marquis of Huntley.)

Sir, Downing Street, 6 April, 1830.

Approval of
appointment of
superintendent
of police at
Penrith and of
salary for officer
at Wallis plains.

I have received your dispatch No. 93 of the 6th of August, 1829, reporting the appointment of an officer to superintend the Police Establishment at Penrith, with an allowance at the rate of 5s. per diem and 2s. 6d. per diem in lieu of Forage for a horse, and also reporting an increase of salary to the Officer stationed at Wallis's Plains, in consequence of the additional duties he has to perform from being required to pay the salaries of the constabulary, etc.

As I perceive, by the information contained in your dispatch, marked "separate," of the same date as that No. 93, that a saving rather than an increase of expence will be produced by the change, which you have effected in conducting the business of the Police in another quarter, I have to convey to you my approval of the appointment of a Superintendant of Police at Penrith, and the proposed augmentation of salary in the case of the Officer stationed in charge of the Mounted Police at Wallis's Plains.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 12, per ship Marquis of Huntley.)

Sir, Downing Street, 6 April, 1830.

Return of
convicts,
required.

As it appears that this Department has not been furnished with any nominal Return of the Convicts at New South Wales since the year 1825, I request that you will give directions for the immediate transmission to me of such Return, and that you will take measures for ensuring its being more regularly forwarded in future.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 13, per ship Marquis of Huntley.)

Sir, Downing Street, 6 April, 1830.

Despatch
acknowledged.

I have received and have referred for the consideration of the Lords Commissioners of the Treasury your dispatch No. 18 of the 17th of February, 1829, explaining the cause of the delay, which had occurred in the transmission to this Country of the Accounts of New South Wales for the years 1826 and 1827, and representing the serious inconvenience which will be experienced, if the Treasury Instructions, which require you to report home

for approval every alteration which may be either in the number or in the salaries of the persons employed in the various Departments of your Government, be considered to extend to the classes of Persons filling subordinate public situations. I herewith transmit to you, for your information and guidance, a copy of a letter which has been received from the Secretary to the Treasury upon this subject, by which you will perceive that their Lordships have consented to relieve you from the duty of reporting every change, which may take place in the subordinate appointments adverted to in your dispatch; but that you are required to send home, with each yearly account, a general annual Return, containing the information specified in Mr. Stewart's letter.

1830.
6 April.

Modification
of treasury
instructions.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 22d February, 1830.

The Lords Commissioners of His Majesty's Treasury having had under their consideration your letter of the 8th of December last, transmitting the Copy of a Dispatch from the Governor of New South Wales, relative to the Instructions he has received for making up the Accounts of the Colony, and representing the inconvenience and interruption to more important duties that will occur, if those Clauses of the Instructions, which require that all alterations in the Colonial Establishments should be immediately reported to the Secretary of State in order to their being communicated to My Lords, shall be considered to extend to all subordinate Appointments, and more particularly to such as are connected with the Superintendence of the Convicts, and the maintenance of the Police requisite for their Control; I am commanded to acquaint you for the information of Secretary Sir George Murray that, under the Arrangements sanctioned by My Lords, and communicated to the Secretary of State in the letter of this Board of the 27th November, 1827, they apprehend that nearly the whole of the Salaries, to which Governor Darling's observations more immediately apply, will now be defrayed by the Commissariat Department out of the Funds drawn from this Country, and will of course be subject to the Regulations by which the Expenditure of that Department is governed; but, so far as regards payments from the Colonial Treasury, My Lords have no hesitation in admitting the validity of the objections urged to a strict application of the Provisions of the 23rd and 24th Clauses of the Instructions* to the Governor to the alterations in the number of Overseers, Constables, and other subordinate Agents, which must necessarily attend the constant variations in the number and distribution of the Convicts, including those employed on Government Works.

Inconvenience
caused by
former treasury
instructions.

My Lords are, therefore, pleased to approve of the Governor being authorized, in cases of this description, to dispense with the immediate communication enjoined by his Instructions; but my Lords request that you will move Sir George Murray to direct the Governor in lieu thereof to cause a general annual Return of all

Modification of
instructions.

* Note 105.

1830.
6 April.

Increases or Decreases in the number of these Situations and in the Salaries attached to them, with reference to the date of his Order or other official Notification under which they may have taken place, to be made out, and transmitted with each yearly Account.

I am, &c.,

J. STEWART.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 14, per ship Marquis of Huntley.)

Sir,

Downing Street, 6 April, 1830.

I have received your dispatch of the 27th of July, No. 86, transmitting the copy of an address presented to you by the principal Land holders and Merchants of the Colony under your Government. I have only, in answer, to observe that His Majesty's Government have derived much satisfaction from the favourable sentiments expressed towards your administration by persons of the respectability of those who have signed the address, as well as from the information contained in the concluding part of your dispatch, as to the improving state of the Agricultural and Commercial affairs of the Colony.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 15, per ship Marquis of Huntley.)

Sir,

Downing Street, 6 April, 1830.

I have received your dispatch No. 91 of the 4th of August last on the subject of the security which it would be proper to require from Mr. Macpherson, as Collector of Internal Revenue in New South Wales.

It appears, from the letter of the Acting Collector which was enclosed in your dispatch, that the average amount of the sum received in the Department of Internal Revenue does not exceed at present £2,000 Sterling per month; and you have expressed your opinion that, under present circumstances, it would be sufficient if Mr. Macpherson were required to give his personal bond for £3,000, and to furnish other securities for a like sum. On the other hand, you state that the Receipts will increase considerably as the Quit Rents become due, when securities to a larger amount will be required from the Collector. Under these circumstances, it has not appeared to me to be necessary to give any directions for diminishing the amount of the securities, into which Mr. Macpherson entered previously to his leaving this Country, particularly as you do not mention any desire on his

Satisfaction
with addresses
presented to
R. Darling.

Despatch
acknowledged.

Average
receipts of
internal
revenue.

Securities
required from
W. Macpherson.

part to reduce the amount; should it, however, appear to be the wish of Mr. Macpherson that a new arrangement, in that respect, should be effected, such an application would not be unreasonable; and he will, in that case, communicate on the subject with the Agent of the Colony in this Country, by whom the business will be arranged, care being taken that, in proportion as Mr. Macpherson's pecuniary responsibility increases, an augmentation be made in the amount of his securities.

1830.
6 April.

Securities
required from
W. Macpherson.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 16, per ship Marquis of Huntley.)

Sir, Downing Street, 6 April, 1830.

In the last paragraph of my dispatch, which I addressed to you on the 30th of January last, with reference to the decision of the Supreme Court in the case of "Jane New," in which the Judges stated their opinion that "All offenders, transported or whom it has been directed to transport to Van Diemen's Land, cannot be removed to New South Wales, and subjected there to the liabilities of a Convict originally transported to that Colony," I informed you that His Majesty's Government did not consider it to be requisite that any addition should be made to the powers of the Governor in this respect.

Want of power
for governor
to remove
convicts from
one colony to
another.

At that time, however, it did not occur to me that there were a large number of Prisoners, originally destined for New South Wales, who had from various causes been landed and assigned in Van Diemen's Land, and who, if detained there, would not, according to the decision of the Supreme Court of New South Wales, be liable to the same Laws and Penalties as the other Prisoners, to which Laws and Penalties they would have been subject if no change had been made in the place of their first destination.

Under these circumstances, His Majesty's Government will lose no time in making some provision, by which the Governors of New South Wales and Van Diemen's Land may be authorized, under special circumstances, to alter the destination of Convicts, either on their first arrival at the place to which they may have been transported, or during any period prior to the termination of their sentence, and such provision will be so framed as to have a retrospective as well as prospective effect.

Power of
governors to be
extended and
defined.

I am, &c.,
G. MURRAY.

1830.
6 April.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Marquis of Huntley.)

Dear Sir,

Downing Street, 6 April, 1830.

Mr. Hart Davis has forwarded to Sir George Murray the extract of a letter, which he had received from you, dated the 6th of July, from which it appears that his Agent had applied to be permitted to select the Grant of Land, which Lord Bathurst had permitted Mr. Hart Davis to receive, but that, the situation fixed upon being beyond the bounds prescribed for Settlers, you had not considered yourself authorized to make a Grant of it to him. Sir George Murray approves of your having declined to make over this Land to Mr. Hart Davis upon any other terms than as a Reserve, until you should receive the Instructions of the Secretary of State. I am now desired to acquaint you that there will be no objection to allow Mr. Hart Davis to retain possession of this Land; But Sir George Murray does not see any circumstances attending the case, which should induce him to depart from the Regulations; and therefore, until that part of the Territory, in which the Land in question is situated, shall have been regularly surveyed, he cannot authorize the completion of the Grant. You will, however, allow Mr. Hart Davis to have full and exclusive occupation of the Land which, for all practical purposes connected with the cultivation of it, will, Sir George Murray conceives, be the same as if the Grant was to be at once completed.

I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Marquis of Huntley.)

Sir,

Downing Street, 6 April, 1830.

Having referred for the consideration of Mr. Secretary Peel your letter to Mr. Twiss of the 13th August last, in which you report the death of the Infant Child of a Female Convict, transported in the "Sovereign," which event is stated by the Surgeon Superintendent of that Vessel to have been occasioned by its having been injudiciously weaned at the age of three weeks to enable the mother to embark, I am directed by Secretary Sir George Murray to transmit to you the copy of a letter, which has been received from the Home Department on this subject, by which you will perceive that measures have already been adopted to prevent the recurrence of such a calamity.

I am, &c.,

R. W. HAY.

Withholding
of grant of
land selected
for H. Davis.

Possession
granted as
reserve only.

Death of infant
of convict
from early
weaning.

[Enclosure.]

1830.
6 April.

MR. S. M. PHILLIPS TO UNDER SECRETARY TWISS.

Sir, Whitehall, 27 February, 1830.

I have laid before Mr. Secretary Peel, your letter of the 24 Instant, with its accompanying Copy of a letter from General Darling, respecting the death of an infant embarked with its mother on board the Convict Ship "Sovereign," occasioned, as is reported by the Surgeon Superintendent of that Vessel, by its having been injudiciously weaned at the early age of three weeks in Order to Comply with the letter of Mr. Peel's Order, "that no female Convict should be embarked until she had weaned her child thirty days"; and I am directed to acquaint you, for the information of Sir George Murray, that, previous to the Sailing of the Ship "Sovereign," the Surgeon Superintendent of that Ship made a representation of the case of Mary Morris, the Mother of the Child in question, in consequence of which an alteration was made in the Secretary of State's Warrants for the removal of Female Convicts on board Transports, which Warrants now expressly direct that no Female Convict is to be removed while she has a Child at the Breast under the age of 6 months, and, if the Child is above the age of 6 Months, the Mother is not to be removed without a Certificate from the Surgeon attending the Gaol that the Child may be safely weaned.

I should observe that the directions given, when the Prisoner Morris was ordered on board the Sovereign, were not complied with, as those directions specified that she was not to be removed until 30 days had elapsed after weaning the child, and were intended to imply, 30 days after the usual time of weaning Children.

I am, &c.,

S. M. PHILLIPS.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch per ship Surrey.)

Sir, Government House, 6th April, 1830.

I have the honor to forward the enclosed Letter addressed to "The Catholic Bishop of London" at the desire of a Madame Reus, a french Woman who is settled in Business here. Madame Reus has not communicated with me on the subject.

Transmission
of letter from
V. Reus.

I have, &c.,

RA. DARLING.

[Enclosure.]

MADAME REUS TO THE CATHOLIC BISHOP OF LONDON.

Monseigneur,

le 3 Avril, 1830.

Je m'adresse à vous avec tout le respect et la confiance qui vous est du.

C'est en la presence de Dieu, qui est partout, c'est en véritable Catholique et avec la bonne intention de plaire à Dieu, de remplir mon devoir, que je me permets avec repugnance de vous instruire des faits suivans. Voilà, Monseigneur, trois années que des affaires d'intérêt m'ont appelée à Sydney; pendant ces trois années, j'ai rempli mes devoirs de chetienne en allant à la messe les dimanches.

Opposition
of Revd.
J. J. Therry
to Revd.
D. Power.

La messe ne se dit que tres rarement dans la semaine à Sydney.

1830.
6 April.
Opposition
of Revd.
J. J. Therry
to Revd.
D. Power.

Je suis obligé suivant ma conscience de vous instruire, Monr., que j'ai toujours été scandalisée des indignations qui se commettoient dans la maison de Dieu. Mr. le Curé Therry toujours embarrassé des affaires de terre ralentit celles du Ciel. Ah! le Curé Therry est lui seul la cause qui le commun peuple a sacrifié l'oubli du devoir à un audace du crime et tous les excès de la licence qu'autorise l'impunité.

Contre M. le Curé Daniel Power, qui étoit un homme sans attaque, sans défiance, le point central étoit le bénéfice que M. le Curé Daniel Power avoit, et que M. le Curé Therry n'avoit pas. C'est pour cette raison inexcusable que M. le Curé Therry a avec malice soulevé les gens impies contre M. le Curé Daniel Power.

Je dis sacrifier l'oubli du devoir.

Un certain John Sullivan, qui reste chez M. le Curé Therry, a écrit à M. le Curé Daniel Power une lettre insolente avec sa signature; les autres plus malicieux lui ont écrit des lettres pleines d'honneurs sans signatures.

Je dis l'audace du crime.

Un dimanche, ils sont venus prendre toutes les décorations de son église.

Je dis tous les excès de la licence, qu'autorise l'impunité.

M. le Curé Daniel Power descendoit le pupitre de l'autel après avoir dit sa messe, le peuple là insulté, tout cela en la présence de Dieu, M. le Curé Therry étoit vis à vis de l'autel avec la calice en main et la soie dans les yeux.

Je déclare que M. Therry est un homme dangereux; cet homme aime l'argent et les femmes; il entretient dans sa maison sous le même toit quatre femmes, la mere et les filles, et bien souvent d'autres femmes; toutes logent chez lui, leur nom Dwyer; toutes ces femmes sont aussi dangereuses que lui, et elles lui servant sans nécessité sa messe.

M. le Curé Daniel Power n'est mort que de Chagrin; il avoit même perdu l'esprit.

Je jure devant Dieu et les hommes que je dis la pure et sainte vérité. Je suis disposée à soutenir l'affirmation de tout ce que je dis.

J'ai l'avantage d'être connue dans la Colonie; je jouis d'une reputation intacte; Monseigneur peut prendre des informations de ma personne; je suis bien persuadée qu'elles seront en ma faveur.

Je vous demande au nom de Dieu de nous envoyer des Ecclesiastiques bien éclairés. et de recevoir.

Monsieur Mon très profond respect,

VE REUS.

Voilà le motif pour lequel j'ai refusé ma signature à un papier que M. le Curé Therry a fait circuler.

J'aurois bien trouvé des personnes pour appuyer ma lettre, mais le peuple est ici si dangereux que l'on a peur de l'un et l'autre.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 17, per ship Marquis of Huntley.)

7 April.

Sir,

Downing Street, 7 April, 1830.

The Lords Commissioners of the Treasury having stated their opinion that it would be very inexpedient to continue to admit into the Colony of New South Wales wine, duty free for

the use of the Regimental messes at that Colony, an indulgence which might and probably would be claimed on equally strong grounds by officers stationed at other British Possessions, I have deemed it expedient to rescind the Instructions conveyed to you upon this subject in my dispatch of the 4th of Feby., 1829, No. 88, and you will accordingly give directions that wine, imported for the use of the Messes of the respective Regiments in New South Wales, should not be exempt from payment of any duty, to which it may have been subject prior to the arrival in the Colony of the Instructions above mentioned.

1830.
7 April.

Wine for
regimental
messes to be
subject to duty.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 18, per ship Marquis of Huntley.)

Sir, Downing Street, 7 April, 1830.

The attention of His Majesty's Government has been recently attracted in a special manner to the state of the Law in New South Wales, with respect to the trial of Persons charged with crimes in consequence of the trials for libel* in the month of April, 1829, in which Messrs. Hayes and Hall were the Defendants.

Colonial law re
trials for libel.

It is satisfactory to learn, by the admission† of Dr. Wardell, the Counsel for one of the Defendants (as published in the Colony, given in the Newspapers and transmitted to this Office) that the substitution of Military Officers for common Juries has not hitherto been productive of any real injustice or practical evil in any single case; and that the objection made to that mode of Trial rests exclusively on the general principle to which such an Institution is opposed.

Criticism of
military juries.

The superiority, in the abstract, of Trial by Jury to every other mode of administering criminal Justice being generally admitted, that privilege would not have been withheld from the Colonists of New South Wales, had it not been the opinion of Parliament and of His Majesty's Government, derived from the most careful enquiry and confirmed by the Chief Local authorities, that the anomalous condition of society in that Settlement would have deprived the Trial by Jury of its essential character, and of the inestimable benefits resulting from it in other Countries, where it has been established. As the free population shall increase and bear a greater proportion to the Convicts, I trust that it will be found practicable gradually to extend the power of Juries, until the Law of England in this respect shall entirely supersede the system which has been substituted for it.

Reasons for
postponing trial
by civil jury.

* Note 85.

† Note 106.

1830.
7 April.

Objections to
nomination of
military juries
by governor.

One approach to this change appears both practicable and expedient at present; and I have gladly availed myself of the opportunity of humbly recommending it to His Majesty for His immediate sanction. As the Governor of the Colony possesses the right of nominating the Military Jurors, by whom all offenders are tried, there is an obvious objection to that mode of Trial in any case in which the imputed crime has been committed against the Person, property or reputation of the Governor himself, or of any of the Principal Officers of the Local Government. I am persuaded that neither yourself nor any other officer, who might be called to administer the Government of New South Wales, would use the influence connected with that trust for the purpose of controuling the verdict of a Military Jury; and I am equally convinced that no Gentleman, holding a Commission in His Majesty's Forces, would permit his mind to be governed on such an occasion by the dread of offending or by the desire of gratifying his superior Officer. But both you and they are placed in an invidious situation on every such trial; and it is too much to hope that Verdicts, given under such circumstances, should be exempt from the suspicion or the imputation at least of partiality.

In cases in which the general interests or reputation of His Majesty's Naval or Military Forces on the Station, or those of any Individual belonging to these Bodies, may be in question, a similar objection would arise to the substitution of a Military for a Civil Jury; and it is on every account desirable to rescue the Officers of the Navy and Army in such cases from suspicion or from unmerited imputations.

Trial by civil
jury to be
established in
certain cases.

For these reasons, an Order of His Majesty in Council, founded on the 10th Section of the Statute, ninth Geo. 4th, cap. 83, will shortly be issued, authorizing you, with the advice of the Legislative Council of New South Wales, to extend the Trial by Jury in that Colony. The Law to be enacted on the subject must provide that, in all cases in which any Person, charged with any offence in any of the Courts of the Colony, shall make it appear to the satisfaction of the Court, before which he may be arraigned for such offence, that the Governor or any Member of the Executive Council of the Colony is the Person against whom the offence is alleged to have been committed, or has any personal interest in the result of the prosecution, or that the personal interest or reputation of any Naval or Military Officer on the Station, or the interest or reputation of these Bodies generally is involved in such prosecution, or will be effected by it's result, the Court shall summon a Jury of the Civil Inhabitants

for the Trial of the Party accused. The qualification of the Jurors should probably be the same as in the case of the Trial of Civil Actions.

1830.
7 April.

I have not attempted to prescribe the exact terms of the Law to be proposed to the Legislative Council, which must of course be carefully drawn up by the Attorney General of the Colony. The measure cannot, however, be initiated until the arrival of the intended Order in Council, which will be transmitted to you by the earliest opportunity.

Terms of act
of council to
be decided.

I am, &c.,

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntley.)

Sir, Downing Street, 7th April, 1830.

I am directed by Secretary Sir George Murray to request you will inform Captain Wright of the 39th Regiment that his letter of the 18th of October last has been received by the Secretary of State.

Acknowledg-
ment of
letter from
T. E. Wright.

I have, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntley.)

Sir, Downing Street, 7th April, 1830.

I am directed by Secretary Sir George Murray to transmit for your information and guidance copies of a correspondence, which has taken place between this Department and the Board of Treasury, relative to the allowance for messing to be granted to Officers proceeding on duty between Sydney and Van Diemen's Land, or between the former place and the Penal Settlements in New South Wales.

Mess allowance
for officers
travelling.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 11 December, 1829.

I am commanded by the Lords Commrs. of H.M. Treasury to transmit to you for the consideration of Secretary Sir G. Murray the enclosed copies of a report from the Comptrollers of Army Accounts, dated the 19th Ult., and of the letter from Lieutt. General Darling,* etc., therein referred to, relative to the grant of an allowance on account of Messing to Officers proceeding on duty to and from Van Diemens Land and the Penal Settlements; and I am to request that you will move him to favour my Lords with his opinion on the suggestion of the Comprs. of Army Accounts.

I am, &c.,

J. STEWART.

* Marginal note.—Not sent. It is dated 16 March, 1829.

1830.
7 April.

[Sub-enclosure.]

COMPTROLLERS OF ARMY ACCOUNTS TO COMMISSIONERS OF
TREASURY.

My Lords.

Comptrollers Office,
19th Novr., 1829.

Proposed
abolition of
mess allowance
for officers
travelling.

In pursuance of your Lordships' Commands, signified to us in Mr. Brooksbank's letter of the 19th Sept., We have had under our consideration a letter from Lieutt. General Darling, dated New S. Wales, 16th March, 1829, with enclosures relative to the Grant of an allowance on account of Messing to Officers proceeding on duty to and from Van Diemen's Land and the Penal Settlements.

By the enclosed copies of General Orders of 5th March and 8th April, 1829, it appears that Lieutt. General Darling has authorised an allowance of £3 10s. to each Officer proceeding on duty to Van D. Land, to Moreton Bay, or to Norfolk Island, and the same allowance to each on returning from the said places, a proceeding which he now submits for your Lordships approval, observing that he has acted upon the principle laid down in H.M. Warrant of 28 April, 1828. We are aware that the Royal Passage Warrant alluded to, in fixing the rates of Passage Money for Officers proceeding on duty from this Country in Freight ships, assigns (Paragraph 3) certain allowances for Messing. We apprehend, however, that the Officers for whom the Mess Allowance under consideration is proposed, and whose duty appears to be the charge of Convicts, take their passages not on board Freight ships, but in Vessels employed on the Govt. Service at New S. Wales, and that Rations of Provisions hitherto have been and still might be put on board by the Commissariat for their use. Under these circumstances, and considering that the Passage Warrant does not grant any Mess Allowance for Officers who embark from this Country in Transports (in which light the above mentioned Vessels are we apprehend to be considered) and are furnished with a supply of Rations, We do not consider that the officers, whose case is now before Your Lordships, are entitled to the Allowance in question; and we therefore recommend to your Lordships to desire General Darling immediately to rescind his two General Orders above mentioned.

We have, &c.,

J. KING.

W. L. HERRIES.

[Enclosure No. 2.]

UNDER SECRETARY TWISS TO MR. J. STEWART.

Sir,

Downing Street, 15 Decr., 1829.

Letter
acknowledged.

I have received and laid before Secretary Sir G. Murray your letter of the 11th Inst. enclosing Copies of a Report from the Comptrollers of Army Accounts, dated the 19th Ult., and of the letter from Lieut. General Darling therein referred to, relative to the Grant of an allowance, on account of Messing, to Officers proceeding on duty to and from V. Diemen's Land and the Penal Settlements.

The objection, which the Comptrollers of Army Accounts take to the General Orders issued by Lt. General Darling upon this subject, appears to Sir G. Murray to arise from the occasional circumstance of officers, for whom the Mess Allowance under consideration is proposed, and whose duty seems to be the charge of Convicts, taking their passages not on board *freighted ships* but on vessels

employed on the Government Service at N.S. Wales; and the Comptrollers suggest that, instead of such Mess Allowance, rations of provisions should be provided by the Commissariat for the use of officers proceeding by the latter mode of conveyance.

1830,
7 April.

It is probable that this course might be attended with much convenience to the public service on many occasions, particularly when officers are sent in charge of Prisoners to the Penal Settlements.

Opinion of
Sir G. Murray.

But the Comptrollers appear to have overlooked the occasions, where officers are sent to V.D. Land in course of Military Service in freight ships or vessels not wholly taken up by the Government; and, in these cases, Sir G. Murray is disposed to consider that they would be entitled, according to the admission of the Comptrollers of Army Accounts, to the small allowance in question.

I am, &c.,

HORACE TWISS.

[Enclosure No. 3.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 24 March, 1830.

The Lords Commissioners of H.M. Treasury having had under their consideration your letter of the 15 of Decr. last, relative to the allowance for messing to be granted to Officers proceeding on duty between Sydney and Van Diemen's Land, or between the former place and the penal Settlements in New South Wales, I am commanded by their Lordships to transmit herewith for the information of Secy. Sir George Murray the enclosed copy of a letter they have directed to be written to the officer in Command at New South Wales on this subject.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

MR. J. STEWART TO OFFICER COMMANDING AT NEW SOUTH WALES.

Sir, Treasury Chambers, 22 March, 1830.

I am commanded by the Lords Comms. of H.M. Treasury to acquaint you, in reply to your letter of the 16 of March, 1829, that my Lords would not object to an allowance for messing in cases where officers may be sent on duty *without Troops* and in freight Ships or Vessels, coming within the meaning of that term; but, in cases where officers proceed in charge of Convicts and consequently *with Troops*, they are to be considered as embarked in Transports, and my Lords cannot sanction any allowance to them beyond the usual ration, unless there are special circumstances attending their duty to require such departure from the general usage of the service.

Instructions re
mess allowance.

I am, &c.,

J. STEWART.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Marquis of Huntley: acknowledged by Governor Darling, 22nd January, 1831.)

Sir, Downing Street, 7 April, 1830.

I have the honor of transmitting to you herewith copies of two letters from Mr. Davidson,* one addressed to Sir George Murray, the other to Lord Strathallan, together with a letter from his Lordship himself, bearing testimony to the character and respectability of that Gentleman.

Transmission of
letters from
W. S. Davidson.

* Note 107.

1830.
7 April.

Request for
extended land
grant.

You will perceive that it is Mr. Davidson's object to obtain a considerable addition to the Grant, which he at present holds in New South Wales, without which addition he states that he can no longer subsist his present number of fine woolled and very valuable sheep and far less go on increasing their numbers as he contemplates doing.

Approval of
extended land
grant.

Sir George Murray directs me to say that he has no objection to your granting to Mr. Davidson, or his Agent, such extent of land as may be consistent with existing Regulations, and may afford to Mr. Davidson the means of pasture for his Flocks. In deciding upon the extent of the additional Grant to be given to Mr. Davidson, you will of course be guided by the course hitherto adopted in regard to other applications for land, which many persons, as is asserted by Mr. Davidson, have made, and which they have received to an equal or greater amount than the grant for which he has himself applied.

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

[Enclosure No. 1.]

MR. W. S. DAVIDSON TO SIR GEORGE MURRAY.

Sir, St. James's St., London, 18th Novr., 1829.

Request for
extended land
grant.

I do myself the honor to address you upon the subject of a considerable grant of land, which I am desirous of obtaining in New South Wales, and I therefore take the liberty to mention the public grounds upon which I claim this indulgence from His Majesty's Government.

Claims to
special
indulgence.

I went out to that Country so far back as the year 1804, with an order in my possession from Earl Camden, then His Majesty's Secretary of State for the Colonies, for a Grant of Two Thousand Acres, upon which I have expended considerable sums of money in stocking, clearing, cultivating, enclosing, and otherwise improving.

In 1809, I quitted New South Wales for India and China, where I resided many years, always increasing my stake in the interesting youthful settlements of Australia, and, during the whole of that period, advancing large sums of money to residents in the Colony, which must have materially contributed to the general prosperity at a period when public attention and individual Capital were but little attracted in that new direction.

Supplies too of the most useful and necessary description were frequently sent to the chief Colony and its Dependencies, entirely through my agency and pecuniary means, although I did not seek to derive the great advantages sometimes acquired in those adventures by the principals, and eventually of course to the Colony at large.

I have now been perseveringly engaged for the space of twenty five years in attending to various Colonial objects, and more particularly to the great national one of the promotion of the growth of fine wool in our own possessions, which I venture to say I have greatly furthered by the importation into New South Wales, from both Germany and this Country, of the best blooded Saxon and

Merino Sheep, as well as by purchasing Animals of the same description in the Colony from other Importers to add to my Flocks.

1830.
7 April.

These objects have absorbed upwards of Ten thousand Pounds of my individual Capital, without yielding an adequate, or indeed any return, hitherto; and my present grant of 2,000 Acres has become so insufficient for the purposes of my valuable Sheep, many of which cost on being imported into Sydney from 16 to 20 Guineas per head, that I am compelled to apply for a fresh and extensive tract of land, to the extent, I would presume to hope, of Twenty Thousand Acres, feeling confident that my actual expenditure of Capital (hitherto so totally unproductive) in those colonies and my continual attention to their best interests entitle me to expect this indulgence from Government.

Necessity for
extended land
grant.

It may not be irrelevant to state that, in my accounts lately received from my colonial Agent Mr. Richard Jones, I am debited for the care and other expenses of my fine woolled Sheep no less a sum than £437 18s. 2d. for the past year (1828) alone, one hundred pounds of which expenditure being for rent of extra land to keep them upon during the drought of that calamitous season, when numbers of the valuable animals were lost from the want of a greater choice of fresh pasture.

Rent of land
for pasture.

I take the liberty also to state that this is the first application I have ever made for any sort of indulgence from the Crown, directly or indirectly, either personally or by letter, in the whole course of a quarter of a Century, during which I have maintained so important and intimate a connexion with His Majesty's distant Colonies of New South Wales.

I have, &c.,

W. S. DAVIDSON.

[Enclosure No. 2.]

MR. W. S. DAVIDSON TO VISCOUNT STRATHALLAN.

My dear Lord,

St. James's Street, 15th Feby., 1830.

Permit me to call your kind attention to my letter of the 18th Novr. last to Sir G. Murray, and the answer thereto by Mr. Twiss of date the 24th Decr., which has but just reached me owing to an accidental circumstance.

Application
for extended
land grant.

I am free to acknowledge that Sir G. Murray has official grounds (founded on late regulations) for referring me to the local Government of New South Wales, for a report concerning the truth and justice of my allegations of public claim; but I am very anxious to have it understood in Downing Street that I possess very peculiar and strong claims to public indulgence, and that a reference to the most respectable parties in this Country connected with N.S. Wales would establish the *notoriety* of my having, for a long series of years, been in the habit of investing capital in those Colonies; whilst I am ready to declare (and on oath if requisite) that it has hitherto been wholly and entirely unproductive. My misfortune is, having for so many years studiously abstained from troubling either the Department in Downing Street or the local Government on any occasion whatever; but I can solemnly declare that I was perfectly ignorant of any impediment existing to my obtaining an extensive grant direct thro' the Secretary of State for the Colonies, whenever I should find urgent occasion to apply for it.

1830.
7 April.
Application
for extended
land grant.

Such urgency has now arisen, as I can no longer subsist my present number of fine woolled and very valuable sheep, and far less go on increasing their numbers as I contemplate doing, without attaining my present object, which I venture to repeat is founded upon the most substantial ground of public claim; and I would accordingly crave, as a just act of lenity, that Sir G. Murray will be pleased to instruct Lt. General Darling to grant me 20,000 acres of land without delay, should His Excellency's investigation on the spot prove satisfactory in confirming that I have been that consistent friend to, and that important promoter of the best interests of H.M. Australian Colonies, which I have in my letter of the 16th Novr. so confidently described myself to be.

I have, &c.,
W. S. DAVIDSON.

[Enclosure No. 3.]

VISCOUNT STRATHALLAN TO SIR GEORGE MURRAY.

My dear Sir George, Castle Mona, 24 Novr., 1829.

Testimony
in favour of
W. S. Davidson.

I enclose an address to you, which was sent to me open for my perusal by my friend Mr. Davidson in order that I might satisfy myself how far his statement and request was correct and fair; and that I should bear testimony to his respectability and merits, leaving his demand of a grant to stand upon its own merits, without any recommendation in his favor, which might tend to obtain your sanction.

I have known Mr. Davidson by character and correspondence since the year 1809, when he settled in China (subsequent to my departure from that Country), and our intercourse was always of the most intimate and confidential nature; and, since his return to England, I have had reason to admire his general mercantile knowledge, his enlarged tho' not speculative views, and his highly honorable and generous conduct.

He is Nephew to the late Sir Walter Farquhar and married to his Grand-daughter. He purchased an Estate in Aberdeenshire on his return from China, which he still possesses, and is a partner in the Bank of Herries, Farquhar and Co. in St. James's Street, and therefore, in every point of view, I know no one in the Kingdom better entitled to obtain such a Grant as my friend Davidson, or one more likely to do it justice and to follow up the plans and wishes of Govt.

A residence of 4 or 5 years in the Colony before he established himself in China afforded him the opportunity of duly appreciating its advantages, and I believe, exclusive of personal interest, has led him to study the means of benefitting it in all ways; and I believe he was in some manner instrumental to the Establishment of the Australian Agricultural Company, of which he is now a Director, and which ultimately may be of the greatest advantage to the Colony, for it is certainly a great national and patriotic undertaking and in which Mr. Davidson is embarked more largely than any other individual perhaps. Having thus borne testimony to my friend's character and respectability, leaving his request to stand on the public grounds alone upon which he rests it, I have only to add that I have the highest opinion of his talents, and from experience of his integrity and also the greatest regard and friendship for him, and

Believe me, &c.,
STRATHALLAN.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

1830.
7 April.

Despatch per ship Marquis of Huntley; acknowledged by Governor Darling, 7th June, 1831.)

Sir, Downing Street, 7 April, 1830.

I am directed by Secretary Sir George Murray to transmit to you the copy of a letter from the Secretary of the Treasury, together with its enclosures, relative to the separate set of Books which the Deputy Commissary General has been required to keep in his office, from which to extract annually the information required by His Majesty's Government.

Books to be kept in commissariat department.

You will perceive, by their Lordships' letter, that they consider the expence of the additional Establishment of Clerks, which the Commissary General states to be necessary to the performance of this duty, should be charged to the Colonial Funds. The Returns, which you are instructed to send home annually in order that His Majesty's Government may be duly informed of the state of the Finances of the Colony under your administration, must, as the Secretary of State is fully aware, occasion considerable labour in the compilation of them; but he cannot perceive the necessity for a double set of Books being kept by the Commissary, if the Accounts contained in those books, which he already keeps, be so framed as to enable the Officer, upon whom may devolve the duty of preparing the annual Returns for transmission to England, to extract therefrom the information which he may require as to the particular branch of Expenditure under the controul of the Commissary; and I have therefore to express Sir George Murray's hope that you will be able to come to such an arrangement with the Deputy Commissary General as will render the Establishment of Clerks employed in his Department, assisted by those attached to the other Departments, adequate to the preparation of the Returns which are desired, so as to avoid any extra expence on that service.

Refusal to sanction increased establishment.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 1st April, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed Copies of a letter from Depy. Commy. General Laidley, dated New South Wales, the 5th of June last, and its Enclosure, on the subject of the directions given by the Governor that he should keep in his Office a separate set of Books of the expenditure in that Colony; and I am to acquaint you for the information of Secretary Sir George Murray that My Lords have informed the Officer Commanding the Troops in New South Wales that, as the Extra Duty thus imposed upon

Correspondence re books to be kept in commissariat department.

1830.
7 April.
Correspondence
re books to
be kept in
commissariat
department.

the Commissariat appears to be exclusively for Colonial Objects, they are of opinion any additional Expence, with which it may be attended, should be defrayed out of the Colonial Funds.

I am, &c.,
J. STEWART.

[Sub-enclosure No. 1.]

DEP. COMMISSARY GENERAL LAIDLEY TO MR. G. R. DAWSON.
Commissariat Office, Sydney, New S. Wales.

Sir, 5 June, 1829.

I have the Honor to transmit for the information of the Right Honble. the Lords Commissioners of His Majestys Treasury Copy of a letter, addressed to me by the Colonial Secretary, signifying His Excellency the Governors intention that a separate set of Books should be kept in my office, from which to extract annually the information required by His Majestys Secretary of State for the Colonies.

This duty will require, as their Lordships will observe, a considerable addition to the Establishment recommended by the Board of Officers assembled in 1827, independently of the increase of duty that has devolved upon the Commissariat since that period.

I am, &c.,
JAS. LAIDLEY, D.C.G.

[Sub-enclosure No. 2.]

MR. T. C. HARRINGTON TO DEP. COMMISSARY GENERAL LAIDLEY.
Sir, Colonial Secretary's Office, 3rd June, 1829.

I have the honor to acknowledge the receipt of your letter of the 2d Inst., No. 162, enquiring whether it is intended that, independently of the Accounts which you furnish monthly to my Lord Comrs. of H.M. Treasury, you should prepare and keep in your Office Books compiled from the accounts under the various heads of Service entered in the printed Abstract of the expenditure in this Colony in the year 1828, which has been handed to you with an intimation that similar information would be annually required of the Commissariat.

In reply, I am directed by His Excellency the Governor to inform you that this is intended. I have, &c.,

for the Coll. Secretary,
T. C. HARRINGTON.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Marquis of Huntley; acknowledged by Governor Darling, 1st October, 1830.)

My dear Sir, Downing Street, 7 April, 1830.

Lieutt. Colonel Allan of the 57th Regt., having addressed a letter to the Secretary of State applying for a Grant of Land, Sir George Murray has desired me to transmit to you a copy of Colonel Allan's letter together with a copy of the reply, which has been returned to it. There are many observations in Colonel Allan's letter respecting certain Grants received by Officers of other Regiments serving in New South Wales, in opposition to the Regulations, which Sir George Murray can hardly suppose

Application by
J. Allan for
land grant.

to be correct, and he therefore concludes that Colonel Allan must have been misled by his Informant. Should there be any truth in the Statement, Sir George Murray requests that you will be good enough to afford an explanation on the subject.

I remain, &c.,

R. W. HAY.

[Enclosure No. 1.]

LIEUT.-COLONEL ALLAN TO SIR GEORGE MURRAY.

Sir,

Sydney, 17th Oct., 1829.

I have the honor to inform you, I arrived in this Colony with my Family on the 12th Octr., 1828, to assume the Command of H.M. 57th Regiment. I left England in full expectation of being able to obtain a Grant of Land for myself and my Sons, in which (by recent regulations) I have been dissappointed, and I am inform'd by the Colonial Secretary, it is impossible I can receive that indulgence without an Order from you. I had taken the precaution to bring out an experienced person to improve and manage it, had I succeeded in my application, which, being attended with considerable expence, renders the dissappointment the greater.

Inability of J. Allan to obtain land grant.

I have served my Country in all quarters of the Globe 37 years. I have a family of three Boys and three Girls; may I therefore presume to request your consideration of these circumstances and hope you will order me to obtain a Grant for myself and my Son. The latter I have no objection to being granted in the name of Trustees for His Behoof, untill He is of age, Should you deem that a necessary preliminary.

Request for land grant for self and son.

I beg submissively to remark, heretofore it has been customary to give grants of land to the Officers of Corps, and the Regiment under my command has been the first to experience this serious dissappointment. Permit me to say, I think the present system of precluding Officers from obtaining Grants will prove very prejudicial to this Colony, and defeat the object of our Home Government, by preventing many most respectable families settling. In the Corps I command, Liet. Shadforth is the only Officer, who (on all being officially called upon) has declared his intention to settle here.

Exclusion of officers of 57th regt. from land grants.

Had my Officers received the same indulgences with former Corps, more than one half of them would have remained; Col. Shadforth, Capt. Wellman, Capt. Green (all with very large families) and many more came out with the positive intention of doing so; had they got grants, they would have had Cottages ready to receive and ground clear'd to provide them with food!! Should they now retire on the Regt. going on to India, Six Months or more would elapse before they possessed grants; (in this extravagant Colony where every thing but Beef and Mutton is nearly 200 per Ct. higher than anywhere I ever was before) their small means would be exhausted before they could shelter themselves or clear an inch of land, in fact they could only adopt such a measure with disaster and Ruin staring them in the countenance.

This climate has agreed well with the whole of my family, which would certainly be a great inducement for me to remain, and I would do so. If I got a good situation, one Similar or equal to Colonel Morrissett's who is on H.P., I should with pleasure accept of, and few I believe have made themselves better acquainted with the Political and Private affairs of this Colony than I have done,

Wish of J. Allan to settle in colony.

1830.
7 April.

1830.
7 April.

or stand higher or more respectably and independently with all ranks of Society.

I have put this under Cover to Sir Herbert Taylor, who, should you require it, will give you every information regarding me.

I have, &c.,

J. ALLAN, Lit. Col.,
Comg. 57th Regt.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO LIEUT.-COLONEL ALLAN.

Sir,

Downing Street, 7th April, 1830.

Letter
acknowledged.

I am directed by Secretary Sir George Murray to acquaint you that Sir Herbert Taylor has forwarded to him your letter, dated the 17th of October last, in which you express your disappointment at finding yourself debarred from receiving a Grant of Land in New South Wales, according to your expectations in proceeding to that Colony, by the operation of Regulations recently established there upon that subject.

Prohibition of
land grants for
military officers.

Sir George Murray very much regrets any inconvenience which you may have experienced by not having been considered eligible to hold land in New South Wales; but he desires me to state that the Regulations, which have shut you out from this advantage, are by no means of recent promulgation, having been in existence since the year 1818, when it was found necessary to exclude Military Officers from an indulgence, which might lead them to neglect their professional duties; and, as the Commander in Chief did not recommend the removal of this restriction, when the subject was brought before him with that object in the year 1825, Sir George Murray cannot now take upon himself to authorise the Grant for which you have made application, although of course you will not be prevented from obtaining that indulgence, whenever you may retire from the Service, should such a step be in your contemplation, for the purpose of becoming a permanent Settler in the Colony.

Land grant
for son of
J. Allan.

With respect to your application that a Grant of land may be made to your Son, I am directed by Sir George Murray to state that there will be no objection on his part to such an arrangement, whenever your Son shall be of the proper age to hold land according to existing Regulations, and can prove to the satisfaction of the Land Board that he possesses independent capital for its cultivation; but upon no other terms will the Secretary of State. I regret to say, feel himself warranted in meeting your wishes.

I have, &c.,

R. W. HAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 19, per ship Adrian; acknowledged by Governor Darling, 31st January, 1831.)

9 April.

Sir,

Downing Street, 9th April, 1830.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of your despatch No. 103, transmitting the copy of a letter from the Inspector of Civil Hospitals, together with two Returns furnished by that Officer, the one shewing the number and description of persons admitted into the Colonial Hospitals during the year

1828, and the other giving the average of those who have been admitted during the last 5 years.

1830.
9 April.

In the first of these Returns, I observe that the total number of Patients, to whom Medical treatment had been extended, amounts to 36,925; while, in the second, the daily Hospital Patients, who had been admitted within the four preceding years, and also in 1828, presents an average of 452.

Persons under
medical
treatment.

With respect to the former of these Returns, it is inconceivable how so large a mass of Persons could, in the short space of one year, have been visited with a sufficient degree of sickness to warrant their reception into a public hospital; and the same remark will apply with equal force to the latter; but, as the number of 36,925 Patients will be found to exceed the bulk of the whole population (estimated according to the Returns given in the Blue Book of your Colony for the year 1828 at 36,598), I am led to imagine either that some oversight must exist in the original calculation, or that each of the patients has received medical treatment at various and successive periods during the above year, and that they have thus been returned, as so many separate and distinct cases in the total above alluded to. You will have the goodness therefore to furnish me with an explanation on the subject matter of this dispatch at your earliest convenience.

Criticism
of returns
submitted.

Report
required.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 18, per ship Asia; acknowledged by
Sir George Murray, 10th November, 1830.)

Sir, Government House, 9th April, 1830.

I do myself the honor to transmit herewith the Copy of a Bill amounting to £152 5s., paid to Mr. Foster for legal assistance rendered the local Government between the Month of April, 1828, and the Month of May, 1829; and I have further to request your Authority for charging in the public accounts the sum of £79 16s., which has been paid to Dr. Wardell for similar assistance.

Transmission
of bill for legal
services from
W. Foster.

I regret it should have been necessary to have had recourse to the Bar, when the Government is at so great an Expense in paying the Law Officers of the Crown; but it was important that the licentiousness of the Press should be Checked, and it became necessary to this end to obtain more competent means than the legal Establishment of the Crown afforded.

Expense
incurred in
control of
press.

I have the satisfaction to add that the several prosecutions for Libel have been attended with success.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

HIS MAJESTY'S GOVERNMENT OF NEW SOUTH WALES.

To William Foster, Esquire.

1830.
9 April.
Bill of legal
costs from
W. Foster.

		£	s.	d.
1828.				
April 5	Preparing Draft of Act of Council for regulating the Streets in Sydney	10	10	0
May 3	Opinion as to whether Lord had a Right of appeal in the case of Lord v. Dixon	2	2	0
Octr. 22	Opinion and Report, jointly with the late Solicitor General, on the Claim for Compensation made by Cooper and Levey on the Ground that their Property in the Vicinity of Botany Bay was damaged by the Cutting of the Water Course there	10	10	0
Novr. 26	Opinion as to whether certain passages in the Monitor Newspaper of 22nd November, 1828, was Libellous or not	3	3	0
Novr. 30	Retainer in Rex v. Hall for Libel in Monitor of 22nd November, 1828	2	2	0
Decr. 1st	Opinion as to whether certain Passages in Monitor of 29th November, 1828, were Libellous or not	3	3	0
Decr. 5	Retainer in Rex v. Hall for Libel in Monitor of 29th November, 1828	2	2	0
1829.				
January 5	Preparing Information in Rex v. Hall for Libel in Monitor of 22nd Novr., 1828	10	10	0
January 20	Preparing Information in Rex v. Hall for Libel in Monitor of 29th Novr., 1828	10	10	0
Feby. 1st	Opinion as to whether certain Passages in the Australian Newspaper of 27 January, 1829, were Libellous or not	3	3	0
Feby. 5	Retainer in Rex v. Hayes for Libel in Australian of 27 January, 1829	2	2	0
Feby. 20	Preparing Information in Rex v. Hayes for Libel in Australian of 27 January, 1829	10	10	0
March 5	Opinion as to whether certain Passages in the Monitor of 9th February, 1829, were libellous or not	3	3	0
March 10	Retainer in Rex v. Hall for Libel in Monitor of 9th February, 1829	2	2	0
March 15	Preparing Information in Rex v. Hall for Libel in Monitor of 9th February, 1829	10	10	0
March 23	Consultation with the Late Solicitor Genl. respecting the Evidence, etc., to be adduced on the Trial of Rex v. Hayes for libel in the Australian of 27th January, 1829	3	3	0
March 20	Consultation with the late Solicitor General respecting the Evidence to be adduced on the Trial of Rex v. Hall, for Libel in Monitor of 22nd November, 1828	3	3	0
March 26	Opinion as to whether certain Passages in the Australian of the 27th February, 1829, were libellous or not	3	3	0
March 27	Consultation with the Late Solicitor General resp. the Evidence, etc., to be adduced on the Trial of Rex v. Hall for Libel in Monitor of the 29th November, 1829	3	3	0
April 10	Opinion as to whether certain Passages in the Australian of 8th April, 1829, were libellous or not	3	3	0
April 11	Consultation with the Late Solicitor General respecting the Evidence, etc., on the Trial of Rex v. Hall, for Libel in Monitor of the 9th February, 1829	3	3	0
April 13	Attending in Court the Trial of Rex v. Hall for Libel in Monitor of 22nd November, 1828, when Defendant was convicted	10	10	0
April 15	Attending in Court the Trial of Rex v. Hayes for Libel in Australian of 27 January, 1829, when Defendant was convicted	10	10	0

HIS MAJESTY'S Government of New South Wales—*continued.*

		£	s.	d.	1830. 9 April.
1829.					
April 17	Attending in Court the Trial of Rex v. Hall for Libel in Monitor of 9th February, 1829, when Defendant was convicted	10	10	0	Bill of legal costs from W. Foster.
April 24	Brief and Attending Court in Rex v. Hall for Libel in Monitor of 29th November, 1828, when it was thought advisable not to press the case	5	5	0	
May 5	Preparing Act of Council for Instituting Courts of Requests	5	5	0	
May 10	Preparing three Affidavits in Rex v. Rossi, Brown and Bunn	5	5	0	
Total		£152	5	0	

I certify that the Professional Services of William Foster, Esqr., Barrister at Law, were required on the part of Government, and satisfactorily rendered by him, as set forth in the foregoing account.

ALEXANDER MCLEAY,
Col. Secretary.

[Enclosure No. 2.]

THREE CASES OF LIBEL.
Against Edward Smith Hall.

		£	s.	d.	Bill of costs for libel actions.
Retainer to Dr. Wardell		5	5	0	
Consultations		5	5	0	
Perusing and Considering all the Voluminous Documents in reference to the 3 Cases		5	5	0	
Preparing very long and Special Affidavits for 2 Cases		10	10	0	
Motion for two Rules Nisi		5	5	0	
Obtaining the Rules out of the S. C. Office, Fees of Supreme Ct. Office and Services		3	3	0	
Motion to make Rule Absolute		7	7	0	
Writ of Subpœna to Compel Defendt. to appear, Order of Court for filing 2 Criminal Informations; Services, fees of Office, etc.		4	4	0	
Recognition of Complainant to prosecute; Attendance and Fees of Sup. Court Office		2	2	0	
Preparing first Information, Contg. unusually long and Special Counts, on account of the indirect nature of the Libel		10	10	0	
Copies for Defendt. and Supreme Court and for use		3	3	0	
Appointment of Trial and Notice		1	1	0	
Fee on Brief, when Defendant tried on the Information and found Guilty		10	10	0	
Rule and Notice for Judgment		1	1	0	
Fee on Brief Defendt. called up for Judgment		5	5	0	
Amount of Fees		£79	16	0	
16th April, 1830.					R. WARDELL.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 20, per ship Adrian.)

Sir,

Downing Street, 10 April, 1830.

10 April.

I have the honor to acknowledge the receipt of your despatch, No. 109 of the 9th of October last, enclosing the copy of a letter from Mr. Fraser, the Colonial Botanist, together with an extract of the Minutes of the proceedings of Council on the subject of that Officer's salary, which you appear to have increased from £150 to £200 per annum, having previously authorized the sum of £150 to be issued to him as compensation for certain losses, which he had sustained in the execution of former services.

Although there may be very good grounds in the present case for affording to Mr. Fraser some reasonable compensation for

Despatch
acknowledged.

1830.
10 April.

Disapproval of
increases of
salaries by
R. Darling
without
authority.

his losses on the occasions adverted to in his letter, and although the small addition which you have made to his Salary may not be objectionable under the circumstances which induced you to grant it, yet I cannot consent to your taking upon yourself, without sufficient authority, to augment the salaries of public officers, however strong may be their claims. There is scarcely an individual Member of your Government whose emoluments have not been considerably increased within the last three years; and, although I am ready to admit that the cases, which you have brought under the notice of His Majesty's Government, were deserving of consideration, yet the course, which you have pursued of allowing the arrangement to take effect immediately instead of waiting for Instructions from home, is exceedingly objectionable; for, in those instances in which I might not think the party entitled to an encrease of salary, or might be under the necessity of refusing it from motives of public expediency, such refusal would necessarily be attended with greater disappointment to the parties than if they had never been admitted to the benefit of such encrease.

From the liberal scale of salaries which have been established in New South Wales for remunerating the services of the several Officers of your Government, I trust I shall not upon any subsequent arrival from the Colony, have to give my attention to any new claim of the same nature; but, if any case should arise in which you may not consider yourself warranted in declining to forward any such application, I must desire that you will, on no account, sanction the issue of any augmentation of salary until you shall receive a distinct authority for so issuing it.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch, per ship Lord Melville.)

Sir,

Downing Street, 10th April, 1830.

I have the honor to acquaint you, for your guidance, that, in pursuance of the acts* of 6 Geo. 4, cap. 114, and 7 and 8 Geo. 4, cap. 56, His Majesty has been pleased to declare by an order of Council of the 7th Instant, "that it shall and may be lawful for Austrian Ships to import from the Dominions of His Majesty the Emperor of Austria into any of the British Possessions abroad Goods, the produce of such Dominions, and to export Goods from such British Possessions abroad to be carried to any Foreign Country whatever."

I am, &c.,

G. MURRAY.

Permission
for Austrian
ships to trade.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Adrian.)

1830.
11 April.

Sir, Downing Street, 11 April, 1830.

Your letter of the 21 of Octr. last with the Returns of Revenue and Expenditure have been received; but, as Sir George Murray observes that you have denominated the Book in which these Returns are comprised, the "Crown Book," I am directed to acquaint you that the original name given to this compilation, that of the "Blue Book," is preferred. I am, &c.,

Despatch acknowledged.

"Crown" vice
"Blue book."

R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 19, per ship Asia; acknowledged by
Sir George Murray, 25th October, 1830.)

Sir, Government House, 11th April, 1830.

I have the honor to transmit for your consideration the accompanying Copy of a Letter, addressed to me by Mr. Robert Campbell, requesting to be allowed a Grant of Land on the grounds stated in his Letter.

Transmission
of letter from
R. Campbell.

It may be sufficient to mention that Mr. Campbell, who is now one of the Oldest Members of the Legislative Council, is the subject of the Despatch, which I had the honor to address to you on the 18th of April, 1829, No. 42.

Having already expressed my sentiments so fully with respect to this Gentleman, I should unwillingly trespass on your time in this place; I beg, however, to be permitted to add that Mr. Campbell continues to merit the indulgent consideration of Government.

I have, &c.,

RA. DARLING.

P.S.—Mr. Campbell has received 1,500 Acres as a Grant, and 5,000 Acres on account of the loss of the Ship "Sydney," the subject of my former Letter.

Lands granted
to R. Campbell.

R.D.

[Enclosure.]

MR. R. CAMPBELL TO GOVERNOR DARLING.

Sir, Sydney, 2nd April, 1830.

Agreeably to the wish you expressed, when I had the honor of conversing with Your Excellency on the subject last Week, I beg leave to lay before you a Statement of the circumstances connected with my establishing myself as a Settler in New South Wales, with my reasons for deeming myself entitled to greater indulgences at the hands of His Majesty's Government, than any I have hitherto received.

Claim of
R. Campbell
to special
indulgence.

I came to this Colony from Calcutta in the Year 1798, principally with the view of forming here a Branch of the Mercantile House in India of which I was a Partner. On applying to the Late

Arrival in
colony.

1830.
11 April

Admiral Hunter, then Governor of the Colony, I was informed by His Excellency "that he was sorry he did not feel himself authorised by the Instructions he had received from The Secretary of State for the Colonies to allow me to participate in the privileges enjoyed by those who had emigrated directly from England." In consequence of receiving this reply, I was compelled to purchase an allotment* in the Township of Sydney, comprising about four Acres of Ground, for which I paid the sum of £1,095. In the Year 1800, I began to erect buildings on this spot, and the Sum that I have since expended in improving it, I certainly cannot estimate at less than £20,000 Sterg.

Purchase of
allotment at
Sydney.

Contracts for
importation of
cattle for
government.

In the Year 1802, I entered into extensive Contracts* with the Local Government, on the part of the House of which I was a Member, for supplying the Colony with Breeding Cattle from India; these Contracts had been previously declined by other Merchants in Calcutta, because they did not consider the Terms sufficiently favorable to remunerate them for the great Expense and risk attending a speculation of such a nature. For, as the Ships, which came down from India at that early period, were unable to obtain a return Cargo, the Freight demanded was exorbitant. Strong doubts were also entertained as to whether any Number of Cattle would survive so long a Voyage, and Insurances at that time were not usually effected on Live Stock. It was provided too that the Governor of New South Wales should not be obliged to take the Cattle, until ten days after their having been landed at Port Jackson, and then only those, which two Persons, the one to be appointed by the Governor, the other by the Contractor, should pronounce to be in a fair condition. Notwithstanding these disadvantages, and the loss I sustained through the great mortality that took place on the Passage from Calcutta, I imported into the Colony upwards of 2,000 head, and fulfilled the Contracts so much to the satisfaction of Governor King that His Excellency, as a Mark of the sense he entertained of my exertions, permitted me to load one of the Ships that had been employed in bringing the Cattle hither with Colonial Produce, and granted a License to the Ship (the Lady Barlow) to proceed to England. This adventure, however, turned out a very unfortunate concern. On the arrival of the Lady Barlow, the Merchants, who were engaged in Whaling out of London, instigated the East India Company to seize the Ship together with her Cargo (which consisted chiefly of oil) for an alleged infraction of the Company's Charter in having on board, without their special permission, the produce of Countries to the Eastward of the Cape; and it being held that Governor King, in granting a license, had exceeded his authority, it was not without the exertion of great interest in my behalf that I succeeded in procuring the release of the Ship and Cargo, on Condition that the latter should only be sold for exportation to the Continent.

Loss sustained
as witness at
court-martial on
G. Johnston.

In the Year 1810, the Commanding Officer of the New South Wales Corps being brought to a Court Martial on a charge of having arrested the late Admiral Bligh, while administering the Government of the Colony, I was ordered home as a Witness on the part of the Crown; and, during my consequent detention in England, the losses, that I sustained in my Mercantile Speculations in the Colony owing to my involuntary absence, were so great, as from a state of affluence to plunge me for a Season in all but utter ruin.

* Note 109.

On finally quitting England to return to the Colony in 1814, Earl Bathurst stated to The Right Honble. Mr. Wilberforce, in reply to an application made by him in my favour, "that he" Lord B. had directed "a Letter to be written to Governor Macquarie to place me under the Governor's favourable protection." A Grant of 1,500 Acres of Land constituted the only advantage that I derived from His Lordship's recommendation. But, prior to 1810, I had not, I beg to impress on Your Excellency's mind, confined my attention solely to Mercantile pursuits, as, at the time of my embarking with Governor Bligh in that year, I possessed, besides several valuable Horses which I had imported from India for the purpose of improving the Colonial Breed, Six hundred Head of Cattle, and about 2,000 Acres of Land, the whole of which I had acquired by purchase. I may be permitted to add that I have at the present moment 7,400 sheep, and 400 Head of Cattle.

1830.
11 April.

Land grant
given by
L. Macquarie.

Grazing
interests.

From this brief Statement, Your Excellency will observe that, although I have employed in New South Wales for so long a Term of Years a Capital equal at least to that of any other Settler in it, and although the Government may be said to have been in some degree instrumental in occasioning the heavy losses that have befallen me, I have nevertheless received no more than 1,500 Acres of Land, a Grant greatly inferior to that bestowed on every respectable emigrant under the existing Regulations; while Individuals, who arrived some Years subsequently to my settling in the Colony, whose Claims would not bear a comparison with mine, and with Capitals generally inferior, brought from The Secretary of State Orders to receive and did actually receive large Grants of 6,000, 8,000, and 10,000 Acres of Land in the most eligible parts of the Country.

Comparison
with other
settlers.

Allow me to conclude by expressing my confidence that Your Excellency will see reason to acknowledge the singular hardship of my case, and make such representation thereon to The Right Honble. The Secretary of State, as will induce him to direct me to be placed in some measure on a footing with those Gentlemen to whom I have already alluded, as having claims in no respect superior to my own, either in point of personal respectability, amount of Capital invested in the Colony, or length of abode in it.

Request for
land grant.

I have, &c.,

ROBERT CAMPBELL.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 21, per ship Adrian; acknowledged by
Governor Darling, 1st October, 1830.)

Sir,

Downing Street, 12 April, 1830.

12 April.

I herewith transmit to you a copy of a letter, which has been received from the Board of Treasury, transmitting a copy of a Report from the Commissioners of Audit on the subject of the Pay and Allowances drawn by Lieutt. Colonel Morisset at New South Wales, and pointing out the objections to the issue of Military Allowances to persons filling Civil appointments.

Pay and
allowances of
J. T. Morisset.

1830.
12 April.
Improper issue
of military
allowances.

I have in consequence caused the correspondence in my office to be examined, in order to ascertain the terms upon which Colonel Morisset received his appointment. The result has been, I regret to say, the discovery that certain Military Allowances have been improperly issued to Colonel Morisset.

Earl Bathurst, in his dispatch, No. 67 of the 24 of Septr., 1826, which apprised you of the appointment of Colonel Morisset to be Civil Commandant of the Penal Settlement at Norfolk Island, acquainted you that, although Colonel Morisset had been placed in the Military command of that Island, he was not to receive any Pay or allowances on that account beyond his salary of £600 per annum as Civil Commandant. But, in your dispatch, No. 108 of the 23d of Octr., 1827, reporting his appointment to the superintendance of the Police Department at Sydney, you stated that he was to receive in that capacity the same Military allowances as he would have been entitled to, had he proceeded to Norfolk Island; and, upon that ground, no objection was made to those allowances in the answer which was returned to that dispatch. Had it been known, at the time that answer was written, that Colonel Morisset was not entitled, as Commandant of Norfolk Island, to any Military Allowances, the Secretary of State would not, under any circumstances, have authorised the issue to him of such allowances as superintendant of Police. As, however, it would be unjust to Colonel Morisset to require him now to repay the amount of those allowances, I refrain from directing you to do so.

The same objection does not exist to requiring Colonel Morisset to refund the amount of any Civil or Military allowances, which may have been issued to him in addition to his salary of £600 per annum, since he assumed the Command at Norfolk Island. I have, therefore, to desire that you will call upon him to repay into the Military Chest the amount of the allowances in question; and I enclose, for your information, a copy of the letter in which Colonel Morisset applied to be placed in the Military Command of Norfolk Island, and copies of the correspondence which, in consequence, took place between this office and that of the Commander in Chief.

I am, &c.,

G. MURRAY.

[Enclosure No. 1.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir,

Treasury Chambers, 3d April, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed Copy of a Report from the Commissioners of Audit, dated the 21st January last, on the Subject of the Pay and Allowances drawn by Lieutt. Colonel Morisset, Superintendent of Police at New South Wales;

Refund to
be made by
J. T. Morisset.

Pay and
allowances of
J. T. Morisset.

and I am to request that you will lay the same before Secretary Sir George Murray, and move him to inform my Lords whether the Salary of £600 per Annum was not intended to be the entire remuneration that Lt. Colonel Morisset was to receive for executing the *Civil Duties* of Superintendent of Police, and, if so, whether he ought not to refund the Allowances he has received. If Allowances be requisite in addition to the Salary of £600 per Annum and to the pay of 10s. per diem, which my Lords are informed Lt. Colonel Morisset receives as Commandant of Norfolk Island, My Lords, adverting to the serious objections that offer against Civil Officers receiving Military Allowance, would suggest for the consideration of Sir George Murray whether the same should not be of a distinct pecuniary nature, and not issued as Military Allowances.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

THE AUDIT COMMISSIONERS TO THE TREASURY COMMISSIONERS.

My Lords, Audit Office, Somerset Plains, 21st Jany., 1830.

The Accounts of Deputy Commissary General Laidley, the Principal Commissary at New South Wales for the first ten Months of the Year 1828, being now under examination in this Office, We beg leave to request Your Lordships' attention to the allowances in lieu of Forage and of Quarters, which have been paid to Lieut. Coll. J. T. Morisset under Warrants of the Govr. Genl. Darling.

It appears that Lieut. Coll. Morisset had been appointed Principal Superintt. of Police in New South Wales with a Salary annexed to that appointment of £600 p. ann., and that he was paid at the rate of half that Salary from the 12 May, 1827, the time of his embarkation in England to his arrival at Sydney on the 26th Sept. following. From that time, he received the full Salary of £600 per ann. together with an allowance in lieu of Quarters of £120 per ann. and forage for one Horse.

The Forage allowance was afterwards increased to 2 Horses per diem, in consequence of a letter, dated 12 June, 1828, from the Colonial Secretary Mr. McLeay to Mr. Lithgow the Colonial Auditor, stating that "Lieut. Col. Morisset would be entitled by his Military Rank to Forage for 2 Horses," and signifying the Governor's approval of the increase from his arrival in New South Wales, which allowance has been accordingly paid to him by Mr. Laidley.

It would therefore appear that Lieut. Col. Morisset received his Forage allowance in his Military capacity, he being a Lieut. Colonel unattached on half pay, on the ground (as it must be presumed) of his being non employed in the Public Service, and the Bat and Forage Regulations of 1809, allowing to a Lieut. Colonel Commanding a Regiment Forage for 2 Horses. But, as we presume that the situation of Principal Superintendent of Police is a Civil appointment, unconnected with the Ranks which the person in possession of that office may happen to hold in the Army, it appears to us that the forage allowances ought not to be claimed by Mr. Morisset under the above mentioned regulations, but, if at all, under such special directions as your Lordships may think proper to give upon the subject; and, if it shall be found upon enquiry that no such special authority has been given and no provision made respecting the same in Mr. Morisset's appointment,

1830.
12 April.

Pay and
allowances of
J. T. Morisset.

Queries by
audit
commissioners
re allowances
paid to
J. T. Morisset.

1830.
12 April.

Queries by
audit
commissioners
re allowances
paid to
J. T. Morisset.

which we have not yet seen, we take the liberty of suggesting that, if your Lordships should consider Mr. Morisset entitled to allowances of this description in addition to his Salary of £600 per ann., it may be advisable that enquiry should be made as to the number of Horses, which the duties of Mr. Morisset's situation make it necessary for him to keep; upon which subject we have no means of forming an opinion; and that he should then be allowed, in virtue of his office and under your Lordships authority, Forage for such number of Horses as may be requisite.

With respect to the allowance in lieu of Quarters received by Lt. Col. Morisset, £120 per ann., as this sum appears also to be the amount allowed to a Lieut. Coll. in Command according to the Established Scale approved by your Lordship's Minute of the 24 July, 1827, for New South Wales, we have reason to believe that the same is drawn by Mr. Morisset in his Military Capacity and is therefore liable to remarks similar to those which we have had the honor to offer as to the allowance for Forage.

Considering the distance of the Colony of New South Wales from this Country, we have thought it expedient to make this Communication to Your Lordships without waiting for the delivery of the remainder of Mr. Laidley's accounts for the year 1828, when the whole years accounts will be stated to your Lordships in order that no time may be lost in case Your Lordships should think proper to forward any order on the subject to New South Wales; and we have only to request that we may be made acquainted for our guidance in the examination and making up these accounts with any directions, which your Lordships may now give upon these points or which may have been previously given, and not yet communicated to this Board.

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

[Enclosure No. 2.]

MAJOR MORISSET TO UNDER SECRETARY HAY.

4 Upper Bedford Place, Russell Sqre.,

Sir,

5th September, 1826.

Conditions of
J. T. Morisset's
appointment as
commandant at
Norfolk island.

Lord Bathurst having been pleased to direct my being appointed Civil Commandant of Norfolk Island, New South Wales, I beg leave to state I do not think the duties of that situation can be fulfilled with credit to myself or justice done to the intentions of Government, without I am invested with military authority to command the detachment stationed at Norfolk Island; as, in the event of my accepting the situation, I must necessarily retire on half pay, which deprives me of military command, without being appointed to the Staff or command by His Royal Highness the Commander in Chief, which I believe is not in the power of the Commander of the Forces in New South Wales to do. If I go out, having the Civil appointment only, I foresee innumerable difficulties, which I must encounter, and may perhaps be thwarted and opposed in my most material measures by the Military from misapprehension or other causes. I feel this more certainly from its having come under my own observation at Wellington Valley, N.S.W., where the Commandant was on half pay and without Military Command, between whom and the detachment stationed

there frequent and serious contentions took place. The inconvenience was felt by the former Lt. Governor of Van Diemen's Land, who had not military command. Something unpleasant took place at Honduras.* I therefore hope his Lordship will have the goodness to recommend to His Royal Highness the Commander in Chief to place me on the Staff, or to be Military Commandant at Norfolk Island, without Staff pay or any emolument being attached to the Situation (except my Salary of £600 per annum as Civil Commandant), nor the command to extend beyond the detachment doing duty at Norfolk Island. This could not interfere in any manner whatever with any appointment or arrangement of the Commander of the Forces in N.S.W., as I should in every respect, both in my Civil and Military capacities, be under his immediate orders and commands; but it would insure to me the certainty of being able to perform the different duties of my situation without difficulty or opposition.

I have, &c.,

J. T. MORISSET.

Major 48th Regt.

[Enclosure No. 3.]

UNDER SECRETARY HAY TO SIR HERBERT TAYLOR.

Sir, Downing Street, 15 Sept., 1826.

Major Morisset of the 48th Regt., who has been appointed Civil Commandant at Norfolk Island, having addressed the enclosed application to Earl Bathurst on the subject of his Military Rank, I am to request that you will submit the same to H.R.H. the Commander in Chief with Lord Bathurst's recommendation that, provided H.R.H. sees no objection to the arrangement, he should be invested with the authority for which he has applied. H.R.H. will perceive that Major *Morisset does not expect, nor should he be permitted to receive, any pay or allowance beyond that which has been assigned to him in his Civil capacity*; and Lord Bathurst directs me further to state that Major Morisset's appointment to the Staff should take place with the clear understanding that his Military authority is to be limited to Norfolk Island, and to the command of the detachment of Troops which may be employed there.

I am, &c.,

R. W. HAY.

[Enclosure No. 4.]

SIR HERBERT TAYLOR TO UNDER SECRETARY HAY.

Sir, Horse Guards, 19th September, 1826.

I have submitted to the Commander in Chief your letter, and its enclosure, of the 15th Instant, and am directed to acquaint you that there can be no objection to Lieut. Colonel Morisset being appointed Commandant in Norfolk Island, and His Royal Highness will submit His name to the King for such appointment. This will, under the recent Regulations, give Him all the Military Authority He can possibly require in that Colony; and Lt. General Darling may be instructed to avoid detaching to it any Officer of higher Rank in the Army than Lieut. Colonel Morisset; but it appears to His Royal Highness unnecessary to place Him on the Staff, nor has it been usual to place a Lt. Colonel so circumstanced on the Staff.

I have, &c.,

H. TAYLOR.

1830.
12 April.

Request for
military status
at Norfolk
island.

Military rank
proposed for
J. T. Morisset.

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

1830.
12 April.

Governor Darling to Sir George Murray.
(Despatch No. 20, per ship Asia.)

Sir,

Government House, 12th April, 1830.

Withdrawal
of assigned
servants from
E. S. Hall and
A. E. Hayes.

I have the honor to acquaint you that, on the Act of the 9th Geo. 4th, chap. 83rd, coming into operation and previous to the correspondence with the Judges, transmitted with my Despatch of the 20th of May last, No. 61, directions were given to the Principal Superintendent of Convicts, in virtue of the power supposed to be vested in the Governor by the 9th Section of the above Act, to withdraw three Men, who had been assigned to the Editors of the "Australian" and "Monitor" News Papers.

Opposition of
E. S. Hall to
withdrawal.

Hall, the Editor of the Monitor, resisted* the order, and he was cited to appear before the Bench of Magistrates for Harboursing a Prisoner of the Crown illegally at large, and was sentenced in consequence to pay a Fine.

Prosecution of
magistrates by
E. S. Hall;

Hall then availing himself of the opinion,† which had fallen from the Judges, instituted a prosecution in the Supreme Court against the Magistrates, and they were cast paying Costs.

and of
superintendent
of convicts by
E. S. Hall and
A. E. Hayes.

An Action was also brought against the Principal Superintendent of Convicts, by the Editors of the two Papers, for having deprived them for a time of the use of their Servants, and he was cast in like manner.

Expenses of
defending
actions.

The Expences, incurred in defending the Magistrates and the Superintendent of Convicts, are as follows, "Vizt."—

For defending the Magistrates.

	£	s.	d.	£	s.	d.
Fee to Counsel	31	10	0			
Damages and Costs	165	14	10			
	<hr/>			197	4	10

For defending the Principal Supt. of Convicts.

	£	s.	d.	£	s.	d.
Fee to Counsel	94	10	0			
Damages and Costs	294	9	5			
	<hr/>			388	19	5

Total £586 4 3

The Expences are considerable; but the question, being one of great importance to the Government, it became necessary to procure the best assistance, and the fees to the Counsel employed have in consequence swelled the amount.

Should you wish to be more particularly informed of the merits of the respective cases, I would beg leave to refer you to the

* Note 111.

† Note 112.

Sydney Gazette* of the 18th March, 1830, in which the Trial of the Magistrates is, I understand, correctly reported, as also the Gazette* of the 20th of that Month, in which the Proceedings against the Superintendent of Convicts are in like manner fully detailed.

I have, &c.,

RA. DARLING.

1830.
12 April.

Reports on
proceedings.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 22, per ship Adrian.)

Sir, Downing Street, 13 April, 1830.

13 April.

I have to acknowledge the receipt of your despatch No. 101 of the 26th of August, in which you transmit a petition addressed to me by Mrs. Panton, widow of the late Post Master in New South Wales, praying that, in consideration of her husband's services, an annuity may be allowed to her from the Colonial Fund, to assist in the maintenance and education of her large family.

Despatch
acknowledged.

I regret to observe in reply that the necessity for economy, which at present exists in every Department of the Public service, compels me to refuse all applications for pensions that may be addressed to me, either from the families of the deceased Servants of Government, or from those who may wish to retire from their duties; and I can, therefore, only regret my inability, consistently with the rule I have thus established, to hold out to Mrs. Panton the prospect of receiving any pecuniary assistance from the Colonial Funds.

Refusal of
pension for
M. Panton.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 21, per ship Asia; acknowledged by Sir George Murray, 28th September, 1830.)

Sir, Government House, 13th April, 1830.

I have the honor to transmit herewith, in addition to the communication made to you in my Despatch, dated the 15th of December last No. 123, the accompanying Copy of a Letter, which I have received from the Chief Justice on the Subject of your circular Letter, No. 6 of the 12th of April, 1829, and I beg to suggest that the Registrar of the Supreme Court may be required to find security, in order to protect the public and Individuals from the loss, which might otherwise be experienced from any accidental or unforeseen occurrence.

Security to
be given by
registrar of
supreme court.

1830.
13 April.

Proposed
temporary
security.

It is my intention to communicate with the Chief Justice with a view to the Registrar being required to enter into security here, until you shall be pleased to signify your Commands on the Subject.

I have, &c.,

RA. DARLING.

[Enclosure.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Sydney, 26th February, 1830.

I have the honor to acknowledge Your Excellency's Letter dated the 13th inst., apprising me of the Secretary of State's having called for a Statement, shewing the extent to which Officers, who, in virtue of their Public Situations are entrusted with the Collection and appropriation of Monies, give Security for its safe Custody and due appropriation; and further requiring Your Excellency to point out in what instances this precaution has been omitted. In reply, I beg leave to inform Your Excellency that the only Officer of the Supreme Court, who is entrusted with the Collection and Appropriation of Public Monies, is the Sheriff; and that that Officer enters into a Recognizance for the due performance of his Office in like manner as the Sheriffs in England. The Amount of his recognizance is One Thousand Pounds.

Recognizance
given by sheriff.

The Court is empowered, by the 9th Geo. 4, c. 83, Sect. 12, to authorise the Registrar, or some other Ministerial Officer of the Court, to collect the effects of Persons dying Intestate, and to hold or deposit the same upon security, subject to the Orders of the Court; and, in Virtue of the power so given to the Court, the Registrar has been authorised to dispose of Estates, and to collect the Monies arising therefrom, subject to the Orders of the Court. In cases of magnitude, or where the Amount of Property exceeds two hundred Pounds, it is the usual practice of the Court to order the monies to be invested in approved Security; and, whenever the Monies in the hands of the Registrar at any one time exceed the Amount of Five hundred Pounds, by an Order of the Court, the same must be deposited in the Bank, The Court considering the personal sufficiency of the Registrar as a Security for such an Amount. The Registrar is appointed by The King, and does not enter into Security to the Court.

Moneys received
by registrar
from intestate
estates.

By an Arrangement, the Clerks of the Court receive Salaries in lieu of Fees, and account for all the Fees received by them with Government. In practice, the Fees are paid to the Chief Clerk, and by him paid over to the Collector, and accounted for once in every Month to the Auditor of Colonial Accounts.

No security
given by
registrar.

Fees collected
by chief clerk.

It is also adopted as a practice of Convenience to deposit certain Sums of Money in the hands of the Registrar, to pay over to Witnesses subpoenaed by the Crown; but this is perhaps a mere arrangement, and may not fall within the objects of Your Excellency's enquiries.

Practice re
fees for
witnesses.

It is also the practice of the Supreme Court to require Monies to be paid into Court in matters at issue between private Suitors; and the Clerk of the Court, into whose hands it is paid, is not required to give Security, as the Money so paid is commonly taken out immediately.

Moneys paid
into court to
clerk.

I have, &c.,

FRANCIS FORBES,

Chief Justice.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 22, per ship Asia.)

1830.
14 April.

Sir,

Government House, 14th April, 1830.

I do myself the honor to transmit herewith, conformably to the Instructions conveyed to me in your Despatch of the 21st of June last No. 121, Manuscript Copies of the Undermentioned Laws or ordinances, which have been passed by the Legislative Council of this Colony, "Vizt.":—

"An Act to provide for the holding of General or Quarter Sessions, and for continuing the Summary jurisdiction of the Justices of the Peace, in and for the Territory of New South Wales, and the Dependencies thereof, until further provision shall be made for the same."

"An Act to provide for the holding of Courts of Requests in New South Wales, until further provision shall be made for such purposes."

"An Act for instituting Courts of Civil Jurisdiction, to be called 'Courts of Requests,' in different parts of New South Wales."

"An Act to enable the Members of a certain Society, denominated the Sydney Female School of Industry, to sue and be sued in the name of the Secretary for the time being thereof, and also to enable the said Society to receive apprentices."

"An Act to compel married men to withdraw their Wives from the Female Factory at Parramatta, or to maintain them after the expiration of their Sentence."

"An Act for the more effectual resumption of Lands permitted to be occupied under the Crown, as well as under the Corporation for Church and School Lands."

"An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales."

"An Act for regulating the constitution of Juries for the Trial of Civil Issues in the Supreme Court of New South Wales."

"An Act declaring that a certain Act of Parliament, passed in the 10th year of the Reign of His Majesty, King George the Fourth, intituled An Act for the relief of His Majesty's Roman Catholic subjects, extends to and is in force in the Colony of New South Wales."

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 23, per ship Asia: acknowledged by
Sir George Murray, 14th October, 1830.)

15 April.

Sir,

Government House, 15th April, 1830.

I have the honor to forward, at the desire of the Trustees of the Scotch Church, the accompanying Memorial, praying for a Loan of £1,200 on the grounds therein stated.

Without intending to prejudice their application, it is my duty to state that Government has already advanced £520 on account of that Establishment, which sum the Trustees were informed by Earl Bathurst's order,* at the time His Lordship was pleased to grant the Reverend Dr. Lang a Salary of £300 per Annum, they would be required to repay.

I beg further to observe, with respect to the sale of a portion of the ground on which the Church stands having been prevented by the local Government as stated in the Memorial, that it was not considered reasonable that Ground, which had been granted as necessary to the establishment of the Church, should be disposed

* Note 114.

1830.
15 April.

of, when Dr. Lang was at the same moment applying for another valuable Allotment for the purpose of erecting Schools on an extensive Scale.

I have, &c.,

RA. DARLING.

[Enclosure.]

Memorial from
trustees of
Scots church
soliciting loan.

THE Memorial of the Undersigned Trustees of the Scots Church,*
Sydney.

To The Right Honble. Sir George Murray, His Majesty's
Principal Secretary of State for the Colonies.

SHEWETH,

That, in consequence of various unforseen circumstances, a Debt of £1,500, of which the unfavorable issue of the Harvests in this Colony for the last three years has precluded the Liquidation, was incurred in the Year 1826 for the Completion of the Scot's Church, the erection of which cost upwards of £3,000.

That the one half of that Amount, Vizt. £750, having been advanced by the Reverend Samuel Marsden at eight per cent. interest on Condition of its being repaid on the 1st of January, 1830, the Undersigned were advised, in order to meet that obligation, and to relieve the Scots Church of part of the Debt aforesaid, to sell the unoccupied part of the Allotment of the Scot's Church, and accordingly advertised a Sale thereof on the 30th of December last.

That, in consequence of an intimation from the Colonial Government to the following effect. Vizt. that "Government could not sanction such a Sale on any Account whatever," it did not take place, and the Trustees were consequently left with a Load of Debt, which they had no other means of Liquidating.

That the Undersigned have lately been apprised by Persons of experience in the Colony that the erection of Buildings on the said unoccupied part of their Allotment, at an immediate outlay of Twelve hundred Pounds, would not only afford them the means requisite for the gradual Liquidation of the Debt aforesaid, but would also prove advantageous to the Scot's Church in other respects.

The Undersigned therefore most respectfully request that His Majesty's Principal Secretary of State for the Colonies would, in Consideration of the public object which they have in view, and the impossibility of obtaining a Loan from Private Individuals on moderate terms, in consequence of the hold which Government has on the Allotment of the Scot's Church, and the Consequent insufficiency of the Security to any Private party, be graciously pleased to grant them for the period of five Years, and on the Security of the Premises, a Loan of Twelve Hundred Pounds from the Colonial Fund at a moderate rate of interest.

Pledging themselves for the due appropriation of the Sum specified for the erection of Buildings on the Allotment of the Scot's Church, for the gradual liquidation of the Debt abovementioned, in the event of this their humble request being complied with, The Undersigned, as in duty bound will ever pray, etc.

JOHN DUNMORE LANG, D.D., Minr.

THOS. MCVITIE, J.P.

DAVID RAMSAY.

Sydney, N.S. Wales, 4th February, 1830.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 24, per ship Asia; acknowledged by
Sir George Murray, 30th September, 1830.)

1830.
16 April.

Sir, Government House, 16th April, 1830.

I have to request your Authority that the sum of £69 0s. 8d. be charged in the Public Accounts, being the Amount of the Costs and Damages lately awarded against Mr. Joshua Thorp, who is in the employment of Government, for a Trespass in endeavouring to establish a right of Road through the Petersham Estate.

Legal expenses
incurred by
J. Thorp.

The case has been twice brought under the consideration of the Executive Council; on the first occasion, it did not appear to the satisfaction of the Council that Mr. Thorp had acted under the direction of the Attorney General, and the Council in consequence did not consider that he had a claim to be indemnified for the Expences incurred in defending the Action.

Claim for
indemnification
by government.

I have now the honor to enclose the accompanying Extract from the Minute of Proceedings of the Executive Council at its second Meeting, when it clearly appeared that Mr. Thorp had acted under the direction or advice of the Attorney General, and could not fairly be subjected to the Expences of the Action.

As the particulars of the case are stated as briefly as possible in the enclosed Minute, I have not thought it necessary to go further into the matter in this place.

I have, &c.,

RA. DARLING.

[Enclosure.]

EXTRACT from the Proceedings of the Executive Council on the 16th February, 1830, Minute No. 9.

Consideration
of claim by
executive
council.

PRESENT:—His Excellency the Governor; The Venerable the Arch-deacon; The Honble. the Colonial Secretary; The Honble. Colonel Lindsay.

In reference to the proceedings of Council on the 5th September last, relative to the application, which was then submitted, from Mr. Joshua Thorp to be allowed the damages and costs, amounting to Sixty Nine Pounds and eight pence, awarded against him in an action brought by Dr. Wardell, respecting the right of Road through the Petersham Estate, His Excellency the Governor now laid before the Council a further correspondence upon the subject which had taken place with the Attorney General, which so materially changed the complexion of the case that His Excellency was again induced to submit it for the consideration of the Council.

It clearly appeared from these documents, as well as from others which were now laid before the Council, that the Attorney and Solicitor General, having been called upon, in consequence of a Memorial from certain persons holding Land in the neighbourhood of Cook's River, expressed their opinion, founded upon a Map and Documents furnished from the Surveyor General's Office, that a right of road existed through the Petersham Estate; and, in consequence of that opinion, they were instructed to take the necessary

1830.
16 April.
—
Consideration
of claim by
executive
council.

legal proceedings for securing to the Proprietors of Land in the neighbourhood in question the use of the Road to which they seemed entitled.

It further appeared that Mr. Thorp, having been informed, as one of the parties to the abovementioned Memorial, of the intention of Government to defend the right of Road in question, called upon the Attorney General, who told him "to proceed on the road; breaking down any fences that might intervene." That accordingly he did so, and an Action was in consequence brought against him for the trespass, which was defended by the Solicitor General, in the absence of the Attorney General in the Criminal side of the Supreme Court, and a Verdict was given in favor of the Plaintiff, with damages and Costs, amounting to £69 0s. 6d.

The Council, after a mature and deliberate consideration of all the altered circumstances of the case, were induced to rescind their former decision, and to recommend that, as it now appeared that Mr. Thorpe had merely acted in the matter as nominal defendant, in order that it be brought to issue, as is now acknowledged by the Attorney General in his Letter of the 18th Ultimo, he was entitled to be reimbursed for the Charges which he had in consequence incurred.

But it appearing that the proceeding of the Attorney and Solicitor General, in defending the action, was grounded on the assumed accuracy of the documents furnished from the Surveyor General's Office, and as their failure to obtain a Verdict arose from the production before the Court of a Map from the same Office, allowed to be of a superior Authenticity, the Council advised that a communication should be made to the Surveyor General of the circumstance, in order that he may see the necessity of every document, which may be required for Official or other purposes, being carefully examined previous to being sent from his office.

A true Extract; E. DEAS THOMSON, Clk. Col.

[Enclosure D to the Proceedings of the Executive Council,
Minute No. 9 of 1830.]

ATTORNEY-GENERAL BAXTER TO COLONIAL SECRETARY MACLEAY.

Sir, Castlereagh Street, 3rd December, 1829.

Report by
A. M. Baxter
on case Wardell
v. Thorp.

In an Action "Wardell against Thorp" relative to a right of Road through the Petersham Estate (which was claimed by a Number of Memorialists, who petitioned the Government to support them) and which received the sanction of His Excellency the Governor, I have the honor to state, for His Excellency's information, that the case was tried some time ago (while I was in the Criminal Court), my late coadjutor, Mr. Sampson, being Counsel for the Crown, when a Verdict was given for the Plaintiff.

From the information I have been able to collect on the subject, it appears that, in the defence of this Action, Mr. Sampson was authorised by the Governor to support Mr. Thorp, and that the failure was mainly attributable to a Chart of the Country, through which the right of Road was disputed, having been erroneously furnished by the Surveyor General's Department, so as to mislead the Evidence, and to allow Dr. Wardell to take advantage of the Old Map which designated the boundaries and Roads both through and adjoining his Estate at Petersham.

I have, &c.

A. M. BAXTER, Atty. Genl.

[Appendix D.]

1830.
16 April.

ATTORNEY-GENERAL BAXTER TO COLONIAL SECRETARY MACLEAY.

Sir. 73 Castlereagh Street, 18th January, 1830.

In an Action "*Wardell v. Thorpe*" for a right of Road through the Petersham Estate, I have been applied to by the Defendant in this Case, on the subject of the Communication by me to him on the part of Government as to said right of Road being tried, *not* on his (Mr. Thorp's) part alone, but, as a question involving a right claimed by Government, in which he (Mr. Thorpe) was nominal Defendant, not the party on whom the Expenses of the Action brought by Dr. Wardell were to devolve, but that they were to be defrayed by the Government.

Report on
case *Wardell*
v. Thorpe.

The trial was entirely conducted by the late Solicitor General, as both the Criminal and Civil Courts were sitting at the same time, and I was engaged in a very important case on the day in question in the former Court, which prevented me from joining Mr. Sampson in defending the Action in question.

Action defended
by J. Sampson.

There was a Verdict for the Plaintiff, damages forty Shillings, with costs amounting to Sixty Nine Pounds, which Costs were taxed by the Master in the absence of the Solicitor General, who, had he been present, would no doubt have opposed the excessive charge of the Plaintiff, which now however is confirmed, and Mr. Thorpe obliged to liquidate it under an execution.

Damages and
costs.

It appears that the Government have written to Mr. Thorpe to inform him that, on the opinion given by the Attorney and Solicitor General, they must refuse to allow the payment of the expences of this Action.

Refusal to pay
expenses by
government.

What the letter referred to really was I have no recollection. It was written no doubt by Mr. Sampson, and probably signed by me in the hurry of the moment, when the impracticable system of requiring joint Letters from both of us on all Subjects was ordered by the Government, and to which the variety and multiplicity of business occupations prevented either of us from giving that minute attention, which their importance and difficulty required.

On a full recollection of the subject, recalled to my mind by Mr. Thorpe, I am now of opinion that there was a perfect understanding in my mind derived from direction from the Authorities, that he was the Nominal defendant in the Action; my Services I know were entirely gratuitous, which imply that my orders were to act on behalf of the Government; the Charts sent from the Surveyor General's Office, to which the failure of the Action was mainly attributable, were sent by the direction of the Government; and I should say that the grounds, on which I advised the Defendant to continue in the trespass, were derived from those Charts, which at the Trial were proved to be erroneous.

Status of
J. Thorp
as nominal
defendant.

I should, therefore, respectfully suggest that, under what I conceive an implied promise on the part of the Government, and on what may have been by Mr. Thorpe deemed an express one by me, that the expences in the action already described should be allowed to Mr. Thorpe.

Proposal for
payment of
costs.

I have, &c.

ALEXR. M. BAXTER,
Attorney Genl.

A true Copy. E. DEAS THOMSON, Clk. Col.

1830.
17 April.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 25, per ship Asia; acknowledged by
Sir George Murray, 10th October, 1830.)

Sir, Government House, 17th April, 1830.

Second
assistant
surgeon
appointed at
Moreton bay.

I have the honor to acquaint you that I have found it necessary to employ another assistant Surgeon at the Penal Settlement of Moreton Bay. There are now about 1,000 Prisoners at that place, a Detachment of His Majesty's Troops consisting of one hundred men, and other Individuals.

What I have stated would perhaps be sufficient to shew the necessity of this appointment, though I might add that the assistant Surgeon, hitherto employed there, has necessarily been frequently brought to Sydney for the purpose of giving Evidence in the Cases of Murder which have been committed.

I have appointed a Dr. Murray temporarily to Moreton Bay; but, as the situation must be permanent, I beg to report the vacancy that an assistant Surgeon may be sent out on the Establishment.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 26, per ship Asia; acknowledged by
Sir George Murray, 1st October, 1830.)

Sir, Government House, 19th April, 1830.

19 April.
Transmission
of letter.

I have the honor to forward the enclosed application of Brevet Lieut. Colonel Dumaresq of the New South Wales Veteran Companies for one of the Allotments of Ground in the neighbourhood of Sydney, set apart for the purpose of erecting Houses of Residence.

I have, &c.,

RA. DARLING.

[Enclosure.]

LIEUT.-COLONEL DUMARESQ TO GOVERNOR DARLING.

Sir, Sydney, 15th March, 1830.

Application by
H. Dumaresq
for building
allotment.

I have the honor to request that Your Excellency will be pleased to submit to the Secretary of State my respectful Application for an Allotment of Land in the neighbourhood of Sydney, for the purpose of Building on.

The nature of my Military Appointment here, as Captain of the Veteran Companies, will perhaps be thought to place me in a different situation to other Officers in this Command; and, as it is my intention to remain in the Colony, should my Company be disbanded, I trust this application may be favourably considered.

I have, &c.,

HENRY DUMARESQ,

Bt. Lieut. Col., Captain Veteran Companies.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Asia.)

1830.
19 April.

Sir, Government House, 19th April, 1830.

Having communicated the subject of your Letter of the 26th of September, 1829, to the Revd. Dr. Lang, I do myself the honor to transmit, for the information of the Right Honble. the Secretary of State for the Colonies, Copy of a Letter which that Gentleman has addressed to the Colonial Secretary in reply.

Transmission
of letter.

I have, &c.,

RA. DARLING.

[Enclosure.]

REVEREND J. D. LANG TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 17th April, 1830.

I have hitherto been unavoidably prevented from acknowledging the receipt of your Letter of the 6th current, in which you have done me the honor to acquaint me that a Copy of my Pamphlet, relative to the Scot's Church, had been forwarded to The Right Honble. The Secretary of State by Mr. Deputy Commissary General Wemyss, and that His Excellency The Governor had been instructed to convey to me Sir George Murray's regret that a Clergyman should have allowed himself to engage in a controversy of a personal and hostile kind, and further to express his hope that in future I would confine myself to my proper Functions of furthering the principles and practice of that peaceful Religion, of which I have been chosen a Minister.

Reply by Revd.
J. D. Lang to
censure passed
for publication
of pamphlet.

I am naturally led to infer from this communication that Mr. Wemyss had preferred a formal charge or accusation against myself, on the subject of my Pamphlet, to the Right Honble. the Secretary of State; in regard to such procedure on the part of that Gentleman, I beg leave to observe that it is consistent with the principles of Roman Law and of English Justice, that an Individual accused should in every case be apprised of the fact, if not furnished with a Copy of his accusation. If Mr. Wemyss however has acted in direct repugnance to these principles in clandestinely forwarding a Charge against myself to The Right Honble. Secretary, a charge of which I was left in ignorance, and the allegations of which it was therefore impossible for me to repel, I cannot help expressing my regret that the previous procedure of that Gentleman towards myself and the Scot's Church should have been so uniformly marked with a similar species of injustice, as to render the publication of my Pamphlet absolutely necessary, not only for the vindication of my own Character as a Minister of the Gospel of Peace, but also for the welfare and prosperity of the Church of which I have the honor to be the Pastor. What particular species of injury Mr. Wemyss was desirous of having inflicted upon me for the publication referred to, I can easily conjecture; but I have reason to be thankful to that Providence, which often beneficially shields an honest Man from the machinations of unworthy professors of Religion that his ability has, in this instance, as in various others, fallen short of his inclination to do me wrong.

I am also led to infer from your Letter that the censure, which The Right Honble. Secretary has been pleased to pass upon my

1830.
19 April.

Reply by Revd.
J. D. Lang to
censure passed
for publication
of pamphlet.

Conduct, has been founded wholly and solely on the Charge preferred against me by Mr. Wemyss; for, while I cannot suppose that Sir George Murray could afford time to peruse my Pamphlet, much less to investigate the truth or falsehood of its Statements, the censure virtually passed upon me by The Right Honble. Secretary *for engaging in a controversy of a personal and hostile kind* is of too indefinite a nature to admit of any other interpretation. It charges me with no specific Offence but that of publishing; the necessity of which in the particular circumstances of the case is left altogether out of the question; and it therefore puts it absolutely out of my power to meet it with a specific reply. My Pamphlet contained a plain Statement of alleged facts relative to the Settlement of the Scots Church, a matter of very considerable interest to the future Presbyterians of the Colony. If these facts were of real occurrence, it was incumbent on Mr. Wemyss to have explained them, in so far as they affected himself or called for explanation. But, instead of such fair, open, manly procedure, Mr. Wemyss adopted the safer but the less honorable and the very suspicious course of endeavouring to prejudice the Right Honble. Secretary against myself, and through the medium of a Clandestine accusation. As I am altogether unconscious however of having done anything, in regard to the publication of my Pamphlet, to require the interference or to merit the censure of the Right Honorable Secretary, I cannot esteem that censure, obtained as it has been in so irregular a manner, any reproach. For though I have uniformly entertained, and shall still entertain feelings of the highest deference and respect towards His Majesty's Ministers and in particular towards The Right Honble. The Secretary of State for the Colonies, I cannot help reminding His Excellency The Governor that The Right Honble. Earl Bathurst, acting on insufficient and erroneous and exparte information, passed an unmerited censure on the Revd. Mr. Marsden* for his conduct in the case of Dr. Douglass, and I cannot help stating it as my belief and conviction that I have been indebted to similar misrepresentation for a similar misfortune.

If I were not conscious that my conduct, relative to the Scots Church in this Colony, has been deserving of something very different from censure, and, if I were not equally conscious that censure is, in this world, the uniform and divinely appointed Lot of those who least deserve it, I should have ceased to eat The King's Bread or to occupy my present station in this part of his Dominions long ago. For the Character of a Minister of Religion, who exists merely by sufferance, whose conduct cannot stand the test of unprejudiced enquiry, or who receives his allowance from the pity or the score of his Superiors, is a Character which I thoroughly detest and which, I trust, I shall never bear.

I have, &c.,

JOHN DUNMORE LANG.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 27, per ship Asia.)

20 April.

Sir,

Government House, 20th April, 1830.

I have the honor to acquaint you in reference to the Despatch, which I had the honor to receive from you dated the 27th

of August last, No. 136, that Mr. Howe the subject of that Communication was drowned* some time since, and that the title of "His Majesty's Printer" had not been conferred on him.

I have, &c.,

RA. DARLING.

1830.
20 April.

Death of
R. Howe by
drowning.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 23. per ship Lord Melville.)

Sir,

Downing Street, 21st April, 1830.

21 April.

I have the honor to acknowledge the receipt of your Despatch No. 143 of the 28th of December, 1828, relating to the Australian Company's Grant, and referring more particularly to your public letter of the 30th of August, 1828, to my Under Secretary of State, reporting that Mr. McArthur had declined, on the part of the managing Committee of the Company, to receive Land which had been marked out by their former Agent at Port Stephens as their Grant, consisting of 1,048,960 Acres, and of which you were desirous that they should take formal possession; I did not fail to make an early communication on the subject to the Court of the Directors of the Company.

Despatch
acknowledged
re land for
A.A. company.

In answer, they state that, since the suspension of Mr. Dawson, it has "been ascertained that extensive districts, lying chiefly about the centre of the proposed Grant, are mountainous and sterile; that other large Tracts near the sea coast are swampy, and, although fitted for the grazing of cattle, wholly unsuited for the raising and pasturage of Merino Sheep, the principal and most important object of the Company; and that in fact but a small portion of the lands is well adapted for that purpose"; and they apply for "a Grant of from 4 to 600,000 Acres of land, to be selected in one or more locations in the Interior of New South Wales to be taken in lieu of a corresponding quantity of the land" already in the possession of the Company at Port Stephens.

Objections to
land selected
by R. Dawson.

Proposed
detached grant.

Although, on general principles, I would rather have avoided any alteration in the boundaries of the Company's Grant, as set out by their Agent and by the Surveyor General at Port Stephens, yet, being convinced that the Company's just interests require some relaxation of the first arrangement, I have consented to allow them, on the Conditions hereinafter expressed, to take other land to the extent of from 4 to 600,000 Acres, in substitution for an equal quantity of the land objected to by the Committee of Management in the Colony.

Conditional
approval of
change of
location.

It has accordingly been decided, either that the land now applied for be taken in a place immediately adjoining the land

* Note 117.

1830.
21 April.
Conditions
for change
of location.

intended to be retained, so that the whole may continue, as it now is, one individual location, or that the land now applied for be taken in one or in two other distinct locations, as hereinafter specified, exclusive of that which the Company may retain at Port Stephens, but not in more than three locations in all, including that portion of land of which they may keep possession at Port Stephens.

The conditions, on which this exchange will be allowed, are as follows:—

First, That the second and third locations be chosen upon the principle on which the original Grant was selected, and be made in such situations as not to interfere with the reasonable claims of private Settlers, or with the public objects which the Government may have in view.

Secondly, That a portion of each of the Tracts, amounting at least to one fourth of such respective Tract, be brought into cultivation, or be occupied by the Company's Flocks of Sheep, herds of Cattle, or other stock, within three years from the allotment of such Tract, and the remainder within seven years more.

Thirdly, that the Company provide, on account and for the benefit of their original location, a fund of £300 per annum, to be immediately applied, at the discretion of His Majesty's Government, either to the support of a Clergyman to be appointed by the Crown, or to such other purposes of Religion and education as the Government shall think proper.

Fourthly, should the Company be placed in possession of any second location, that a similar provision of Funds, viz., £300 per annum, be made at the expiration of two years from the possession of such second location, and that another similar provision be made at the expiration of three years after the Company shall have been placed in possession of any third location.

In order to enable the Company the better to make all or any of the before mentioned provisions, I have agreed to allow that the Company shall take the Reserve already allotted for Ecclesiastical purposes at Port Stephens, or such a part of it as shall be proportioned to the quantity of their old allotments which they may retain, and a proportionate quantity of land, adjoining the second and third locations for the same purpose, in all not exceeding the present Reserve, on a lease for 99 years, determinable at the option of His Majesty's Government at the end of any 21 years of that period, upon giving two years' notice to the Secretary of the Company in London. This Lease is to be executed in behalf of the Company by their Corporate Seal; it being understood that the Security so given by them is to extend,

in case of default on their part, over the stock and other personalty of the Company, whether on the Clergy Reserve Lands to be leased to them, or on the Estates belonging to the Company not included in such lease.

1830.
21 April.

Having thus explained to you the terms upon which I have consented to allow to the Australian Company the privilege of exchanging a portion of the lands, which have been allotted to them at Port Stephens, for one or more locations in the Interior of the Colony (not exceeding, with the portion which they may retain at Port Stephen, three locations in all), it only remains for me to authorise you to put Sir William Edward Parry in possession of the Lands which may be selected by him in behalf of the Company, when approved by yourself and by the Executive Council, without waiting for further Instructions from Home, it being of course understood that the Selection, when so approved, will be binding, as well on the part of the Company as on that of His Majesty's Government.

Instructions
to grant
immediate
possession of
new locations.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 24, per ship Lord Melville; acknowledged by Governor Darling, 21st January, 1831.)

Sir,

Downing Street, 21 April, 1830.

I have to acknowledge the receipt of your dispatch No. 98 of the 20th August, 1829, reporting that you had been under the necessity of appointing an Assistant Surveyor to the charge of the Roads leading to the Southern parts of the Colony, and I beg to inform you that a person will in consequence be sent out to the Colony to be employed in that capacity.

Appointment
of assistant
surveyor of
roads.

With reference to that part of your dispatch in which you observe that, "if the Road Department is to be superintended by the Surveyor Generals," as proposed in my dispatch of the 26th of May, 1829, "that Department must be augmented in proportion, as it is quite impossible that any *one* Individual could effectually attend to the duties of both," I beg to remind you that, in adopting this arrangement, *two* Surveyors, in addition to the increase made to the Surveyor General's Department on other grounds, were sent out to the Colony expressly to perform that duty; and, as with the appointment now about to be made, there will be three Surveyors employed in the superintendence of the Roads, I trust you will not find it necessary to recommend any increase to that number.

Increase in
establishment
of surveyor-
general.

I am, &c.,

G. MURRAY.

1830.
21 April.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 25, per ship Lord Melville.)

Sir, Downing Street, 21 April, 1830.

Building
allotment for
S. A. Perry.

I have the honor to acknowledge the receipt of your dispatch No. 104, of the 25th of Septr. last, forwarding an application from the Deputy Surveyor General for an allotment of Ground in the neighbourhood of Sydney, on which to erect a House for the residence of his Family. I presume there will be no objection to a compliance with this Officer's request, or you would have mentioned it in your dispatch; you will therefore have the goodness to authorize the occupation by Mr. Perry of an allotment of ground for the purpose in question under the conditions usually attached to such Grants.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 26, per ship Lord Melville; acknowledged by
Governor Darling, 5th January, 1831.)

Sir, Downing Street, 21 April, 1830.

Management
of government
cattle.

I have received your dispatch, No. 106 of the 1st October last, reporting the appointment of an Assistant to the Superintendent of Government Stock at Wellington Valley, by which an increase of expence, at the rate of 4s. per diem, has been occasioned to the Public.

It is stated in your dispatch "that the principal part of the Cattle has been kept at Wellington Valley under the charge of Mr. Maxwell, the Superintendent of that Establishment, but that, the situation being very remote (nearly 300 Miles from Sydney), you have brought Mr. Maxwell to Emu Plains, and sent Mr. Kinghorne from thence to Wellington Valley, so that the former may be enabled to have a proportion of the spare oxen at hand, trained and available whenever required to be embarked for the distant Settlements or to relieve others attached to the Government Establishments as they require rest."

If, from the superior qualifications of Mr. Maxwell in training the oxen required for Government purposes, it is desirable that he should be removed nearer to Sydney and have the charge of the Agricultural Establishment at Emu Plains, I can have no objection to the arrangement, so far as the exchange between him and Mr. Kinghorne is concerned; but I confess that I am at a loss to understand the necessity for the appointment of an Assistant to the Superintendent of the Cattle kept in the neighbourhood of Wellington Valley, and I cannot therefore sanction the employment of Mr. Bennett in that capacity.

Disapproval of
appointment of
H. A. B. Bennett.

From the following observation contained in your dispatch, vizt., "that you have made several attempts to dispose of the Government Cattle, but without effect, in consequence of the general distress which at present exists," I am led to infer that there is still a larger stock of cattle kept up than is necessary, even if this were the best mode of supplying the "demands of the Government Establishments for Draught Oxen." If this be the case, although it would certainly be desirable that payment, if possible, should be obtained for those Cattle which may be parted with, yet I am of opinion that it would be infinitely better to get rid of the Cattle, under any circumstances, than to continue to maintain them at their present cost to the Government; and it is therefore my sanguine hope that, in addition to the Agricultural Establishments, which you reported in your dispatch of the 12th of Decr., 1828, that you had discontinued, you will soon be able to announce to me, in pursuance of the desire expressed in my dispatch of the 29 of August, 1829, that the services of the Superintendent at one, if not at both, of the Agricultural Establishments, which form the subject of this communication, have also been dispensed with.

1830.
21 April.

Inability to
dispose of
cattle.

Cattle to be
sold at loss.

Expected
reduction of
agricultural
establishments.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 27, per ship Lord Melville: acknowledged by Governor Darling, 3rd February, 1831.)

Sir, Downing Street, 21 April, 1830.

I have received your dispatch, No. 107 of the 2d of October last, reporting the circumstances under which you had considered yourself obliged to add a few men to the mounted Police, and to incur the expence of two new appointments, vizt., the nomination of Mr. McAllister to the charge of the Mounted Police in Argyle, with pay and allowances at the rate of 9s. 6d. per diem, and that of Mr. Antill to the charge of the Police at a Place called the "Stone Quarry Creek," with an allowance at the rate of £150 per annum.

Despatch
acknowledged.

I agree with you as to the expediency of the Settlers being gradually brought to feel the necessity of depending, more than they have been accustomed to, upon their own exertions for protection, and less upon the assistance of the Colonial Government; and I approve of your having taken measures for strengthening the number of the Police in the neighbourhood of the Place at which the Bushrangers have lately excited so much alarm; but, unless the number of these People, and the numerous

Approval of
increase of
police.

1830.
21 April.

Disapproval of
salaries for
L. Macalister
and H. C. Antill.

Member of
stipendiary
magistrates to
be limited.

Proposed
colonial
appointment.

parties into which they are divided, enable them to appear at the same moment in different directions, I cannot see the necessity, which you have alleged, for augmenting the Police Establishment; for, as one part of the Colony becomes relieved by the capture or dispersion of the Bushrangers, so would the services of a portion of the Police, who might have been employed in pursuing them, become available for the same object in other quarters; at all events, I cannot sanction the continuance of the salaries, which you have assigned to Mr. McAllister and to Mr. Antill. Such Residents in the Colony, as have property at stake, and as are in a situation of life to discharge the functions of Magistrates, must be required to give their services to the Public gratuitously; and, although there may be some populous districts, in which, from the extent and nature of the duties which fall upon a Magistrate, it may be reasonable to grant him compensation in return for the labour which he may bestow upon them, yet the principle must not be extended so as to include amongst the stipendiary Magistrates a greater number than have been already sanctioned; and I have therefore to desire that you will withdraw, from the date at which this despatch may reach the Colony, the allowances which you have issued to the two Gentlemen above-mentioned.

I am, &c.,

G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.

(A private despatch, per ship Lord Melville.)

Dear Sir,

Downing Street, 21st April, 1830.

I am very anxious to secure some appointment of £250 or £300 a year for a very meritorious person, in whose welfare I am much interested; and Sir G. Murray has been so good as to promise me that he will bestow such an office on my friend as soon as a vacancy occurs. The gentleman has been very long an officer in the Militia, commanded by Lord Dartmouth, and is a most respectable man. I mention this to you, in order that, when any such office becomes vacant, you may prevent any disappointment to the person, whom you may nominate *pro tempore*, and who might otherwise form hopes of being confirmed.

I trust it may not be long before the opportunity occurs; when it does, I will furnish the gentleman with a letter of recommendation to you, which I am sure will obtain for him your notice and countenance.

Believe me, dear Sir,

Very faithfully, &c.,

HORACE TWISS..

SIR GEORGE MURRAY TO GOVERNOR DARLING.

1830.
22 April.(Despatch No. 28, per ship Lord Melville: acknowledged by
Governor Darling, 19th February, 1831.)

Sir,

Downing Street, 22d April, 1830.

I have received your dispatch, No. 110 of the 12th October last, adverting to an arrangement made between Mr. Carter, the late Chairman of the Quarter Sessions, and Mr. Forster, the person who at present holds that Situation, by which the former Officer was enabled to discharge the duties of Sheriff until Mr. Macquoid's arrival should render it necessary for him to vacate that Office, and reporting that, upon the refusal of Mr. Forster to retire from the situation of Chairman of the Quarter Sessions to admit of Mr. Carter's re-appointment thereto, according to the understanding which existed between them, you had been induced to authorize a sum equivalent to the salary of the Chairman of the Quarter Sessions to be issued to Mr. Carter to compensate him for any loss which he may have sustained thereby.

Compensation
paid to
W. Carter for
loss of office.

The conduct of Mr. Forster is wholly indefensible in refusing to resign, according to his agreement with Mr. Carter, in order that the latter might have an opportunity of returning to his former Office, if the Magistrates should think fit to replace him in it instead of retaining the services of Mr. Forster; but the breach of Mr. Forster's arrangement with Mr. Carter, so long as Mr. Forster conducts himself properly in his office, would scarcely afford grounds sufficient, even if it were prudent to use them, for declining to issue to Mr. Forster any part of his salary whilst in the execution of such duties; and, as I cannot sanction any double payment from the public funds, I regret to be under the necessity of requesting that Mr. Carter may be called upon to repay the sum which you have issued to him under the circumstances stated in your Dispatch.

Censure on
W. Foster
for breach of
agreement.

Disapproval of
compensation
to W. Carter.

I am, &c.,

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private." per ship Lord Melville.)

Dear Sir,

Downing Street, 22d April, 1830.

The case of Mr. Carter, as reported in your Dispatch of the 12th of October last, is a very awkward one, and admits of little being done with a view to protect him from the loss, in which a too great reliance upon another person has involved him. By Sir George Murray's Official Dispatch of this date, you are apprized that any compensation to Mr. Carter from the public funds is quite inadmissible. It would appear from what you have

Inability
to grant
compensation
to W. Carter.

1830.
22 April.

W. Carter to
be elected
chairman of
quarter sessions.

stated, as well as from the Letter of Mr. Carter, that the office of Chairman to the Court of Quarter Sessions is an elective office. If it be competent to the Magistrates to repeat the election as often as they hold their Sessions, it is very probable that you have already been able to assist Mr. Carter with the Influence of the Local Government to obtain his re election to that office; but, should the opportunity not yet have offered, you will of course take such steps as may be open to you at the proper season for effecting that object.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 28, per ship Asia; acknowledged by
Sir George Murray. 12th November. 1830.)

Sir,

Government House, 22nd April, 1830.

Judicial
opinions *re*
duties on spirits
and tobacco.

The Chief Justice having expressed an opinion in the Legislative Council that, under the 27th Clause of the Act of 9th Geo. 4, Chap. 83rd, it was necessary that the consent of the Council should be obtained for continuing the Duties on Spirits and Tobacco, levied by the Governor's Proclamation in virtue of the Authority vested in him by the Acts of 59th Geo. 3rd and of the 3rd year of His present Majesty's reign, I was induced, in order to set the matter at rest, having myself taken a different view of it, to apply to the Judges collectively for their opinion on the subject.

I now do myself the honor to submit, for your consideration, copy of my Letter to their Honors as also of their reply, together with a Copy of the Act of Council passed in consequence.

Power of
council over
colonial
revenue.

As it is now understood here that the application of the Colonial Revenue rests with the Council, I request to be informed whether it will be necessary in future to refer to you in the case of such Expenses as are to be paid from the Colonial Treasury.

Financial
statements
submitted
to council.

I beg to acquaint you that I submitted, for the information of the Council, a statement of the Public Accompts of the last year, as far as related to the Colonial Revenue; But, the Commissariat accounts not being finally arranged, it was not in my power to submit a complete statement of the whole Expenses. I therefore had an Abstract prepared for the information of the Members, of which I have the honor to enclose a Copy, in order that they might be aware of the large proportion of the general Expenses of the Colony, which is paid by His Majesty's Treasury.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

1830.
22 April.

GOVERNOR DARLING TO THE JUDGES OF THE SUPREME COURT.

Gentlemen.

Government House, 16th February, 1830.

Doubts having arisen with respect to the legal interpretation of the 27th Section of the 9th Geo. 4th, Chap. 83rd, in as far as regards the intention of Parliament respecting the duties on Spirits, Tobacco, etc., at present levied by Virtue of the Governor's Proclamation issued under the Authority of the Acts of Parliament of 59th Geo. 3rd and of the 3rd year of his present Majesty's Reign, I request you will be pleased to state your opinion, whether it is necessary to the legal levying of the duties in question that an Act should be passed by the local Legislature, authorising the same, or whether the Authority to levy the said duties by Proclamations, issued previous to the existence of the present Legislative Council, is not virtually acknowledged by the following Extract from the 27th Section of the 9th Geo. 4th above referred: Vizt.:— "And that the Produce of the several Duties imposed and made payable, under or by virtue of *the said Acts of Parliament, or either of them, or under or by virtue of this Act.*" etc.

Request for
opinion on
necessity for
act of council
re duties.

I have, &c.,

RA. DARLING.

[Enclosure No. 2.]

THE JUDGES OF THE SUPREME COURT TO GOVERNOR DARLING.

Sir,

Supreme Court Office, 22nd February, 1830.

We have had the honor of receiving Your Excellency's letter of the 16th inst., requesting our opinion, whether it is necessary to the legal levying of duties on Spirits, Tobacco, etc., at present levied by virtue of the Governor's proclamation, under the Authority of Statutes, 59th Geo. 3rd, chap. 114, and 3rd Geo. 4th, C. 96, that an Act should be passed by the local Legislature, authorising the same; or whether the authority to levy the said duties by Proclamations, issued previous to the existence of the present Legislative Council, is not virtually acknowledged by the Extract, quoted from the 27th Section of the Statute 9th Geo. 4th, Chap. 83rd.

Opinion by
judges re
necessity for
act of council
for levying
duties on spirits
and tobacco.

Having fully considered this matter, we are of opinion, first, that it is necessary, to the legal levying of the said duties, that an Act should be passed by the local legislature, authorising the same, and secondly, that the authority to levy the said duties by Proclamations, issued previous to the existence of the present Legislative Council, is not recognized with sufficient legal certainty to dispense with the necessity of a local ordinance upon the Subject.

We have come to this conclusion for the following reasons:—

The Statute, 59 Geo. 3, C. 114, enacts that, from the passing of that act, until the 1st of January, 1821, it shall be lawful for the Governor to order and direct the levy of any rate or duty, *which may have been imposed or usually collected or levied* in the Colony, *previous to the passing of that Act*; and provides further, that the Governor may order the discontinuance of any such rate or duty.

The Statute, 3rd Geo. 4th, C. 96, continues the 59th Geo. 3rd, C. 114, until the 1st of January, 1824, and makes additional provisions. The 2nd Section authorises the Governor to *impose*, by Proclamation, certain duties on imported Spirits, Tobacco, etc. The 3rd Section authorises the Governor, by the like means, to discontinue or reduce the said duties, and, if necessary, again to revive the same; and restrains him from levying or raising any higher

1830.
22 April.

Opinion by
judges *re*
necessity for
act of council
for levying
duties on spirits
and tobacco.

rate of duty than is authorized by that Act; and the 4th Section authorizes him to make rules and regulations for the levying and enforcing the due payment of such duties.

The Statute 9th Geo. 4th, C. 83d, Sec. 26, makes the 59th Geo. 3rd and the 3rd Geo. 4th perpetual, without any alteration whatever in the provisions themselves; but Sec. 27 especially *provides* that all the powers and authorities, vested by the last mentioned Acts or either of them in the Governor, shall henceforward be vested in and exercised by the Governor, *acting with the advice and consent of the Legislative Council of the Colony.*

Stopping here, it is clear that the effect of this enactment is to supersede all the powers before vested in the Governor alone by the 59th Geo. 3rd and 3rd Geo. 4th, and to restrain the future exercise of such powers to the Governor *acting with the advice and consent of the Legislative Council*; these were, first, the power of *directing the levy* of any rate or duty *which had been imposed or usually collected* or levied in the Colony *previously*; and secondly, the power of *imposing duties* on certain Goods imported into the Colony, not exceeding a limited amount.

The same section then proceeds to enact, "and that the produce of the several duties, imposed and made payable under or by virtue of the said Acts, or either of them, or under and by virtue of this Act, shall be applied in such manner, and to such purposes, as the Governor and Council may from time to time by any such Law or ordinance appoint."

Taking the whole of this 27th Section together, and construing one part with another, the question is, whether the Governor alone may now continue to direct the levy of duties, which had been imposed or usually collected before the 59th Geo. 3rd, and also the duties, *imposed* by virtue of the 3rd Geo. 4th, without the advice and consent of the Legislative Council.

Whatever may be the true solution of this question, we think it is one upon which a difference of opinion may be fairly entertained; and, being informed by your Excellency that doubts have in fact arisen with respect to the legal interpretation of the 27th Section, we think (without offering any opinion upon the Validity of the doubts suggested) that, on so important a subject, all grounds for mootng such a matter ought to be removed by resorting to the local legislature.

We are clearly of opinion that no light is thrown upon the matter by the Clause to which your Excellency's letter refers. Since any Ordinance of the local Legislature, for imposing or levying duties upon any of the Articles specified in the 59th Geo. 3rd, or 3rd Geo. 4th, must be passed in conformity with those Acts, and must be subordinate to their provisions; and consequently any duties, so imposed and levied by the local Legislature, would be imposed and levied under or by Virtue of one or other of the said Acts of Parliament.

It appears to us, from the 27th Section of the 9th Geo. 4th, Chap. 83rd, that Parliament intended to delegate the powers of *levying* under the 59th Geo. 3rd and of *imposing* under the 3rd Geo. 4th to the Governr and Council, and to deprive the Governor of all authority to act alone under those Acts. The power thus given to the Governor and Council must be exercised *sub modo*, i.e. in the manner pointed out by the said two Acts respectively, and in no other or different manner (1 Cowp. r. 29). Now it may be fairly

argued that, as this power has been delegated to the Governor and Council "henceforward," that is, from and after the Acts coming into operation, the continuing to *levy* the duties imposed before the 59th Geo. 3rd, and the levying of duties *imposed* under the 3rd Geo. 4th by the Authority of the Governor acting alone, cannot be consistent with the intention of the Legislature, for, had the Legislature intended that all orders and Proclamations issued by the Governor acting alone, under and by virtue of the 59th Geo. 3rd and 3rd Geo. 4th should continue to be valid and binding, notwithstanding the 9th Geo. 4th, c. 83rd, it is but reasonable to presume that some express provision to that effect would have been introduced into the 27th Section.

Without, however, offering any decisive opinion upon a point of so debateable a Nature, we are of opinion that, for more abundant caution, it is necessary to the legal levying of the duties in question that An Act should be passed by the local Legislature, authorising the same, and that the Authority to levy the said duties by proclamations, issued previous to the existence of the present Legislative Council, is not acknowledged with sufficient legal certainty by the 27th Section, 9th Geo. 4th, C. 83d, to prevent serious doubts.

We have, &c.,

FRANCIS FORBES, C.J.
JOHN STEPHEN, Judge.
JAMES DOWLING, J.

[Enclosure No. 3.]

[This was a copy of the act of council, 11 Geo. IV. No. 4.]

[Enclosure No. 4.]

ABSTRACT OF THE RECEIPTS AND EXPENDITURE FOR THE YEAR 1829.
Colonial.

Abstract of receipts and expenditure.

Ordinary Revenue	£94,875
Extraordinary Resources	£1,745
Arrears of previous years	6,610
Balance in Treasury on 31 Decr. 1828	3,673
	12,028

Receipts in Year 1829

£106,903

Expenditure brought to account	£97,762
Expense of the Veteran Companies and portion of the Stores purchased for the public Service, not yet brought to account	9,500
	£107,262

Expense of the year 1829

£107,262

Expenses paid by the Deputy Commissary General.

Military Expenses, say	£64,000
Expences of the Police, Hospital, Convict and other Public Establishments	122,000
Estimated Cost of Stores received from England	20,000
	£206,000

Paid by His Majesty's Treasury in the year 1829	206,000
do from the Colonial Revenue as above	107,262
	£313,262

Total

£313,262

April, 1830.

1830.
23 April.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 29, per ship Lord Melville.)

Sir,

Downing Street, 23 April, 1830.

Refusal of
increased salary
for F. X. Rossi.

I have had the honor to receive your dispatch of the 21 of Octr., 1829, transmitting a Memorial from Captain Rossi, Principal Superintendent of Police at New South Wales, praying for an increase of Salary.

No time could have been more unfavorable than that which Captain Rossi has chosen for renewing his application upon this subject. The recommendations, which he has produced from the two Officers in the administration of the Government under whom he has successively served in support of the prayer of his Memorial, would not have failed to receive my most favorable consideration, had not circumstances compelled me to decline sanctioning any applications of this nature; and I regret, therefore, that I cannot hold out to him any hope of my being able to comply with his request.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 30, per ship Lord Melville.)

Sir,

Downing Street, 23 April, 1830.

Despatch
acknowledged.

I have received your dispatch No. 112 of the 12th of October last, enclosing a letter from Mr. William Hutchinson, praying to be allowed a Pension in consequence of his services and having been obliged by impaired health to relinquish his situation of Wharfinger. You also transmit a copy of the Minute of Proceedings of the Executive Council, recommending that Mr. Hutchinson should be allowed a grant of three sections of Land, or 1,920 Acres free of Quit Rent.

Refusal of
pension for
W. Hutchinson.

You will have been informed by some of my late dispatches that Pensions to Individuals retiring from the Public Service must not be expected to be in future granted by the Government. I should therefore have been prevented from complying with Mr. Hutchinson's application, even if there had appeared a stronger reason for his retirement than I have been able to discover from the papers which you have transmitted, no Medical certificates having been adduced in support of his statement as to the impaired state of his health and the bodily injuries which he has sustained by his employment in the Public Service.

Land to be
granted to
W. Hutchinson.

Provided Mr. Hutchinson has not already received any favor in respect of Land from the Colonial Government, I approve of your making to him a Grant to the extent recommended by the Executive Council; or, in case any prior Grant should have been

given to him, I have no objection to his receiving such addition, as, with the Land he now holds, will make the total quantity amount to 1,920 Acres. But so numerous will the claims become to exemption from Quit Rent, if the principle of admitting Persons to that benefit be frequently acted upon, that I do not feel at liberty to hold out to Mr. Hutchinson a favor which will inconvenience the Government hereafter in deciding upon similar applications.

I am, &c.,

G. MURRAY.

1830.
23 April.

Grant to be
subject to
quit rent.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 31, per ship Lord Melville; acknowledged by Governor Darling, 21st December, 1830.)

Sir,

Downing Street, 23d April, 1830.

Subsequently to the date of my dispatch of the 6th of Novr. last, No. 161, respecting certain communications addressed to me by Mr. E. S. Hall, the Editor of the Newspaper called the "Sydney Monitor," I have received from him a further letter, dated the 17th of Octr., 1829, a copy of which is enclosed for your information.

Transmission
of letter from
E. S. Hall.

The sentences,* under which Mr. Hall is suffering, having been pronounced by the Supreme Court of the Colony, I am bound to presume that they are consistent with Law, unless the contrary can be shewn. But the legality of those sentences is impugned only by an objection, which was over-ruled by the Judges after full argument and mature deliberation. I perceive no reason to doubt the soundness of their decision.

Sentences on
E. S. Hall
for libel.

The nature and extent of the punishment, which ought to be inflicted for such offences, as those of which Mr. Hall has been convicted, is a subject which falls within the peculiar cognizance of the Court, and which must be regulated by their discretion. I perceive, from the printed Reports of the Judgment which Mr. Hall has transmitted, that, in pronouncing sentence upon him, the Judges adverted to the necessity of repressing by decisive measures the great abuse to which the unrestrained freedom of printing and publishing had, in their opinion, given rise in the Colony. It is impossible for me, at this distance from New South Wales, to advise His Majesty to mitigate a sentence avowedly proceeding on grounds of so much general importance without a previous report from the Judges before whom the Prisoner was tried. In the absence of any such explanation, I am bound to suppose that their decision was not legal merely, but just, and pronounced with a due regard to every circumstance of mitigation which the case afforded.

Mr. Hall's complaint that new Rules of measuring have been introduced, the effect of which will take from him a Farm which

* Note 85.

1830.
23 April.

Complaint by
E. S. Hall re
methods of
survey.

Publication
of notices at
discretion
of governor.

had been given to him by Governor Macquarie, will require your careful investigation. If the new Rules of measurement, which have been adopted for general convenience, should have been productive of any injustice or hardship in Mr. Hall's particular case, I have no doubt that such a result was entirely opposed to your own intentions. But, if his statement is accurate, you will without delay adopt effectual means for affording him redress.

The selection of proper channels for giving publicity in the Colony to all Regulations, Notices and Advertisements, originating with the Local Authorities, is a subject so peculiarly within the Province of the Governor, that I should be most reluctant to controul the exercise of his discretion in this respect in any case, and I do not find in Mr. Hall's letters any consideration which should induce me to depart from this general principle in his favor.

You will communicate a copy of this dispatch to Mr. Hall for his information.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. E. S. HALL TO SIR GEORGE MURRAY.

H.M. Jail, Sydney, New South Wales,

17th October, 1829.

Sir,

I take the liberty of enclosing you a copy of my Journal* of this day, in which is contained a letter addressed to yourself. A vessel sailing for England tomorrow, and, my being confined in Jail where I enjoy few of the conveniences suitable for dispatch of business in a proper manner, renders me unable to transmit to you a fair copy of the said letter, which nevertheless respect to your high office imperatively calls for. But I hope you will excuse my inability in this respect.

I am confined in this Jail on two Sentences: one of twelve months for a libel on His Excellency the Governor, and one of three months on Captain Crotty 39th Regiment, a Justice of the Peace in the Colony, and late Commandant of the penal settlement of Port Macquarie, each filed ex-officio by the order of General Darling. Mr. McLeay, our Colonial Secretary, Mr. Laidley, our Deputy-Assistant-Commissary-General, and Mr. Hely, our Principal Superintendent of Convicts, all urged on by His Excellency, are at this time seeking for information for libel against me, the Governor being desirous (as it should seem) to stultify my late exposures of the malpractices of the present administration, as the same have been detailed by me in my newspaper, The Sydney Monitor, by causing convictions to be heaped upon me. This His Excellency will probably accomplish, as the Jurors in the Criminal Court are selected by the Governor. In the *Civil* Court, where a Jury of twelve Merchants would try the case, none of the above Gentlemen will accept my challenge to meet me, for then I should be allowed to give evidence of the truth of all my charges and allegations.

Next to God and you, Sir, I trust, for deliverance from the pit the General is digging for me, to an unblemished reputation in this Colony for eighteen years. In the latter end of the year 1810, Mr. Wilberforce called personally on The Right Honble. Mr. Peel, then

* Note 118.

Transmission
of issue of
Monitor
newspaper.

Prosecutions
of E. S. Hall
for libel.

Under Secretary of State; and that Gentleman gave me a strong recommendation to Governor Macquarie for land and other indulgencies, which I received; and, so long as that excellent man lived, I enjoyed his friendship. I have now eight youthful children, chiefly daughters, who, having lost their mother, are at this time in rather an unprotected state. And, when it shall have come to your ears Sir that Mr. Justice Stephen, on my being called up for judgment, protested against the legality of my conviction and that of Mr. Hayes, on the ground that it was contrary to common sense and natural justice to punish Englishmen, who had been tried by a Jury selected by their Prosecutor, I feel confident you will transmit His Majesty's gracious pardon for both of us.

1830.
23 April.

Protest of
J. Stephen
against
conviction of
E. S. Hall and
A. E. Hayes.

I have now, Sir, to request of you two favours, one respecting a farm given me by Governor Macquarie, and the other respecting the printing of the Government notices, orders, Acts of Council, etc.

The farms granted to Mr. McLeay and his relatives and friends by Governor Darling have all been measured; while my farm, settled and improved by me ten years ago at Lake Bathurst, is not yet measured. And now, by new rules of measuring, the farm given me by Governor Macquarie will be chiefly taken from me, and another portion, not near so good, is going to be forced upon me.

Delay in survey
of farm.

To build upon and fence in a farm, without knowing the boundaries for ten years, has been a great evil; but now to punish me for the negligence of our Surveyors, by taking away the best part of my estate, is a crying injustice. I had my farm given me in a particular spot; and, if there be new and better rules of surveying introduced, they ought not to be retrospective and trespass on the rights of private property. I hope, Sir, you will direct that, before the new rules of measuring land be applied to an old Settler like me, you will order justice to be first done.

Protest against
new system of
survey.

The next favour I have to solicit of you, Sir, is that you would direct the printing of the Government notices, orders, Acts of Council, Commissariat Advertisements and those of the Church and School Corporation, to be given to my Printing Office equally with that of the Sydney Gazette or New South Wales Advertiser. Nothing would tend more to promote a good understanding between the next Governor and the independent Press of the Colony than such a measure. I lament the disunion between the present Government and the independent Press. I feel confident that the welfare of the bulk of the people of the Colony was never so well promoted as in the time of Governor Macquarie, when he and the people walked hand in hand.

Request for
government
notices in
Monitor
newspaper.

I have, &c.,

E. S. HALL.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 32, per ship Lord Melville.)

Sir,

Downing Street, 24 April, 1830.

24 April.

I have the honor to acknowledge the receipt of your despatch, No. 117 of the 21st of Novr., 1829, reporting the result of a Tour of Inspection over the District of Bathurst, from which you had then just returned.

Despatch
acknowledged
re Bathurst
district.

It is highly gratifying to me to have received so favourable an account, as your despatch communicates, of the state of this distant part of the Colony, and the contented spirit which

1830.
24 April.

pervades the Colonists in that quarter, notwithstanding the severe distress to which they have been reduced by the late unfavourable Seasons, is not the least pleasing information of that which you have conveyed to me.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Lord Melville.)

Sir, Downing Street, 24th April, 1830.

Refusal to
modify censure
passed on
Sir J. Jamison.

The Secretary of State having received a further communication from Sir John Jamison upon the subject adverted to in Mr. Huskisson's dispatch of the 10th of Novr., 1827, I have received the directions of Sir George Murray to request that you will acquaint Sir John Jamison that the Secretary of State does not perceive, in the statement made by Sir John Jamison, any grounds which would justify him in entering upon a reconsideration of his case.

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

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 30, per ship Asia; acknowledged by
Sir George Murray, 20th October, 1830.)

Sir, Government House, 24th April, 1830.

Transmission
of reports on
trials of
J. Burton and
J. Collins.

I have the honor to transmit for your consideration the accompanying Copies of Letters from the Chief Justice, with Copy of the Notes* taken by Mr. Justice Stephen, on the Trial of John Burton and Jeremiah Collins for Murder; as also Copy of the Notes taken by the Chief Justice at the trial subsequently held of Jeremiah Collins; and I have the honor further to acquaint you that John Burton, alias Button, has been respited as recommended by the Chief Justice and Mr. Justice Dowling, until I shall receive your commands on the subject.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir, Sydney, 25th Feby., 1830.

Recommendation of
J. Burton
for reprieve.

I have been requested by their Honors the Assistant Judges to acknowledge your Excellency's letter, addressed to us on the 18th of June last, in reference to the case of John Burton alias Button, tried in April preceding for the Murder of William Fisher,* alias Wheatley, and enclosing an Extract from the Minutes of the Executive Council; and I am authorized by their Honors to inform your Excellency that they are of opinion that the case of Burton alias Button is one which should be recommended for His Majesty's

* Note 119.

most gracious pardon, it appearing to the Chief Justice, who tried Jeremiah Collins, after the trial of Burton alias Button for the same Murder, that Collins was guilty alone of that crime; and Mr. Justice Dowling, concurring in the same view of the case upon a careful collation of the Reports of the two trials in consultation with the other Judges.

Should your Excellency with the advice of the Executive Council concur in the opinion of the Judges as to the propriety of the recommendation, Mr. Justice Stephen will cause a copy of his notes to be prepared with the Report of the trial; and I will also cause a similar Copy to be prepared and appended of the subsequent proceedings before me.

I have, &c.,

FRANCIS FORBES,
Chief Justice.

[Enclosure No. 2.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir. Supreme Court, 15th April, 1830.

I have the honor, in compliance with your Excellency's request conveyed to me under date the 13th March last, to transmit Copies of the Notes taken by His Honor Mr. Justice Stephen and myself, in the respective cases of John Burton alias Button, and Jeremiah Collins for Murder; and I have the honor to state to your Excellency that the Majority of the Judges were of opinion that the Evidence on the Trial of Button alias Burton, was not sufficient to support his conviction, and that in this opinion they felt confirmed by the Evidence detailed in the subsequent Trial of Collins.

I have, &c.,

FRANCIS FORBES,
Ch. Justice Sup. Court.

1830.
24 April.
Recommendation of
J. Burton
for reprieve.

Transmission
of notes on
trials.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Lord Melville; acknowledged by
Governor Darling, 17th January, 1831.)

Sir, Downing Street, 25 April, 1830.

25 April.

I am directed by Secretary Sir George Murray to transmit to you the enclosed copy of a letter from Lord Fitzroy Somerset upon an application from Lieutt, Governor Arthur for an increase to the Military Force stationed in Van Diemen's Land. It is not practicable at the present moment to add another Regiment to the force, which has been allotted for the service of the Australian Colonies; and you will therefore exercise your discretion with regard to augmenting or not the Garrison at Van Diemen's Land by a Detachment from the Troops under your immediate command.

Application for
augmentation
of garrison in
Tasmania.

In order that you may be aware of all the circumstances under which this application for Troops has been made by Colonel Arthur, I enclose an Extract of the Dispatch received by the Secretary of State from that Officer upon this subject.

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

1830.
25 April.

[Enclosure No. 1.]

LORD FITZROY SOMERSET TO UNDER SECRETARY HAY.

Sir,

Horse Guards, 14 April, 1830.

Proposed
augmentation
of garrison in
Tasmania.

I have submitted to the General Commanding in Chief your letter of the 18th Ultimo, transmitting the copy of a Duplicate despatch from the Lieut. Governor of Van D. Land, representing the necessity of strengthening the Military force at present stationed in that Island.

In reply to your request to be acquainted whether it be possible, without inconvenience to the service in other quarters, to place an additional Regiment at the disposal of the Lieut. General Commanding the Troops in the Australian Colonies, I am directed by Lord Hill to state, for the information of the Secretary of State, that, if it be the wish of H.M. Govt. that a Regt. should be added to the force allotted for the service of New S. Wales and Van D. Land, His Lordship will endeavour to carry into execution any orders he may receive to that effect; but he desires I will observe that Lieut. General Darling has now under his Command the whole of the 57th, of the 39th, of the 63rd, with the exception of a Company detached to the Swan River, and a part of the 17th, and that the Lieutt. General might very probably be able to make a further Detachment from the Troops under his immediate orders, without in any degree inconveniencing the public service in New S. Wales.

I have, &c.

FITZROY SOMERSET.

[Enclosure No. 2.]

LIEUT.-GOVERNOR ARTHUR TO SIR GEORGE MURRAY.

Van Diemens Land.

Sir,

Government House, 12 Sept., 1829.

Hostile
encounters
with natives
in Tasmania.

I have the honor to refer to my Despatches in the margin in which I have communicated upon our unpleasant warfare with the aboriginal Natives, and the measures which have been adopted for the protection of the Settlers. As this is the most anxious subject of my Government, I am desirous to lose no opportunity of reporting upon it, and it is with much concern I have still to submit that the hostility of the Aboriginal Natives is in no degree decreased. Whenever they can successfully attack a remote hut they never fail to make the attempt, and seldom spare the stock keepers when they can surprise them.

Within the last 2 or 3 months the Chieftains of each Mob have evinced much more cunning and have manifested a degree of tact which very evidently shews that this race, however barbarous, is by no means so void of intelligence as has hitherto been supposed. The species of warfare which we are carrying on with them is of the most distressing nature; they suddenly appear, commit some act of outrage and then as suddenly vanish: if pursued it seems impossible to surround and capture them, and if the Parties fire the possibility is that Women and even children are the victims.

The system which I have pursued has been to place as many Military Parties as the strength of the Garrison would admit in the Interior at the most important stations, and from these small parties are detached to the establishments of the more remote Settlers, so as to give some countenance and protection to the Inhabitants. These Posts are occupied upon the application and recommendation of the Magistrates in the District, and give

Military
and police
operations
against natives.

Patroles to the Country around them, and my main object in this measure is to encourage the Settlers to remain at their several habitations, which they are often disposed to abandon. But the more active operations which have for their end the expulsion of the Natives from the settled Districts or their capture, are carried on by the Field Police, and Parties of Prisoners employed under Constables of respectable character, and the whole of these parties are under the immediate control of the Police Magistrates, so that the Civil power is the most prominent arm and the Military is employed as an auxiliary force.

But even this duty falls very heavy upon the latter and is much felt and complained of, altho' the interior of the Colony is by no means occupied in as great force as is required. The hostility of the Natives and the outrages of the Convicts who from time to time abscond into the Bush, together with the urgency of placing Sentries over all the property of the Crown, and of giving Guards over the various Gangs of Prisoners worked in Chains, who are ever eager to escape, and Guards to the Vessels employed in transporting Convicts to the Penal Settlements, impose duties of the most active and trying nature upon the Troops, to which they cannot I imagine be subject in any other Command; and, if the exigencies of the Empire in other quarters will admit of it, I very earnestly beg to recommend that an additional Regiment may be given to this Colony. No one, Sir, can better judge than yourself of the effect it must have upon a Corps to be so much dispersed, without the necessary strength in the Country to enable the Out stations to be occasionally relieved and brought into Head Quarters for Drill. I have felt this especially since the arrival of the 63d Regt. The Commanding Officer, Major Douglass, is on the one hand full of apprehensions for the discipline of that portion of the Corps which is under his Command, whilst the Settlers on the other hand are full of fears; the Magistrates are daily requiring further Military aid and the Officers on Detachment reporting that the strength of the parties is unequal to cope with the extent of the duties required from them.

I am quite sure that you will fully consider the anxiety and perplexity induced by such a state of things, and grant me every aid which in reason can be afforded under such circumstances.

In addition to the ordinary strength of the Field Police, I have approved the formation of six parties, consisting of five men in each, composed of prisoners of good conduct under the charge of a Constable, and the whole are under the direction of Mr. Anstey one of the most active and intelligent Magistrates in the Territory, and a large landed Proprietor resident in the centre of the Island. These parties under his orders are kept continually on the move in those parts of the Country which are most subject to the incursions of the Aboriginal Natives and whilst this duty is I think more properly in the hands of the Civil power, the Military are relieved from that wandering life, and that extreme mixture with the Settlers and Convicts, which is always more or less fatal to discipline.

It is not that there is any thing actually alarming in our condition, but it is painful and distressing to the last degree to continue in this state of hostility without the conviction that the most prudent measures are pursued, having for their end the protection of the Community, with every possible regard to humanity towards

1850.
25 April.

Military
and police
operations
against natives.

Duties of
military.

Request for
additional
regiment.

Emergency
field police.

ignorant Savages, who appear to be influenced by the most revengeful feelings.

1830.
25 April.
General
condition of
colony of
Tasmania.

The prosperity of the Colony has been steady and rapid; the Towns are quite tranquil and, happily, my difficulties have not been augmented by any angry feeling between the Government and any part of the Community. The Convicts also are generally in a state of good order and subjection, and are controlled with great vigilance; but so long as Van Diemens Land is a penal Colony, so long H.Ms. Government must expect that there will be a mass of bad characters within it, whose turbulent spirits will resist all restraint, and who in spite of Chains or Penal Settlements or the Gallows will from time to time break loose upon the Community, throw the Settlers into alarm, and interrupt the tranquillity of all pastoral pursuits. The frequency of these outrages can alone be prevented by the sudden capture and punishment of the delinquents, and which can only be effected by a strong and active force in the interior: contemplate, Sir, for one moment a Country exhibiting the most abrupt and broken surface, very thinly peopled with ready auxiliaries in the character of assigned Servants within almost every Dwelling to aid the Bushrangers and then it will be apparent to you how difficult is the apprehension of these miscreants.

Advantages of
field police.

The formation of the band of Field Police has effected much; jealousy and mistrust in consequence is largely participated by the whole body of Convicts, and our prosperity and comparative security is greatly to be attributed to this Establishment; but still Military aid is much required, and whilst I have been obliged to express my disapprobation that any complaining should be manifested at the present moment, when the Settlers *must* be protected in their Dwellings or our difficulties will be inevitably increased, it is but justice to the Troops that I should represent that an augmentation of the Force in the Colony is most urgently required.

Necessity for
increased
military force.

I have, &c.,

GEO. ARTHUR.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lord Melville.)

26 April.

Sir,

Downing Street, 26 April, 1830.

Petition *re*
duty on
Canadian
whisky
imported to
Tasmania.

I transmit to you herewith the copy of a letter from the Secretary of the Treasury, together with a Report from the Commissioners of Customs, on a petition of Richard Wood, praying that 3,378 Gallons of Canadian whiskey, Exported from the Port of London in 1827 for Van Diemen's Land, may be admitted to Entry there on payment of the same duty as British whiskey.

Duties levied
in England on
spirits from
British
N. America.

You will perceive from these papers, that it is the opinion of the Commissioners of Customs that, as Spirits, the produce of Canada or other British Possessions in North America, are not subject to any other or higher duties on importation into the United Kingdom, than Rum the produce of His Majesty's Plantations in the West Indies, there is no sufficient reason why Spirits, the Produce of British Possessions in North America,

should be charged with a higher duty on importation into Van Diemen's Land than Spirits the Produce and manufacture of the United Kingdom or Rum the Produce of the British West Indies.

1830.
26 April.

Under these circumstances, directions have been given by the Secretary of State to Lieutt. Governor Arthur to equalize the duties on Spirits the produce of the British North American Possessions, with Spirits the Produce of other parts of His Majesty's Dominions above alluded to, when imported from thence into Van Diemen's Land. And I have to desire that you will take the necessary steps for carrying the same measure into effect within the Colony under your Government.

Instructions
re duties on
spirits from
British
N. America.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 16 April, 1830.

The Lords Commrs. of H.M. Treasury having had under their consideration a report from the Commrs. of the Customs, dated the 19th Ult., on a Petition of Richard Wood praying that 3,378 Gallons of Canadian Whiskey, exported from this Port in 1827 for Van D. Land, may be admitted to entry there, on payment of the same duty as British Whiskey or Rum the produce of the British Possessions in America, wherein they observe that, by the Act 3 Geo. 4, Cap. 96, the Governor of New S. Wales is authorised to impose the following duties upon the importation of Spirits into the said Colony or any of the Settlements or Dependencies thereof, viz:

Duties levied on
spirits imported
into N.S.W.

Upon all Spirits, the produce and manufacture of the United Kingdom, and upon Rum, the produce of H.Ms. Plantations in the West Indies, imported directly from the United Kingdom, a duty per Gallon not exceeding Ten Shillings.

Upon all other Spirits a duty per Gallon not exceeding Fifteen Shillings, and that the Canadian Whiskey, the subject of the present application, not being comprehended within the first description of Spirits, is not entitled to be admitted to entry at the rate of duty imposed thereon, and would therefore be chargeable with the higher rate of duty not exceeding 15s. per Gallon: but, as Spirits the produce of Canada or other British Possessions in North America are not subject to any other or higher duties on importation into the United Kingdom than Rum the produce of H.M's. Plantations in the West Indies, they see no sufficient reason why spirits, the produce of British Possessions in North America, should be charged with a higher duty on importation into Van D. Land than Spirits the produce and manufacture of the United Kingdom, or Rum the produce of the British West Indies;

Duty on
Canadian
whisky.

Recommend-
ation for
reduction of
duties on spirits
from British
N. America.

I am commanded by their Lordships to transmit to you for the information of Secretary Sir Geo. Murray a copy of the said report of the Commrs. of the Customs and I am to request that you will move him to cause the necessary Instructions to be given to the Governor of New S. Wales in conformity with the suggestions therein contained.

I am, &c.,

J. STEWART.

1830.
26 April.

[Sub-enclosure.]

THE COMMISSIONERS OF CUSTOMS TO TREASURY COMMISSIONERS.

Report by
commissioners
of customs.

MAY it please your Lordships. Custom House, 19 March, 1830.

Your Lordships having referred to us the annexed Petition of Richard Wood, praying that 3,378 Gallons of Canadian Whiskey exported from the Bonded Warehouses at this Port in 1827 for Van D. Land may be admitted to entry in that Colony on payment of the same duty as British Whiskey or Rum the produce of the British Possessions in America.

We report,

Duties levied
on spirits
imported
to N.S.W.

That, by the Act of the 3 Geo. 4, Cap. 96, the Governor or person administering the Government of New S. Wales is authorised to impose by Proclamation the following duties upon the importation of Spirits into the said Colony or any of the Settlements or Dependencies thereof, viz:

Upon all spirits the produce and manufacture of the United Kingdom and upon Rum, the produce of H.M.'s Plantations in the West Indies, imported directly from the United Kingdom a duty per Gallon not exceeding 10s.

Upon all other Spirits a duty per Gallon not exceeding 15s.

That the Canadian Whiskey, the subject of the present application, not being comprehended within the first description of Spirits, is not entitled to be admitted to entry at the rate of duty imposed thereon, and would therefore be chargeable with the higher rate of duty not exceeding 15s. per Gallon.

Proposed
reduction of
duties on
spirits from
British
N. America.

But, as Spirits the produce of Canada or other British Possessions in N. America are not subject to any other or higher duties on importation into the United Kingdom than Rum the produce of H.M.'s Plantations in the West Indies, we see no sufficient reason why spirits the produce of British Possessions in N. America should be charged with a higher duty on Importation into Van D. Land than Spirits the produce and manufacture of the United Kingdom, or Rum the produce of the British West Indies; and, should your Lordships be pleased to concur in the above opinion we would submit how far you might not be pleased to cause a communication to that effect to be made to the Governor of New S. Wales accordingly.

R. B. DEANE. H. RICHMOND.
G. STEWART. DRA. BINNING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 31, per ship Asia; acknowledged by
Sir George Murray, 11th November, 1830.)

Sir, Government House, 26th April, 1830.

Right of
P. de Mestre
to part
ownership in
British vessel.

I have the honor to transmit for your Consideration the accompanying Copies of a letter and its Enclosures from the Collector and Comptroller of the Customs, relative to the right of Mr. P. de Mestre* to hold a Share in a British Vessel, together with Copy of a Letter addressed to me by the Chief Justice on the part of the Judges of the Supreme Court, conveying their opinion on the subject.

* Note 120.

I do myself the honor to acquaint you that I have communicated the opinion of the Judges to the Collector and Comptroller.

1830.
26 April.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MESSRS. COTTON AND LANGA TO COLONIAL SECRETARY MACLEAY.

Sir, Custom House, 25th March, 1830.

Doubts having arisen in our minds as to the legal competency of Mr. De Mestre to hold any share in a British Vessel, under the provisions of the registry Act 6th Geo. 4th. Cap. 110. We called upon that Gentleman to state the circumstances under which he claimed the right of ownership, and have now the honor to enclose a letter from Mr. De Mestre, in which he sets forth his pretensions to the privileges of a natural born subject of His Majesty, which in our opinion can alone entitle him to hold a Share in a British Ship.

Competency of
P. de Mestre to
hold share in
British vessel.

As this Subject is one of considerable importance to Mr. De Mestre, We would respectfully suggest that the highest legal opinion in the Colony should be obtained for our guidance in granting or with-holding the priveleges of a British Subject under the Registry Act to Mr. de Mestre.

Request for
legal opinion.

We further beg leave to enclose Copy of a Letter from Mr. Buller, Clerk to the Lords Committee of the Privy Council for Trade, Setting forth their Lordships' directions respecting Aliens holding any Share in a British Vessel.

We have, &c.,

M. C. COTTON, Collector.
BURMAN LANGA, Compr.

[Sub-enclosure No. 1.]

MR. P. DE MESTRE TO MESSRS. COTTON AND LANGA.

Gentlemen,

Sydney, 25 March, 1830.

Adverting to our Conversation, I beg to state that I claim the right of holding a British Register on the following grounds:— My Father, an Officer of the French Royal Service, emigrated in the time of the French Revolution, and the British Vessel that took him and my Mother off the Coast of France (in which Vessel I was born) landed us at the reduction of Martinique (the end of the year 1793) on that Island, where my Father was killed previous to the Capitulation. My Mother married afterwards a British Officer (Captain Armstrong) on that Island; and, on the Evacuation of said Island at the Peace of Amiens, I was sent to Philadelphia for my Education, and remained until 1812, when I left it for China, and have since been residing in the Isle of France and other British Colonies and India, and the last twelve Years in this place, where I married a British Subject, and have a Family of Five Children.

Grounds for
right to hold
British register.

I have, &c.,

P. DE MESTRE.

[Sub-enclosure No. 2.]

MR. J. BULLER TO MR. G. DEVALAND.

Office of Committee of Privy Council for Trade.

Sir, Whitehall, 2nd November, 1818.

In reply to your Letter of the 8th July last, enclosing several Papers on the subject of Aliens, who had conceived themselves entitled to become Owners of British Vessels in consequence of their

1830.
26 April.

Instructions
re disability of
aliens as owners
of British
vessels.

having been naturalized under an act of the Legislature of the Island of Jamaica, I have it in Command to acquaint you, for the information of the Commissioners of His Majesty's Customs, that the Lords of the Committee of Privy Council for Trade and Plantations have duly considered the several points referred to in the said Papers, and that, having taken the Opinion of His Majesty's Law Offices, Their Lordships conceive that, though the Governor of the Island may have power by the Colonial Act of the 35th of Charles 2nd to naturalize Foreigners, so as to give them Local Rights and Privileges within the Island, yet that he cannot by virtue of any such Colonial Act bestow the Character and Privileges of Natural Born Subjects of the United Kingdom on such persons.

That, to be the owner of a British Ship, entitled to be registered as such either in Great Britain or the Plantations, and to have British Certificate, a Man must be either natural Born, or he must be naturalized by Act of Parliament or be made Denizen by His Majesty's Letters of Denization.

That the effect attempted to be given to the Naturalization under the Colonial Law would be in direct contradiction to the British Statutes regulating the Shipping and Navigation of the United Kingdom and the Dominions thereof; and that therefore Foreigners, Naturalized in the Island of Jamaica by virtue of the Colonial Act, are not entitled to Certificates of British Registry.

With respect to the question whether Certificates of Registry may be granted to the former Owners, being British born Subjects, I am further to acquaint you that Their Lordships are of Opinion, if the Ship was entitled to be and was registered as a British Built Ship, whilst owned by British Owners, and has since been transferred to a Person, not to be considered as a British Born Subject or made Denizen or Naturalized by Act of Parliament, that, though she lost her British Privileges whilst the whole or any part of her belonged to such person, yet, if she be really and *bona fide* retransferred to a British Subject, she may be registered *de novo* as a British Ship; but it would be requisite for that purpose to have an order either of Four of the Commissioners of the Customs in England, or three in Scotland, or an order of the Governor or Lieutenant Governor of the Island of Jamaica, on representation of the special circumstances under the 34th Geo. 3rd, Cap. 68. and, in that case, the same steps and oath must be taken by the New Owners as were necessary upon the obtaining of the Original Register. She cannot be registered in the Name of the Former Owners, or of any New British Owners, until they become really and truly Owners, for part of the necessary Oath is "That no Foreigner hath directly or indirectly any part or share or interest in the Vessel."

With respect to the case of one of the Owners being a Natural Born Subject and the other not, I am to observe that no Register can be granted to the British part owner, whilst the person to be deemed a Foreigner has directly or indirectly any Interest or Share in the Ship, as, by the 26th Geo. 3rd, whenever a Foreigner becomes interested in a British Ship, the Certificate should be given up, for, as stated in the preamble of the 22nd Sect. of the 34th Geo. 3rd, a property in a Foreigner, in the whole or any part of a Ship, destroys her privileges and Character as a British Ship.

To be entitled to a Register, and to retain the privileges of a British Ship, acquired by such Register, the Ship must be and continue to be wholly owned by a British Subject or Subjects; The property or Share of the person naturalized by the Colonial Act, who

is to be considered as a Foreigner for this purpose, may be again transferred to a British Subject or Subjects, if done *bonâ fide*.

As these Certificates appear to have been inadvertently granted, I am to add that the Lords of the Committee think it would be right to permit the Ships to be registered *de novo*, and restored to British Privileges, if they again become the property of British Subjects. But the persons, who give such order, should be well satisfied that this is done *bona fide*, and not to protect any concealed interests of the Foreigner; and, as the whole of these transactions appear to Their Lordships to have arisen from a mistake of the Law, they do not think that any of the Vessels should be prosecuted for what has hitherto been done in carrying on any Trade which they were not entitled to do.

I have, &c.,

JAMES BULLER.

[Enclosure No. 2.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Sydney, 23rd April, 1830.

I have the honor to acknowledge the receipt of your Excellency's Letter addressed to the Judges of the Supreme Court, under date the 8th inst. enclosing Papers relative to the Claim of Mr. P. De Mestre to the privilege of registering a Ship as a British Native Subject, and requesting our opinion thereon; and, at the desire of Their Honors Mr. Justice Stephen and Mr. Justice Dowling, who are both absent from Sydney, I have to state to your Excellency that, under the circumstances alleged by Mr. De Mestre, we are of opinion, he is entitled to Register a Ship as a British born Subject for the following reason:—

It appears that the Parents of Mr. de Mestre were French Royalists, who quitted their Country at the Commencement of the Civil War and placed themselves under the protection of the British Flag, on board of an English Ship, at the time of the Birth of P. De Mestre. Had the Parents been on the Land, within the Dominions of the Crown of Great Britain, at the moment of P. Demestre's being born, there could be no question but that he would be a Native Subject of His Majesty; the law upon this point is stated by a text Writer of Authority in the following manner:—“The issue of an Alien, born within the Realm, are accounted Natural Subjects, in which respect, there is not any difference between our Laws and those of France. In each Country, Birth confers the rights of Naturalization.” *1 Wood, 386.* The only question is, whether being born on board a British Ship, at Sea, of Parents at the time within the protection and Subject to the operation of the Laws of Great Britain, confers the same Rights as being born within the Realm.

It is laid down by Vattel, a French Jurist of acknowledged and high Authority in our Admiralty Courts (1 Rob., A.R. 363), upon this point as follows:—“As to children born at Sea, if they are born in those parts of it, that are possessed by their Nation, they are born in the Country” (and see Molloy 3, 2, 9) “and, if the Children are born in a Vessel belonging to the Nation, they may be reputed born in its Territories; for it is natural to consider the Vessels of a Nation as parts of its Territory, especially when they sail upon a Free Sea, since the state retains its Jurisdiction over these Vessels” (Vattel I, 19, Sec. 216). The Ship, on board of which P. De Mestre was born, and all Persons on board, in Amity with His Majesty,

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26 April.

Instructions
re disability of
aliens as owners
of British
vessels.

Opinion of
F. Forbes
re claim of
P. de Mestre.

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were clearly subject to the operation of the Laws of Great Britain, both by the Law of Nations and the express Enactments of the English Legislature. *28 Henry 8th, C.B. 39 Geo. 3, C. 37.*

I have, &c.,

FRANCIS FORBES,
Ch. Jus., N. S. Wales.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

(Despatch marked "Separate," per ship Asia; acknowledged by Sir George Murray, 10th November, 1830.)

Sir,

26th April, 1830.

Transmission
of letter.

I have been induced to forward for your perusal the enclosed Copy of a Letter from Mr. Moore, the Crown Solicitor, conceiving it might be useful as affording some means of judging of the extent of the Duties of this Office.

Necessity for
crown solicitor.

The Legal business of the Government had in fact been so unsatisfactorily carried on that it became necessary to appoint some one to assist the Crown Lawyers, in order to prevent the blunders which were every day committed.

I had hoped, even after the death of the late Solicitor General, that Mr. Moore would have been able to keep up the business; but you will see by his letter that he professes to be unequal to it without assistance. The appointment of an efficient Solicitor General may, however in some measure, correct the evil which has existed.

Removal of
convict clerk of
A. M. Baxter.

I have lately been obliged to urge the Attorney General to discontinue a Convict Clerk, whom he has employed for some time, as, from Mr. Baxter's habits, there was reason to apprehend that the Individual alluded to possessed more power than could properly belong to a Person of his description.

Result of
inefficiency.

The inefficiency of any one Individual must have the effect of throwing an undue weight on others, or the Public Business must be neglected; thus, have the Chief Justice and the Colonial Secretary been occupied of late in preparing Bills for the Legislative Council, a duty which does not belong to their Departments, but has been readily undertaken to prevent the inconvenience which would otherwise have been occasioned.

I have, &c..

RA. DARLING.

[Enclosure.]

CROWN SOLICITOR MOORE TO COLONIAL SECRETARY MACLEAY.

Sir,

George Street, Sydney, March, 1830.

Letters
acknowledged.

With reference to your several letters enumerated in the margin,* respecting various papers found amongst those of the late Solicitor General, which have been from time to time forwarded to my Office, and to my letter to you of 1st instant in reply to the two

* *Marginal note.*—7th November, 1829, No. 202; 7th November, 1829, No. 203; 1st March, 1830, No. 40; 3rd March, 1830, No. 45; 19th March, 1830, No. 52.

first enumerated letters, I have the honor to inform you that my letter of the 1st instant bore reference more particularly to the letter No. 202 than to No. 203.

1830.
26 April.

As these letters all relate to the same subject, I will take the liberty of making a few general observations on them for the information of His Excellency.

With respect to your letter of 3rd March, there appears to be some misapprehension of mine of the 1st instant inasmuch as the former represents my having said that all the Actions had been proceeded on, to which those Documents bore reference. Whereas in my letter I stated I had taken the necessary steps in all the Actions that had been proceeded in.

You will observe, on reference to the list contained in the first letter, that the papers bear reference in a great measure to Actions, which the Government have given instructions to be defended, and other matters in which it is not only unnecessary but impossible to proceed, unless the Individuals, at whose instance such proceedings have been instituted, take further steps to bring the matters to a close. Many persons abandon the proceedings they may have commenced; and some let them remain dormant a considerable length of time; whilst others adopt a new course of proceedings to set aside what may already have been done; so that it would be impossible for me to say what matters are finally disposed of or what are not, and I can only watch the proceedings that take place in Court from time to time to ascertain.

Inability to report on actions completed.

With respect to the List contained in your letter of the 7th November last, No. 203, you will observe it contains 33 Thirty three Warrants of Attorney, I believe all now due, and 23 Twenty three Bonds and Promissory Notes. Seventeen of the latter are what are termed Money obligations, which, added to the Thirty three Warrants of Attorney, make 50 Fifty different Cases on which Actions must now or very shortly be commenced; in addition to which I have 18 Eighteen forwarded to me from the Internal Revenue Office, and 12 Twelve from the Commissary General, making in the whole 80 Eighty different securities on which Actions ought to be tried during the next term; some of these Securities also on account of legal peculiarities may require two or three different Actions instead of one. These are proceedings of a very simple nature, tho' in some degree voluminous, and, being unattended with any legal difficulties, would only require a general superintendence to obtain Judgments and Executions in them; but such a number of Actions alone, independent of all other matters, would be more business than any professional Office in the Colony has to transact; and the bare drawing and writing the pleadings, that have to be filed and made use of in Court in the Conduct of them, would be much more than any one person could perform. The quantity of Stationery in so many Actions is much more considerable than any person unacquainted with the business could imagine, and by no means the least expensive is that of Parchment, which is required by the Court for the record of the whole proceedings in every action; this cannot be obtained in the Colony under Five Shillings Sterling per Skin, and allowing Two Quires of Paper and one Skin of Parchment for each cause would not be the average of what would be consumed.

Actions pending on securities.

Inability to cope with business.

Stationery and parchment consumed.

This constitutes but a very small portion of the Law business, which I have to perform for the Government. As the defence of the numerous actions and applications to the Court that are continually

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26 April.
Other crown
legal business.

arising out of the proceedings of the Magistrates, and the Informations in matters of Libel and for Penalties, though far less in number, are matters of considerable difficulty and require the utmost consideration and research, and it is utterly impossible, whilst such matters must be attended to, that the same person can perform the manual labor of drawing and engrossing the pleadings of so many common Actions of Debt.

Additional
duties of
crown solicitor.

There are other duties also, which I have to perform, which require much consideration, such as drawing Contracts for buildings, Bonds for Tolls and Ferries, the Mails, Securities for Monies due to Government, some of which are special, for Supplies, etc., besides a correspondence with the Magistrates on points of Law and various other matters.

Labour for
seven days in
week.

On my lately being appointed Crown Solicitor, I was given to understand officially from your Office that the Government expected I should give my whole time and attention to the duties of that Office; that attention I have so far given as not even to except the Sabbath day, which I have invariably (except in two instances, one of which was when I was on the Campbell-town Circuit) employed in endeavouring to keep the business up as far as I have been able; and I feel my health declining from want of being able to take common exercise.

Inability to
avoid delay in
legal business.

I stated to you, shortly after the decease of the late Solicitor General, that it was impossible for any one person to perform the additional duty that was then cast upon me, and that I could not with my Salary afford to keep a Clerk to relieve me; and you afterwards informed me that you had had a Conversation with His Excellency the Governor on the subject, wherein he seemed disposed to allow me Stationery, but that he was decided as to making no other allowance. Under these circumstances, I cannot take blame to myself on account of the business as far as it relates to the recovery of monies due to the Government getting in arrear, which it certainly is; and, should His Excellency not take a different view of the adequacy of my Salary to the duties I have to perform, I have no hesitation in saying that it is impossible it can be otherwise.

I have therefore to request you will lay this Statement before His Excellency the Governor as an explanation of the existing state of the Government business, and as an acknowledgment of how it must remain, unless the adequate means of carrying it on are afforded me.

I have, &c.,

W. H. MOORE.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 33, per ship Lord Melville.)

Sir,

Downing Street, 27 April, 1830.

27 April.
Free pardon
for J. Pearce.

Application having been made to Mr. Secretary Peel, on behalf of John Pearce, who was convicted at the Gloucester Lent Assizes in 1810, and sent to New South Wales in April, 1811, on board the Ship "Admiral Gambier," under a sentence of Transportation for life, and Mr. Peel deeming this case to be one deserving of favorable consideration, I request that you will, in the exercise of the power with which you are invested, grant a

Free Pardon to the above named John Pearce, provided his conduct, since he has been in the Colony, may have been such as to warrant that extension of Mercy to him.

I am, &c.,

G. MURRAY.

1830.
27 April.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Royal Admiral.)

My dear Sir,

Colonial Office, 28th April, 1830.

28 April.

The earnest representations of the Lieut. Governor of Van Diemen's Land as to the necessity of appointing an additional Judge* for the Service of that Colony has induced Sir George Murray to recommend such an appointment to His Majesty, which it is proposed to confer upon Mr. Baxter, the present attorney General at New South Wales.

A. M. Baxter appointed second judge in Tasmania.

It is not intended that Mr. Baxter should receive any higher Salary, as second Judge in Van Diemen's Land, than that which he at present enjoys as attorney General; but, as the new appointment for which he is destined will be a much less laborious office than the one which he now holds, there can be no doubt that he will be glad of the change.

Salary proposed.

The Warrant under the King's Signet and Sign Manual for the appointment of Mr. Baxter, as Second Judge at Van Diemen's Land, will be prepared as soon as possible and forwarded to Lieut. Governor Arthur to wait Mr. Baxter's arrival; but, as some delay will unavoidably take place in the completion of the Warrant in consequence of the lamented indisposition of His Majesty, it would not be advisable that Mr. Baxter should quit New South Wales for Van Diemen's Land until he shall hear from Colonel Arthur that the Warrant for his new appointment has arrived at the latter Colony. The practice observed in respect to the Salary of a Judge, when sent out from this Country, is to issue it to him from the date of his Embarkation. By the same rule, Mr. Baxter will be paid the Salary of his new office from the period of his Embarkation from New South Wales, at which date his Salary, as attorney General, will of course cease. With the exception, therefore, of the trifling Expence attending his Passage to Van Diemen's Land, which must be defrayed by himself, he will suffer no pecuniary loss from the arrangement.

Warrant for appointment.

A. M. Baxter to await arrival of warrant.

Payment of salary as judge.

I have thought it right to give you this early intimation of the Judicial arrangements, which are about to be made; and, as Mr. Baxter is personally interested in them, you are of course at liberty to make him acquainted with the contents of this Letter.

I am, &c.,

R. W. HAY.

* Note 121.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Lord Melville.)

Sir,

Downing Street, 29 April, 1830.

Correspondence
re salary of
F. Forbes.

I am directed by Secretary Sir George Murray to transmit to you, for your information, the copy of a letter which has been received from Chief Justice Forbes on the subject of his salary, together with a copy of the reply which has been returned to it; and I am to request, in conformity with what I have stated in my letter to Mr. Forbes, that you will give directions for the issue to him of the sum of Four hundred and Seventy one Pounds 4s. 7d.

I am, &c.,

R. W. HAY.

Payment
authorised.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO UNDER SECRETARY TWISS.

Sir,

Sydney, New South Wales, 30th November, 1829.

Previous
application by
F. Forbes.

I had the honor to address a letter, dated the 25th of March, 1827, to Earl Bathurst, at that time Secretary of State for the Colonies, respecting my salary, and also a claim, which I had upon the faith of an understanding with the Under-Secretary of State, to some remuneration for twelve months' detention in London at the express desire of His Lordship after my appointment to this Colony. I have never received any communication from the Colonial Office in answer to my letter, unless I may except a private note from Mr. Wilmot Horton, intimating that some arrangement was making with respect to my salary, and expressing a hope that it would be satisfactory to me; but, to what arrangement Mr. Wilmot Horton alluded, I cannot tell, having heard nothing further upon the subject. I am induced to attribute the circumstance of my letter remaining unacknowledged to the changes, which have taken place in the Colonial Department, and the pressure of more urgent business upon the attention of the Secretary of State. Since that letter was written, the charges upon the Colonial funds have been increased by the addition of another judge of the Supreme Court; and I am aware that, under the pressing demands for economy, the present moment may not be the most favorable for urging an increase of salary. I trust, however, that I shall not be thought to indulge in an unreasonable expectation, if I express the confident hope that the new charter will provide some scale of pensions for the Judges in the Colony on being allowed to retire from the Bench, in conformity with the rate allowed to retiring judges in England; and that, after consuming our best years in the service of the public, we may not be put to the alternative of returning in poverty to our friends, or remaining in exile for the residue of our lives. To save out of my salary, I have found impossible without sacrificing something of that bienséance, which in public stations is necessary to the preservation of public opinion and respect. The salaries of my two colleagues united are not equal to the revenues of the Colonial Secretary. I know that they find it difficult, with the strictest economy, to meet the manifold contingencies of this very expensive and much misrepresented Colony.

Request for
pensions for
judges on
retiring.

I shall esteem it a particular favor if you, Sir, will have the kindness to bring my claim, for the time I was detained in London,

under the early notice of the Secretary of State, and request, in my behalf, that the Governor may be directed to allow me half-salary from the 1st of September, 1822, the time of my appointment, to the 26th of August, 1823, the period of my detention in England. In order to facilitate any reference which may be necessary, I enclose a copy of my letter to Earl Bathurst, to which I have referred, and of Mr. Wilmot, the then Under-Secretary of State's letter to me, to shew the time of my appointment to this Colony, together with a certificate from the present Governor, that I received no salary before the 26th of August, 1823.

1830.
29 April.
Claim for salary while detained in England.

I have, &c.,

FRANCIS FORBES.

[Sub-enclosure No. 1.]

CHIEF JUSTICE FORBES TO EARL BATHURST.

My Lord, Sydney, New South Wales, 25th March, 1827.

I have the honor to lay my case before Your Lordship, in the full assurance that it will receive from your Lordship all the consideration to which it may be entitled.

I was nominated to the office of Chief Justice in this Colony, as far back as the month of August, 1822. At that time, it was in contemplation to revise the judicial Establishments of the Colony, and, at your Lordship's desire, communicated to me by Mr. Wilmot Horton, I was detained in England until the new arrangements should be completed. I was also given to understand that some compensation would be allowed me for the detention. The New South Wales Act passed in July, 1823, and I embarked on the 23d of the following month, at which time my Salary commenced. I have never received any compensation for the interval between my appointment and embarkation, comprising a period of twelve months.

Nomination of F. Forbes as chief justice.

At the time of my appointment, the Salaries of the principal Civil Officers of the Colony were regulated according to the following scale:—

Salaries of civil officers in 1822.

	£	£
The Governor's Salary	2,500	
Perquisites and Emolts. not Military	1,500	
	—	4,000
The Chief Justice's Salary (no perquisites whatever allowed)		2,000
The Colonial Secretary		1,200
The Attorney General		1,200

The above Scale has since undergone considerable alterations, and may now be stated as follows:—

Alterations in salaries.

	£	£
The Governor's Salary	4,200	
Perquisites and Emolts.	1,500	
	—	5,700
The Colonial Secretary	2,000	
Allowance for Pension	750	
	—	2,750
The Archdeacon's Salary	2,000	
Allowance for travelling Fees		2,000
The Chief Justice's Salary		2,000
The Attorney General's		1,500

From this Statement, your Lordship will perceive that the Salary of the Chief Justice remains stationary, while that of every other

1830.
29 April.
Claims of
F. Forbes to
increase of
salary.

officer has been increased. So long as the Charter by which my Salary was fixed continued in force, I thought I could not with propriety ask for an addition; but now that the Charter is about to expire, and that I must depend in future upon the funds of the Colony, I feel it a duty to represent to Your Lordship that the Chief Justice is not paid in proportion to his rank and importance in the Colony. The Supreme Court is called upon to exercise the complicated Jurisdictions of all the King's Courts in England, and is expected to proceed with the same correctness as would be observed in Westminster Hall. It would be improper, on the present occasion, to call in aid any services I may have rendered in the Legislative and Executive Councils of the Colony. In a new state of Society, it is the common duty of every servant of the Crown to afford the benefit of his experience and advice to the Government; but I may be allowed to observe that a more than ordinary share of this responsibility has devolved upon the Chief Justice, and consequently has required on his part a corresponding degree of qualification and care.

Your Lordship will find, upon referring to Mr. Bigge's Report on the Judicial Establishments of New South Wales (Page 11) that the income of the late Judge of the Civil Court was upon an average about £1,900 per annum, which, with the addition of certain perquisites, increased the amount to something above £2,000; and that the income of the Judge Advocate (Page 4) considerably exceeded that Sum. My Salary as Chief Justice of the Supreme Court is limited by the Charter to £2,000 per annum, and I am prohibited from receiving any Emolument whatever. In addition to the Judicial duties which I undertook to perform, I have lately been appointed Judge of the Vice Admiralty; but, in consequence of the restraint imposed upon me by the Charter, I have conducted the business of that Court gratuitously.

I have now, My Lord, filled the office of Chief Justice of one of the King's Superior Courts in the Colonies for more than ten years, and I trust with fidelity to His Majesty and some advantage to His Majesty's Subjects; but I may appeal to the state of my fortune to prove that it has not been with profit to myself. I cannot well imagine any profession or situation, wherein I could have been placed, in which the same exertion of mind and body and prodigal expenditure of health would not have been followed by a large temporal reward. The effects of varied climates and a sedantary life upon my constitution have begun to remind me that the time may not be far off when I shall be rendered unfit for the arduous duties of office; and I cannot but feel anxious for the future. It has not been however, without great reluctance, that I have been brought to press my private affairs upon your Lordship's notice: but a due sense of the justice, I owe to my family, has compelled me to lay my case before your Lordship; and I cannot but feel confident that the well founded claims of public service will always meet with a willing attention from your Lordship.

I have, therefore, to hope that Your Lordship will take my case into consideration, and order me such compensation for the time I was detained in London, and such addition to my Salary, either as Chief Justice of the Supreme Court or as Judge of the Vice Admiralty Court, as the claims, I have laid before Your Lordship, may appear to deserve.

I have, &c.,

FRANCIS FORBES.

[Sub-enclosure No. 2.]

1830.
29 April.

UNDER SECRETARY WILMOT TO CHIEF JUSTICE FORBES.

Sir, Colonial Office, 13th Augt., 1822.

I am directed by Earl Bathurst to state to you that the situation of Newfoundland since your departure and the interests, which are involved in the entire suspension of the Supreme Court of Civil and criminal Judicature, have been brought in a very particular and urgent manner under his consideration.

Necessity for
return of
F. Forbes to
Newfoundland.

The enclosed is an extract from a representation, which he has received, signed by several very respectable houses in London interested in the Colony.

As it does not appear to Lord Bathurst that any temporary measure can be resorted to in this case, the presence of the Chief Justice seems to be absolutely necessary; and his Lordship trusts that, under these circumstances, you may, without great inconvenience, be prepared immediately to return to discharge the duties of that Office. Should the present state of your health be such as to prove an insurmountable obstacle to your speedy return to Newfoundland, or if you should prefer the situation of Chief Judge of the Supreme Court at New South Wales, which is now vacant, I am to inform you that Lord Bathurst will feel great pleasure in recommending you for that appointment.

Alternative
offer of chief
justiceship
in N.S.W.

I am, &c.,

R. WILMOT.

[Sub-enclosure No. 3.]

CERTIFICATE BY GOVERNOR DARLING.

THESE are to Certify that Chief Justice Forbes appears to have drawn his Salary in this Colony from the 26th of August, One thousand, eight hundred and twenty three, and not previous to that date.

Certificate
re salary of
F. Forbes.

Given under my hand at Govt. House, Parramatta, this twentieth day of November, 1829.

RA. DARLING.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO CHIEF JUSTICE FORBES.

Sir, Downing Street, 27th May, 1830.

I have laid before Secretary Sir George Murray your letter of the 30th Novr. last, addressed to Mr. Twiss, submitting an application for an increase of Salary, as Chief Justice of New South Wales, and for compensation for the time that you were detained in England after your appointment to that Colony took place. I regret to acquaint you in answer that the Secretary of State does not feel at liberty under the circumstances of your case to hold out to you any prospect of your receiving an augmentation of Salary. It is true that, when Mr. Wilmot Horton addressed to you the private Communication to which you have adverted in your letter, he was in hopes that an arrangement satisfactory to yourself upon this point would have been sanctioned; but as it appears that this arrangement was not allowed to take effect by the acquiescence of Mr. Huskisson, who was then Secretary of State, and at a time when there was only one Judge on the Bench upon whom the whole Judicial business of the Colony devolved, Sir George Murray cannot with any propriety authorise your receiving an addition to your

Letter
acknowledged.

Refusal of
increased
salary.

1830.
29 April.

Salary, after you have been relieved from so considerable a part of your labours by the assistance, which has been afforded you by the appointment of two other Judges.

Compensation
for detention
in England.

With respect to your claim for compensation on account of your detention in England after you received your appointment to the Colony, Sir George Murray desires me to acquaint you that a letter was addressed to the Treasury on the 15th September, 1823, recommending that your Salary, at the rate of £2,000 per annum, should be issued to you from the 1st of June of that year, which would include a period of 86 days prior to the 26th of August, the date at which you have stated that your Salary actually commenced. After the assurance given by you, supported by the Certificate of the Governor, that you have received no Salary before the 26th August, 1823, Sir George Murray cannot suppose that you have been paid any part of the sum to which, under the terms of the above mentioned letter to the Treasury, you would be entitled as compensation "for the time you were detained in London." He has, therefore, directed the Governor to issue to you the sum of four hundred and Seventy one pounds 4s. 7d.; but this is the total amount of the payment, which the Secretary of State can authorise to be made to you on that account.

Refusal of
pensions for
colonial
officials.

With reference to the observation contained in your letter on the subject of retired Allowances to the Judges of the Supreme Court in New South Wales, the Secretary of State desires me to acquaint you that there is no intention of establishing a scale of pensions for any of those persons, whether holding judicial Situations or others, who may be employed under the Colonial Department.

I am, &c.,

R. W. HAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 34. per ship Lord Melville.)

1 May.

Sir,

Downing Street, 1 May, 1830.

Appointment
of F. T. Rusden
as assistant
surveyor.

With reference to my dispatch of the 21 of April No. 24, wherein you were informed that an Assistant Surveyor would be sent out from this Country to be employed in the Department of the Roads and Bridges, I have the honor to acquaint you that I have appointed Mr. Francis Townsend Rusden to that situation.

Mr. Rusden will receive the salary and allowances, which were attached to the Assistant Surveyorships by Mr. Huskisson, and will be directed to proceed as early as possible to the Colony.

I am, &c.,

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lord Melville.)

2 May.

Sir,

Downing Street, 2d May, 1830.

Recommendation
of
H. G. Smith.

I am directed by Secretary Sir George Murray to transmit to you the enclosed Copy of a letter from Mr. Henry Gilbert Smith, who is proceeding to New South Wales as a Settler, and

proposes to take out with him a Steam Engine to be applied to a Vessel there; and I am to request that you will give such countenance to the Enterprize in which this Gentleman has embarked, as it shall appear to you to deserve.

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

1830.
2 May.

[Enclosure.]

MR. H. G. SMITH TO SIR GEORGE MURRAY.

Sir, 5 Brownlow St., Holborn, 29th April, 1830.

I beg to state that I have resided some time in New S. Wales as a Merchant, and that it is my intention to return thither the beginning of May. From the local knowledge I have acquired of the advantages, which would be obtained by Steam Navigation in a more expeditious communication between Sydney and Parramatta, I am induced to take out a Steam Engine to be applied to a Vessel for this purpose.

Proposed
steamboat
between
Parramatta
and Sydney.

Conceiving that H.M. Govern't may be disposed to countenance such individual enterprises as are likely to promote the welfare of a rising Colony, and that the introduction of Steam Navigation into New South Wales may be considered to have this effect, I venture to submit to you my project, in the hope that you may be pleased to recommend the Governor to allow me some peculiar privileges for my Steam Vessel during such a period as he in his discretion may think me fairly entitled to in return for the considerable expense I am incurring in originating the undertaking.

Request for
special
privileges.

I have, &c.,

HENRY GILBERT SMITH.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch marked "Private." per ship Lord Melville; acknowledged by Governor Darling, 2nd December, 1830.)

Sir, Downing Street, 3d May, 1830.

3 May.

With reference to my dispatch of the 30th of January last, enclosing the opinion of the Attorney and Solicitor General respecting the right of the Governor of New South Wales to revoke the Assignments of Convict Servants, I am induced by some statements, which have appeared in the Colonial Newspaper, called the "Monitor," to direct your attention to the following additional remarks on the same subject.

Power of
governor
to revoke
assignments
of convicts.

It is represented that you have exercised the power* of revoking Assignments in two cases only, and that, in each case, the Parties directly affected by the measure were the Editors of the two Newspapers, who are habitually opposed to your administration. I trust that this statement is inaccurate, for nothing can be more opposite to the intentions of Parliament in conferring this power upon you, or to the design of His Majesty's Government in proposing such an enactment, than that the right of revoking assignments should be made subservient to any Political purpose. The selection of your two principal opponents as the Persons, at

Instructions
re exercise
of power.

* Note 122.

1830.
3 May.
Instructions
re exercise
of power.

whose exence this power was to be exercised, would have been highly imprudent also, as giving countenance to the imputation that the indulgence of your own personal feelings rather than the Public Welfare had been consulted. You will have the goodness to report to me every occasion on which you have revoked or shall hereafter revoke any Assignment, with a short explanation of the grounds of your decision in each case. You will distinctly understand that the benefit of the Convict is to be the principal, if not indeed the exclusive consideration for your guidance in the exercise of this power. It was given for the express purpose of enabling you to rescue Convicts from the control of Persons, who might be disposed to make an improper use of their authority. It would be a total abuse of this trust, if it were used as a resource for patronage, or as an instrument for punishing offences against your own Person. So invidious indeed is the duty, which this devolves upon you, and so great the danger of misrepresentation to which you will be exposed, that you will never revoke an assignment except after previous consultation with the Executive Council.

I am, &c.,
G. MURRAY.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.
(Despatch per ship Lord Melville.)

4 May.
Recommend-
ation of
T. Smith.

My dear Sir,

Downing Street, 4th May, 1830.

I enclose a memorandum which has been forwarded to Sir George Murray by Mr. Cartwright, Member for Northamptonshire, in favor of Mr. Thomas Smith, who, with a Wife and four Children, is about to proceed to New South Wales; and I am desired by Sir George Murray to recommend Mr. Thomas Smith to your protection and good offices.

I am, &c.,
HORACE TWISS.

[Enclosure.]

MEMORANDUM.

Request for
support for
T. Smith.

MR. THOMAS SMITH, with his wife and four children, are about to embark for New South Wales, and he is very desirous of obtaining a letter from Sir George Murray to the Governor, recommending him to the notice of General Darling, and stating that he (Thomas Smith) has been engaged in commercial pursuits for twenty years and is perfectly conversant in commercial concerns.

Mr. Cartwright is well acquainted with Thomas Smith's friends and connections in Northamptonshire, who are most respectable, and Mr. C. will be very much obliged to Sir G. Murray to comply with Thomas Smith's request.

30 Albemarle Street, 28th April, 1830.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 32, per ship Asia; acknowledged by
Sir George Murray, 26th October, 1830.)

1830.
4 May.

Sir, Government House, 4th May, 1830.

I am apprehensive, from your Despatch of the 29th of August last, No. 138, which I have lately had the honor to receive, that mine of the 12th of December, 1828, No. 137, was not expressed with sufficient clearness or precision.

Despatches re
Port Macquarie.

I am sorry it is not in my power to forward the Reports, which you have called for by this opportunity, as they are voluminous and the ship sails tomorrow. But they shall be copied immediately and transmitted by the next Vessel. They however affect the question no further than relates to the discontinuance of the Appointment of Superintendent of Agriculture at Port Macquarie, the Establishment being continued under the Assistant Superintendent; and I beg further to explain, that I had no intention of conveying an impression that any New Arrangement had been made, as you appear to suppose, for remunerating the Superintendents of the Establishments to be continued, their Salaries having been long since fixed and approved.

Inability to
forward reports.

Establishment
at Port
Macquarie
under assistant
superintendent.

I beg also to point out that, having been repeatedly urged by your Predecessor to do away the Stock and Agricultural Establishments as soon as circumstances should permit, it did not occur to me that any reference on my part would be necessary previously to acting on the Instructions I had received; and, in fact, the arrangements, which I had the honor to report to you in my Despatch above referred to, had been carried into effect some Months before I was informed of your having succeeded to the Administration of the Colonies.

Instructions
received for
abolition of
stock and
agricultural
establishments.

I now beg leave to inform you that, in pursuance of general Instructions from your predecessors, I lately made arrangements for reducing the Establishment at Wellington Valley, and was about to withdraw the Troops and Convicts from that Settlement when I received your Despatch; but, as you may wish to Consider the expediency of that measure, I shall not carry the arrangements into effect, unless I receive your order to do so.

Intended
reduction at
Wellington
valley.

Wellington Valley is in the Interior 250 Miles from Sydney, and possesses no advantages that I am aware of, which can compensate the inconvenience and Expense occasioned by its maintenance.

Disadvantages
of Wellington
valley.

Last Season the Crops at that place entirely failed, as they very generally did throughout the District of Bathurst. It will, therefore, be necessary to supply that Settlement from Sydney, and the Expense of transporting Grain, etc., over the Mountains will consequently be very great.

1830.

4 May.

Military and convicts at Wellington valley.

A Detachment of the Military has been kept at Wellington Valley, and generally about 40 Prisoners of the Crown for the purpose of attending the Stock and Agricultural Establishments. There are also two small Military Posts between that Settlement and Bathurst (being 100 Miles from each other) in order to preserve the Communication. These I had also intended to withdraw as they would have been no longer necessary.

I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 35, per ship Lord Melville.)

5 May.

Magistrate, military and police at Port Stephens.

Sir,

Downing Street, 5 May, 1830.

I have lately had under my consideration that part of your dispatch No. 143, of the 28th of Decr., 1828, in which you state that a detachment of Soldiers have been stationed at the Company's Settlement at Port Stephens for the better security of their Establishment, that an Officer has been sent there, since Mr. Dawson's removal, to act as a Magistrate, though at much inconvenience to the Military Service, and that two Constables, who were previously appointed to the Establishment, are still maintained by the Government at an expence of £100 per annum.

It is very far from my wish to withdraw from the Company any assistance, which can be afforded to them by the Colonial Government consistently with the convenience of the Public Service; but I cannot agree to the employment of any Persons, either Civil or Military, with a view to the protection of any property belonging to the Company, if that object can only be obtained by the sacrifice of the Public interests in other parts of the Colony. And, as I do not see any reason for maintaining at the charge of the Government the Constables stationed upon the Company's Grant, you will intimate to their Agent, Sir William Edward Parry, that, if the services of these Constables be still considered necessary, the entire expence of their Employment must fall upon the Company.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 36, per Lord Melville.)

6 May.

Abolition of commissioners for survey of colony.

Sir,

Downing Street, 6th May, 1830.

As it is deemed advisable to dispense with the further services of the Commissioners,* who, in pursuance of the Royal Instructions* addressed to you on the 17th July, 1825, have been

* Note 123.

appointed to survey and value all the waste and ungranted Lands in the Colony under your Government, I am to signify to you the King's Commands that you do forthwith revoke the Commissions, which you may have issued in favor of the Persons at present discharging those duties, and that the performance of them may be entrusted to the Surveyor General, who, with the aid of the Assistant Surveyors, will in future be held responsible for all arrangements connected with the Survey and Division of the Territory.

1830.
6 May.

Survey and subdivision of colony under surveyor-general.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Lord Melville; acknowledged by Governor Darling, 14th December, 1830.)

My dear Sir, Downing Street, 7th May, 1830.

7 May.

With various other papers, which were transferred to me by Mr. Twiss when I again took charge of the business connected with New South Wales, was a private letter from you, dated the 4th of July last, respecting the Person by whom you were supposed to be influenced in carrying on the affairs of your Government, when the Secretary of State addressed to you his Separate Dispatch of the 30th of August, 1828. As you have expressed a wish in the Postscript of your letter that its contents, so far as relates to Sir John Jamison, should be communicated to the Secretary of State, I have thought it best to bring the whole of it under his notice. Sir George Murray is perfectly satisfied that Colonel Dumaresq meant well, and considered himself sufficiently informed upon the subject, when he pointed to Sir John Jamison as a Person to whom allusion was intended to be made by the Secretary of State in his dispatch above referred to; But he trusts that the circumstance of Colonel Dumaresq having been so much in error on this occasion, and his communication having impressed that error, as it appears to have done, upon you, will be a sufficient evidence how expedient it is for you to preserve your judgment free from any bias, which it might derive from the mistakes or the prejudices of others.

Alleged influence of Sir J. Jamison on R. Darling.

Necessity for unbiassed judgment.

With respect to Dr. Douglas, it would hardly seem necessary to assure you that you have formed a very incorrect estimate of the degree of consideration given at this Department to any opinion or statements coming from that Gentleman, and that you have consequently attached an importance to his name, which circumstances have not in any way justified.

Opinions of H. G. Douglass.

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

1830.
8 May.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 37, per ship Lord Melville; acknowledged by Governor Darling, 21st January, 1831.)

Sir,

Downing Street, 8 May, 1830.

Appointments
of draftsmen
confirmed.

I have the honor to acquaint you that, in consequence of the very favourable testimonials which I have received of the qualifications of Mr. John McLeod and of Mr. Walter Rennie Davidson, who are understood to be at present employed in the Surveyor General's Department at New South Wales, I am induced to confirm the appointment of those Gentlemen as Draftsmen, with the salary of £150 per annum each. Your nomination of Mr. D'Arcy to a similar situation having been confirmed, these Gentlemen will complete the number of additional Draftsmen, whom you were apprised, by my dispatch of the 13th of August last No. 133, would be appointed for the service of that Department.

Establishment
of surveyor-
general's
department.

The Establishment of the Surveyor General's Department will now consist, exclusive of the Surveyor and Deputy Surveyor Generals, of the following Persons:—

4 Surveyors.—Mr. Robert Hoddle; Mr. J. B. Richards; Mr. Heneage Finch; Mr. James Ralfe.

18 Assistant Surveyors.—Mr. Robert Dixon; Mr. G. B. White; Mr. John Thompson; Mr. Philip Elliott; Mr. Peter Ogilvie; Mr. John Abbott; Mr. W. R. Govett; Mr. Stapylton; Mr. E. J. H. Knapp; Mr. John Nicholson; Mr. Henry Butler; Mr. Felton Mathew, Mr. John Edwards, attached to the Department of Roads and Bridges; Mr. Wm. Jaques; Mr. N. L. Kentish; Mr. M. W. Lewis; Mr. John Ragers; Mr. F. T. Rusden, also attached to the Dept. of Roads and Bridges.

7 Draftsmen.—Mr. P. L. Bemis; Mr. R. N. Docker; Mr. H. F. White; Mr. John Larmer; Mr. D'Arcy; Mr. John McLeod; Mr. W. R. Davidson.

If the several Officers enumerated above are duly qualified for their situations, I do not conceive that it will be necessary to strengthen the Department; but, if, on the other hand, there should be any of whom the Surveyor General cannot make a satisfactory report, you will take an early opportunity (provided no other objection can be urged against them than their unfitness for the particular situation of Surveyor or Draftsman) of transferring them, subject to my approval, to some other Department of your Government, in which you may conceive that their services can be more advantageously employed. To the situations which may be so vacated, you will promote the Junior Members, who may be retained in the Department, attending to

seniority amongst the respective Candidates only when added to merit and a reasonable degree of talent, of which you will take the opinion of Major Mitchell; you will provisionally fill up the vacancies by such Persons on the spot as, after an examination by the Surveyor General, shall appear qualified for the situations, transmitting to me a copy of Major Mitchell's report upon the comparative merits of the respective Persons thus temporarily employed.

1830.
8 May.

Instructions
re vacancies.

You will of course apprise me of the measures which, in consequence of this dispatch, may be taken for placing the Surveyor General's Department upon that efficient footing, which has been so much desired by His Majesty's Government. I am, &c.,

Report to be
submitted.

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lord Melville.)

Sir, Downing Street, 9th May, 1830.

9 May.

Having laid before Secretary Sir George Murray your letter to Mr. Twiss of the 9th of Sept. last, wherein you report the unsuccessful result of your enquiries respecting John Hill. I am directed to inform you, in reply, that John Hill is not a Convict, as you appear to have imagined, but a free Person who joined the Establishment at Raffles' Bay. I am therefore to request that you will endeavour to ascertain whether he is still in the Colony under your Government, and where he usually resides. To assist you in your search, I beg to acquaint you that John Hill was formerly a Seaman on Board His Majesty's Ship "Success," and was numbered on the Ship's Books No. 14. S.L.V.

Inquiries
ordered re
J. Hill.

I am, &c.,

R. W. HAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 38, per ship Lord Melville.)

Sir, Downing Street, 10 May, 1830.

10 May.

As I deem it important that His Majesty's Government should be informed of the terms, on which Lands have been granted at different periods in New South Wales, in order that some Estimate may be formed of the amount of Quit Rent and other benefits, which the Colonial Revenue is likely to derive from that source, I request that you will be good enough to furnish me with a statement, shewing what Regulations have been in force in the Colony under your Government from the earliest times, the number of Settlers who claim exemption from the payment of Quit-Rent in whole or in part, and the Plea on which

Report required
re quit rents
on land grants.

1830.
10 May.
Report required
re quit rents
on land grants.

such claim may have been advanced. You will also be careful in stating what number of Grantees are entitled to a remission of Quit-Rent chargeable on their lands in consequence of the number of Convicts which they may have taken off the hands of Government, to what extent that remission is claimed, and the date at which this particular Regulation ceased to be in force.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Catherine Stewart Forbes.)

Sir, Government House, 10th May, 1830.

Despatch
acknowledged.

I have the honor to acknowledge the receipt of Your Despatch, dated the 9th of October last, marked "Separate," transmitting the Extract of a Letter addressed by Mr. Robison, late of the New South Wales Veteran Companies, to Lord Fitz Roy Somerset, in order to my replying to the several points referred to in the said Extract.

Transmission
of replies to
allegations by
R. Robison.

I beg, Sir, in consequence, to request Your attention to the accompanying Document, which I have endeavoured to draw up as briefly as possible, satisfying myself with shewing that Mr. Robison's assertions are either positively untrue or grossly distorted.

Reluctant as I am to trespass on your time, I cannot close this communication without requesting you will be at the trouble of perusing my "Replies" to Captain Robison's Charges, transmitted in original to the General Commanding in Chief, with my Letters* of the 1st and 2nd of March last, and which his Lordship, at your desire, will no doubt communicate to you.

Difficulties
created by
R. Robison.

It is not sufficient that Mr. Robison has been dismissed from the Military Service, but it is of consequence to my reputation, in the station I have the honor to fill, that His Majesty's Government should be aware of the difficulties and embarrassments (occasioned by him and his confederates) I have had to contend with in discharging the duties of an Office, which from local circumstances alone must always be arduous.

I have, &c.,
RA. DARLING.

[Enclosure.]

Replies to
statements by
R. Robison.

REPLIES to the Statements Contained in Captain Robison's (Royal Veteran Companies) Letter to Lord Fitz Roy Somerset, dated 4th October, 1828.

Employment of
H. Dumaresq.

Statement. 1st. That he (Lieutt. Colonel Dumaresq) held the Military situation of Aide de Camp, and the Civil Appointment of Private Secretary and Clerk to the Executive Council, with several hundreds a year. *Reply.* Lt. Colonel Dumaresq's Pay as Aide de

- Camp was 9s. 6d. a day—£173 Ss. 6d.; Salary as Private Secretary, £300; total, £473 Ss. 6d. He acted as Clerk of the Executive Council, and discharged very laborious and arduous duties, without any Salary, Pay or Allowance for those duties, Dr. Douglass the Clerk of the Legislative Council receiving the full Salary of £800 a Year.
- Statement.* 2nd. Besides having received, while on the Full Pay of these Companies, a free Grant of upwards of 3,000 acres of the best land in the Colony, with leave to purchase 10,000 acres more adjoining. *Reply.* Untrue. He received 2,000 Acres of Land, as a Grant, and authority to purchase 8,000 acres in addition from my Predecessor, before the Veteran Companies were formed, being at the time on Half Pay.
- Statement.* 3rd. One of the Subalterns of my Company, Lieutt. North, holds a Civil Office of better than £400 a Year, as Bonded Store Keeper of the Custom House. *Reply.* Lieutt. North was nominated to the situation mentioned, and made application in consequence, to retire from the Service. But, as the Appointment was not confirmed, his Application was not forwarded from the Secretary of State's Office, thro' which it had been provisionally transmitted. The Salary was not "better" than £400 a year but exactly that Sum.
- Statement.* 4th. The head of which is a Foreigner (Captain Rossi) on Half Pay of the Army, put into office by General Darling, with a Salary of nothing short of £2,000 a year. *Reply.* Untrue. Captain Rossi is a retired officer, but does not receive Half Pay. Was appointed by Earl Bathurst as Principal Superintendent of Police with a Salary of £600, and was temporarily transferred to the charge of the Customs Department, at a Salary of exactly half the Sum, stated by Captain Robison without any other allowance whatever.
- Statement.* 5th. And our only Medical Officer, Assistant Surgeon Gibson, has been, and is to this day, kept from his duties (as the House and Family Surgeon of General Darling) never having left Head Quarters since he landed in the Colony, besides receiving double Pay as a Colonial Surgeon and has got a Grant of Land from His Excellency of 2,560 Acres, in a most advantageous situation, worth nearly as many Pounds Sterling. *Reply.* Untrue. Mr. Gibson was not "kept from his duties," but attended the sick of the Veterans stationed or employed in Sydney. These Companies were necessarily much dispersed, and the Assistant Surgeon could not be with every Detachment. The Sick of the Detachments were attended by the Colonial Surgeons. On being nominated to the Civil Establishment he sent in an application to retire on Half Pay, which, being refused, he was discontinued on the Civil Establishment. Mr. Gibson, having applied to retire from the Service, while employed in a Civil situation, married a Lady with Considerable Property, and was allowed a Grant of Land, as others, according to his available Capital. As to the value of Mr. Gibson's Land or Lt. Col. Dumaresq's, though Captain Robison's Statement is grossly exaggerated, it is unimportant, as every Person allowed Land is permitted to select where he pleases. Mr. Gibson has since retired from the Service, and is now settled on his Land.
- Statement.* 6th. When I applied for a Grant of Land, I was told I could not receive it, because I was on Full Pay, and that I must retire from the Service first. *Reply.* I was prohibited by my Instructions from granting Land to Officers on Full Pay.

1830.
10 May.Replies to
statements by
R. Robison.Land held by
H. Dumaresq.Nomination
of S. North
as storekeeper.Employment of
F. N. Rossi.Employment
of and land
granted to
A. Gibson.Refusal of
land grant for
R. Robison.

1830.
10 May.

Statement. 7th. Although numerous Officers in this Command have received Grants of Land (none less than 2,560 acres) from General Darling. *Reply.* Totally false.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Lord Melville.)

11 May.

Sir,

Downing Street, 11 May, 1830.

Recommendation of F. Moran and J. Reid as military settlers.

Doctor Francis Moran on the Half Pay of the Royal Staff Corps, and Lieutt. James Reid, late on the Half Pay of the 56th Regiment, having respectively applied to the Secretary of State for a Grant of Land in New South Wales, under the Regulations which have been promulgated by His Majesty's Government for the encouragement of Officers of the Army to become Settlers in the Australian Colonies, I am directed by Secretary Sir George Murray to transmit to you a copy of a letter from the Military Secretary to the General Commanding in Chief, stating the services of those Officers, and to desire that you will make a grant of land to each of them in conformity with the abovementioned Regulation, if there should be nothing in their case (according to the Rules laid down in Sir George Murray's dispatch of the 1st of November last, No. 159, with respect to those Officers who were already in the Colony), which should prevent their receiving a Grant upon those favorable terms.

I am, &c.,

R. W. HAY.

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY HAY.

Sir,

Horse Guards, 10th May, 1830.

Having submitted to the General Commanding in Chief your letter of the 5th Instant, and its enclosures, stating that Dr. Francis Moran on H.P. of the Royal Staff Corps, and Lieutt. James Reid, late on H.P. of the 56th Regt., had applied for permission to proceed as settlers to New South Wales, I am directed to annex a statement of those Officers' Services, and to acquaint you for the information of Sir George Murray that General Lord Hill is not aware of any objection to their receiving Grants of land upon the favorable terms held out in the General Orders* for the encouragement of Military Officers to settle in the Australian Provinces.

I have, &c.,

FITZ ROY SOMERSET.

Services of Dr. Francis Moran.

Hospital Assistant	22d April, 1813.
Asst. Surgeon R. S. Corps	17 Aug. 1815.
½ pay	25 Decr., 1818.

Services of F. Moran;

Services of Lieutt. James Reid.

Ensign 56 Foot	16 April, 1807.
Lieutt. „	19 Decr., 1809.
„ ½ pay	4 Sept., 1817.
Sold out	15 May, 1827.

and of J. Reid.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 39, per ship Lord Melville.)

1830.
12 May.

Sir, Downing Street, 12th May, 1830.

I have had the honor to receive your dispatch dated the 18th of March, 1829, transmitting 49 Rules of the Supreme Court of New South Wales for the Regulation and Government of His Majesty's Gaol and Prison Hulk at Sydney, certified by the Chief Justice on the 5th of August, 1828.

Rules for gaols
and hulk
acknowledged.

I have received His Majesty's Commands to instruct you to signify to the Judges of the Supreme Court that His Majesty is pleased to disallow the Rules in question. I am not aware that any objection arises to the substance of these Regulations, but they are not issued under the proper authority. It was not, I conceive, the intention of Parliament that the government and discipline of Gaols, or that the expences to be incurred in them, should be subject to the Regulation of the Supreme Court. Neither do I apprehend that such is the proper construction of the Act of Parliament or of the Charter. Such a purpose, had it been entertained, would have been highly inconvenient. Of this, the Rules under consideration afford abundant examples. Thus the views of the Court cannot possibly be carried into effect without subjecting His Majesty's Revenue to a serious charge. The propriety of incurring that expence is a question for the decision not of the Court, but of the Legislature. The whole argument appears to rest upon the power of regulating the proceedings of the Sheriff, which Parliament has given the Judges. But I consider that power to have been given merely with a view to enable the Judges to determine the forms and order of all Judicial proceedings, in which the Sheriff is the necessary Agent. To derive from such an expression the right of apportioning different parts of the Gaol to different purposes, of regulating the ablutions, exercises, meals, and amusements of the Prisoners, their attendance at Divine Service, and the articles to be supplied for their use, with every other matter relating to them, however considerable or minute, appears to me a forced construction of this language. Neither am I aware that there is any British Statute, or any principle of the common Law, which would justify the assumption of such powers.

Disallowance
of rules.

Want of power
for judges to
make rules.

You will propose to the Legislative Council the enactment of any such Law* as may appear to you best calculated for regulating the internal economy of the Gaols and Hulks of New South Wales, availing yourself of course of the assistance, which you will be able to derive from the rules already promulgated by the Judges for that purpose.

Act of council
for control of
gaols and hulk
to be passed.

I am, &c.,

G. MURRAY.

* Note 126.

1830.
12 May.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 33, per ship Catherine Stewart Forbes.)

Sir, Government House, 12th May, 1830.

I have the honor to acknowledge the receipt of your Despatch of the 30th of November, 1829, Marked "Circular," and beg to acquaint you that no Expences have been incurred by this Government for suppressing the Slave Trade, or the repression of illicit proceedings connected therewith.

I have, &c.,
RA. DARLING.

Absence of
expenditure on
suppression of
slave trade.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 40, per ship Lord Melville.)

16 May.

Sir, Downing Street, 16 May, 1830.

I have had the honor to receive your dispatch dated the 8th of October last, No. 108, with several enclosures, reporting the measures adopted by the Judges of the Supreme Court of New South Wales for holding criminal Sessions of the Supreme Court in different parts of the Territory.

I observe that you entertained serious doubts whether, in the absence of an Order in Council under the 13th Section of the New South Wales Act 9th Geo. 4th, cap. 83, this measure could be lawfully adopted, but that you surrendered your own opinions on this subject in deference to the judgment of the Chief Justice.

Adverting to the very decided language of Mr. Forbes's letter to yourself of the 20th of March, 1829, I approve your temporary acquiescence in his view of the question. I cannot, however, adopt it myself, but am of opinion that your own view of the subject was more consistent with the spirit, if not with the letter also, of the Act of Parliament.

Mr. Forbes draws a distinction between the several Judges holding Courts in different parts of the Colony at the same time, and the holding Courts of Circuit. Without denying that many technical distinctions between the two modes of proceeding might be pointed out, I cannot perceive how they differ in substance. In either case, the Judges are compelled to act apart and not together. Upon either supposition, they are obliged to quit the immediate seat of Government, and to perform journies through the Country. To all ordinary apprehension at least, three Courts are upon either plan open contemporaneously. There is the same necessity for requiring the service of Naval or Military Jurors in the more remote parts of New South Wales, whether the term "Circuits" be employed or not. Three distinct Officers must be employed to act as Public Prosecutors, by whatever name the

Measures for
holding circuits
of criminal
court.

Opinion of
R. Darling
endorsed.

Criticism of
opinion given
by F. Forbes.

Courts may be called; and the nominal distinction does not in any degree diminish the charge to which the Public Revenue is subjected by the Travelling expences of the Judges and other Officers. When Parliament reserved to His Majesty in Council the power of Establishing Circuit Courts, it was, I think, obviously intended to withhold from any other Authority the Right of introducing those substantial changes in the mode of administering Justice, to which I have adverted. The design of the Statute must not be defeated by a mere verbal subtlety; and no Courts, which are *substantially* Courts of Circuit, must be holden under whatever name, until His Majesty's Order in Council for that purpose shall have issued.

1830.
16 May.

Reservation of power to establish circuit courts.

This Instruction must, however, be understood as entirely prospective. I am anxious not to suggest to the Public at large any doubt as to the legality of the past proceedings of the Judges, since such doubts might occasion very serious inconvenience without producing any real advantage whatever. I perfectly agree with Mr. Forbes that it is not necessary, in point of Law, that the Supreme Court should be always holden at Sydney. General convenience, however, sufficiently indicates that Town as the most proper seat of this Tribunal. If any circumstance should require the transfer of it's Sessions to any other part of New South Wales, the Court must still be holden as a single Tribunal, and not a body devisible into three distinct Chambers.

Instructions to be prospective.

Supreme court to be maintained as single tribunal.

I regret to perceive that the expences of the Circuits were very considerable. For the reasons which I have already mentioned, I am to sanction your payment of them; but a similar charge must not be incurred after the arrival of this dispatch without a distinct previous permission from His Majesty.

Approval of expenditure on circuits.

You will report to me your opinion, whether it would be expedient that the power of Establishing Circuit Courts, which is vested in His Majesty by the 13th Section of the New South Wales Act, should be called into exercise, and you will direct the Judges to report to you their opinion upon this subject.

Report required re establishment of circuit courts.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 41. per ship Lord Melville.)

Sir,

Downing Street, 20 May, 1830.

20 May.

I have had the honor to receive your dispatch dated the 25th of August last, No. 99. enclosing the copy of a letter from the Archdeacon of New South Wales, respecting a judgment in the Supreme Court of that Colony in the case of the "King

Report received re suit King v. Hall.

1830.
20 May.

against Hall," with a report of the charge of Mr. Justice Dowling on the trial of that action.

Approval of
charge by
J. Dowling
to assessors.

The Archdeacon complains of the discrepancy between the opinion of the Court and the terms of his Patent and Instructions. I cannot, however, perceive that any such discrepancy really exists. The charge delivered by Mr. Dowling does not deny to the Archdeacon the character of Commissary or Ordinary in New South Wales, nor does it abridge any of the powers which are usually supposed to belong to those Offices. The effect of the decision seems to be only that the Pews in a Church, which is not Parochial but a mere Royal Foundation, are not subject to the disposition of the Ordinary, but remain vested in His Majesty, and can be let only by him or by persons acting directly under His authority. This determination does not appear to derogate any thing from the authority of the Archdeacon. The Ordinary in England does not assume the right of disposing of Pews, except in Parish Churches; and the power, which Mr. Scott was unable to exercise as Ordinary, he might, according to Mr. Dowling's opinion, exercise effectually as a Member of the Committee appointed on the part of the Crown.

I have therefore no Instructions to give on the subject, nor do I see any reason to disapprove or to regret the Judge's decision.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 34, per ship Catherine Stewart Forbes; acknowledged by Sir George Murray, 1st October. 1830.)

21 May.

Sir,

Government House, 21st May, 1830.

Transmission
of letter.

I do myself the honor to transmit to you at the desire of Captain Wilson, the Director of Public Works, the accompanying Letter which he has addressed to you, requesting to be allowed an Allotment of Ground in the Neighbourhood of Sydney in order to his erecting a House for his Residence, together with a Grant of Land and an addition to his Salary of £200 a year in lieu of Horses and travelling Expenses.

Service of
C. Wilson.

Captain Wilson having requested that, in transmitting his application, I would express my opinion of his Services, it is only justice to him to state that no one can be more Zealous in the performance of his duty, which, from the description of the Individuals employed in his Department, must be attended with much Anxiety and fatigue, and further that the Expense to which he must be subjected in travelling cannot be inconsiderable.

I felt myself called on to apprise Captain Wilson of the tenor of the Notification of his appointment, in order to prevent any disappointment on his part, should his application for an increase of Salary not be complied with.

I have, &c.,

RA. DARLING.

1830.
21 May.

[Enclosure.]

CAPTAIN WILSON TO SIR GEORGE MURRAY.

Sir,

Sydney, 20th May, 1830.

Having reference to your Dispatches addressed to His Excellency Lieutenant General Darling, Governor of New South Wales, under date the 13th May, 1828, No. 25, and the 15th July, 1828, No. 13, the latter of which notifies my appointment as Civil Engineer to this Colony under the same circumstances as those which your former dispatch notified the appointment of Major Mitchell, I have now the honor to submit the following statement to your consideration in hopes that His Majesty's Government will be pleased to augment my Salary as in its judgement may seem fit upon the grounds set forth, namely:—

Request by
C. Wilson for
increased salary
and building
allotment.

That, since the Salary of £700 per Annum without *any allowance* was fixed upon and considered ample remuneration, the duties of the Civil Engineer or Director of Public Works has greatly increased, to be accounted for from the great increase of the Population and Public Establishments, as also from the decay of the Public Buildings originally constructed little more than temporary, which assertion is borne out by reference to the approved Estimates of the last two Years for Buildings and Repairs, vizt.:

	£	s.	d.
From May, 1828, to May, 1829	4,259	9	4
.. .. 1829, to .. 1830	6,351	13	11

Many of the Public Establishments are at a great distance from Sydney, causing the Travelling expenses to be heavy.

That, from increase of Population, House Rent is much increased.

That my expenses, during the Year I have held this appointment, in House Rent (a small Cottage of four rooms and Offices £100 per annum) Two Horses, and Travelling expenses have exceeded £300.

That the responsibility, anxiety, and fatigue in conducting the works, with the peculiar description of Labourers being Prisoners of the Crown, is very great.

Under these circumstances, I venture to submit what I hope will not be considered as extravagant pretensions, that you will be pleased to move His Majesty's Government to order me an allotment in the Town or vicinity of Sydney for the purpose of erecting myself at my own expense a House, and an addition to my Salary of £200 per Annum in lieu of Horses and Travelling expenses.

When you were pleased to appoint me Civil Engineer in New South Wales at the gracious instance of Her Royal Highness the Dutchess of Kent, you were at the same time pleased to express your satisfaction on perusal of the Testimonials, I was enabled to submit from the several General Officers under whom I had served upwards of twenty years; and, in my last audience with Mr. Hay, this gentleman acquainted me that it was the desire of His Majesty's Government to encourage respectable Settlers in this Colony, and intimated

1830.
21 May.

Request by
C. Wilson for
increased salary
and building
allotment.

a hope that my Family would accompany me, as, from my long service and the situation you had then appointed me to, I should be entitled to a Grant of Land.

With this view, I made my arrangements, and I trust you will pardon my expressing disappointment on finding upon my arrival that I could not obtain Land without a special authority from the Government at Home, thereby losing a period of two Years; and I trust you will considerably take this into account, should you be pleased to authorise His Excellency the Governor to grant me Land, as has been to other Civil Officers in this Colony.

I have, &c.,

CHAS. WILSON, C.E., D.P.W.

UNDER SECRETARY TWISS TO GOVERNOR DARLING.*

24 May.

Dear Sir,

Downing Street, 24 May; 1830.

Recommendation of
J. Hatch.

Mr. Leslie Forster, Member for Louth, has written to me in favor of Mr. Jeremiah Hatch, the Brother of one of his Constituents, whose family and connections are stated to have been always of the highest respectability.

Mr. Hatch, who has lately resided a short time in New South Wales as Tutor in a private Family, is now about to settle permanently in the Colony; and I shall be much obliged to you to afford him your protection and to facilitate his views as far as may be consistent with the Regulations.

I am, &c.,

H. TWISS.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 35. per ship Catherine Stewart Forbes: acknowledged by Sir George Murray. 1st October. 1830.)

Sir,

Government House, 24th May, 1830.

Request by
R. Therry
for building
allotment.

In compliance with the desire of Mr. Therry, the Commissioner of the Court of Requests, I do myself the honor to forward his application† for a Building Allotment and a Grant of Land. In transmitting Mr. Therry's Application, it is my duty to State that he has on all occasions since his arrival conducted himself in a manner to merit the approbation of this Government.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate." per ship Catherine Stewart Forbes; acknowledged by Sir George Murray, 26th October, 1830.)

Sir,

Government House, 24th May, 1830.

Transmission
of reports.

I have the honor to transmit, agreeably to the intention expressed in my letter of the 4th inst., No. 32, Copies of the Reports called for by your Despatch of the 29th of August, 1829, No. 138.

* Note 7.

† Note 127.

I had the honor to forward for Your Consideration, with My Despatch of the 13th of August last, No. 95, a Code of "Regulations" for the Conduct of the Penal Settlements generally, which had been prepared in Consequence of the matters Contained in the accompanying Reports. These Regulations underwent, as I stated in my former Letter, the most mature consideration in the Executive Council, and I trust it will appear to you, as it did to the Council, that, Coupled with the removal of the Individuals who appeared unfit for their situations or had misconducted themselves, they are well calculated to answer the purpose intended.

1830.
24 May.
Regulations
for penal
settlements.

It will be observed that a system is now laid down (and it was necessary to draw the line with strictness), which it may fairly be presumed will furnish a complete corrective for whatever appeared objectionable.

I now beg to enclose a Copy of the Instructions with which the Commissioners were furnished on proceeding to Port Macquarrie, by which you will perceive, that their attention was directed to various irregularities which were understood to exist.

Instructions re
inquiry at
Port Macquarie.

It will be seen, by part No. 1 of the Report which relates to the Agricultural Establishment, that Mr. Parker, tho' in charge of the Establishment for some Years, was totally incompetent to its management. His Conduct does not appear to have been Corrupt, but his ignorance and improper Proceedings rendered it necessary to remove him, by which a saving of £250 a Year was effected, the Establishment having since been carried on under An Assistant Superintendent.

Dismissal of
superintendent
of agriculture ;

Part No. 2 relates to the Sugar Plantation. It had been found, before the Commission was sent to Port Macquarrie, that Mr. Scott was unqualified for the management of such an Establishment; and he was consequently removed, by which a further saving of £250 a Year was made; And, as no Person could be found in the Colony, and it did not indeed appear necessary to replace Mr. Scott, the cultivation of the Sugar Cane was abandoned, care having been taken to preserve the Plant in the event of any Settlers wishing, hereafter, to establish a Sugar Plantation. Part No. 3 points out several irregularities and abuses, which it can only be regretted should have existed. But, under the general laxity which had prevailed throughout every Branch of the Service, it appeared inexpedient to attempt more than to put a stop to and prevent, by specific Regulations, the recurrence of the Evils which had been found to exist.

and of overseer
of sugar
plantation.

Correction of
irregularities.

I had, from the time of my arrival, as circumstances came to my knowledge, given orders, as alluded to in the reports, for the correction of various irregularities, such as allowing the

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24 May.

Prisoners Extra Rations and other indulgencies; when, at length, it appeared desirable to appoint Commissioners to enquire generally into the Conduct, management and proceedings of the Settlement.

The Reports now transmitted, and the "Regulations," which were forwarded with my Despatch of the 13th August last No. 95. are the result.

Impuritions
against
H. Gillman.

The irregularities imputed to Captain Gillman, one of the Commandants, appear to have been stated from Memory, and are probably much exaggerated, as the instances are furnished by Individuals or Convicts, who may have felt themselves aggrieved or been punished by his orders. Besides, the irregularities complained of in this case must have occurred previous to my arrival, and Captain Gillman had left the Colony long before the Commission was appointed.

It will be evident that, in such a Case, it was almost impossible to take any step.

Difficulties of
officers at
Port Macquarie.

Without at all meaning to excuse irregularities, it might be observed that even these situations were not without their difficulties. The Officers were, more or less, left to act for themselves, and there were 1,500 Prisoners at Port Macquarie at the time of my arrival, Men of the worst character, without any competent establishment to control them; and, in regard to the *indulgences* granted to the Prisoners, I am induced to believe, it was adopted in some cases as a measure of policy.

Dismissal of
commissariat
officers.

Part No. 4 relates to the Commissariat; and, in reference to the abuses which appear to have existed in that Department, I have only to observe that Mr. Smith, whose conduct appears to have been corrupt, was dismissed, as was Mr. Bell, for the insubordinate nature of his proceedings.

Part No. 5 relates generally to the proceedings of the several Individuals in employment.

Points in
favour of
F. C. Crotty.

It is only justice to Captain Crotty to state that the appointment of the Commission was in Consequence of his representation of the improper conduct of some of the Individuals employed; And, as to the practices upon which the Commissioners have observed though highly reprehensible, it is not improbable they had crept in from the general laxity which had prevailed, and were continued from time to time by the Individuals succeeding, without adverting to their irregularity.

Part No. 6 contains general observations of a valuable and important nature, of which I was glad to avail myself in framing the "Regulations," which have been referred for Your Consideration.

In dismissing this subject, I have to express my hope that you will be satisfied, there has been no want of attention on the part of the local Government, and that the arrangement, which has been adopted, is well calculated to effect the purpose for which it is intended.

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24 May.

Having received your Despatch of the 11th of October last, No. 152, since I had the honor of addressing you on the 4th inst., I now beg to acquaint you that, Concluding from the tenor of your Communication, above referred to, I must have misconceived Your Letter of the 29th of August last, No. 138, I shall, as I had proposed, discontinue the Settlement at Wellington Valley, and withdraw the Posts connected therewith.

Abolition of
settlement at
Wellington
valley.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

MESSRS. MORISSET AND BUSBY TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 22nd August, 1828.

We have the honor to acknowledge the receipt of your Letter of the 19th inst. requiring us, as His Excellency The Governor has been pleased to remove Mr. Parker from the Situation of Superintendent of Agriculture, to consider and suggest such arrangement as may appear to us necessary for placing the Agricultural Establishment at that Settlement on an advantageous and proper footing.

Recommendations
re
agricultural
establishment at
Port Macquarie.

And we have accordingly the honor to suggest the following arrangements with this view:—

1st. That, under the immediate direction of the Commandant, the whole of the Agricultural Establishments, including the care of the Live Stock, should be placed under the Charge of Mr. Wilson, to be assisted by Mr. Blackie, now resident at Ballyngaira, and such Convict Overseers as he may choose with the approbation of the Commandant. But, considering the usefulness and activity of Thomas Chrawn, a Native of the Colony, who has been employed as Principal Overseer of Agriculture for several Years, we think it most desirable that he should be retained under Mr. Wilson. And, as he is not under a second Conviction and has hitherto received no Salary, we would beg leave to recommend him to His Excellency for such a Salary as he may think befitting his Situation.

2. That, as it seems essential to confine the Agricultural operations as much as possible to one Place, the Cultivation of Owen's Plains and Ballyngaira should be discontinued, and all Grain removed from these Stations as soon as possible, and that all Cultivation should in future be confined to Rolland's Plains.

3d. That an Officer of the Commissariat Department should be stationed at Rolland's Plains to have Charge of the Mill there, and to receive over all Grain from the Superintendent of Agriculture, immediately on its being thrashed; and we think no delay ought to take place in this operation. With this view, the whole of the Building, intended by Mr. Scott for a Sugar House and Store, including the upper Floor, which is partly occupied by the Military, and was partly intended for Quarter for Mr. Scott, should be given up as a Grain Store to the Commissariat. The House lately

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24 May.

Recommendations *re* agricultural establishment at Port Macquarie.

occupied by Mr. Scott, and intended for Mr. Bell, will afford sufficient Accommodation for the Commissariat Clerk.

4. We have already stated in our Report that the Sugar Cane at Ballyngaira will be sufficient to answer all the intentions, which His Excellency has in view with regard to that Plant; And we would therefore recommend that what is at Rolland's Plains should be Cut up for the Pigs, and removed from the Ground as soon as convenient.

We have, &c.,

J. T. MORISSET.
JAMES BUSBY.

[Enclosure No. 2.]

REPORT OF THE COMMISSIONERS OF INQUIRY AT PORT MACQUARIE.

Sir,

4th August, 1828.

No. 1. In Compliance with Your Excellency's Instructions conveyed to us respectively by the Colonial Secretary's Letters of 3rd and 5th June last, we embarked on board the "Lucy Ann" on the 7th, and, having landed at Port Macquarie on Saturday, the 16th of that Month, We on the following Monday Commenced our Inquiry, and have now the honor to lay before Your Excellency the following report on the several points specified in our Instructions, including our observations on others of a Collateral Nature, which appeared to us Capable of illustrating the more general questions therewith connected.

2nd. The first question, in the order of our Instructions, relates to the deficiencies of Grain previously estimated to have been produced and on hand at the Agricultural Establishment under the direction of Mr. Parker. It appears that this Gentleman had not been accustomed to take any Accounts of the grain produced, till it was brought to credit on being delivered over to the Commissariat, or otherwise disposed of, previous to April, 1827, when, in consequence of directions from Head Quarters, Captain Innes, then Commandant, appointed a Board of Survey to ascertain the quantity of Grain on hand.

3rd. The Members of this Board were Lieut. Owen of the Buffs. Dr. Moran and Mr. Smith, the Commissariat Officer in Charge. No Copy of their Report having been preserved at Port Macquarie, the circumstances, on which we have formed our opinion relative to the deficiency reported in December, are chiefly stated on the testimony of Mr. Smith, the only Member of the Board now remaining on the Settlement; and we have reason to believe that they are perfectly correct, although at variance in some particulars with Mr. Parker's Statement on the same subject.

4. It appears that, when the Board made their Survey on the 28th of April, 1827, the Wheat then on the Establishment was all of the growth of 1826, and had been harvested in good condition. It is stated to have been the produce of two hundred and ninety four Acres of Land at Rolland's Plains, which was all at that time in Stack, and part of the produce of one hundred Acres at Owen's Plains, which was lying on the floor of the Granary.

5. Mr. Parker states that he did not in any way interfere with the proceedings of the Board, or offer them information on which they might ground their estimate, and that they took the grain which was on the floor by estimate, as well as that which was in the Stack. On the other hand, Mr. Smith asserts that the quantity of the Wheat on the floor was ascertained by Measurement; and besides that he has a more distinct recollection of the circumstances

Report of commissioners of inquiry at Port Macquarie.

Deficiencies of grain.

on every point; this is quite consistent with Mr. Parker's return of 30th April, 1827, the 417 bushels of the 7,417 there returned being stated by Mr. Smith to have been the measured grain, and the 7,000 bushels, the even quantity, the estimated produce of the Wheat in Stack.

6. It appears, from Mr. Smith's Statement, that none of the Members of the Board were in any degree acquainted with Agricultural business, and that they were altogether guided by Mr. Parker's opinion of the quantity of Wheat contained in the Stacks. And this opinion appears to have been founded on little more than a Vague guess of the extent of Land on which it had been produced, and of the average quantity which each Acre would yield; on either subject, Mr. Parker appears to be little qualified to form a correct opinion, and there is not the least ground to doubt that, both in calculating the extent of the Land and its Acreable produce, he was egregiously in error. In fact the extent of ground, sown in that year, does not correspond as stated by him with the return of Seed which was expended in Sowing it. The quantity of the latter being in the proportion of little more than one and a half bushel per acre, while Mr. Parker states that, till the present year, in which the quantity has been one and three fourths of a bushel, he has always allowed at least two bushels per Acre.

7th. The deficiency that occurred in the Maize, which had been estimated at the same period, is chiefly to be accounted for in the Same Manner, although in this case a greater allowance ought to be made for waste and destruction by insects.

8. At the time the Survey was made, the Maize on hand was Stored in the Ground Floor of the Granary; and, having been the produce of the previous Year, it had been for nearly twelve Months in that Situation. It was then in Cob, and Mr. Parker has stated that the Granary was so full as to render it impossible for a Man to Move from one end of it to another without Shifting the Corn.

9. The quantity estimated appears to have been eleven Thousand five hundred bushels, to which was added two hundred and twenty one bushels of Shelled Maize, ascertained by Measurement, making in all 11,721 bushels. The Board in this estimate appear to have been in a considerable degree guided by the opinion of Mr. Smith of the quantity which the Granary was Capable of Containing. The extent of Land, returned by Mr. Parker as having produced the above, was two hundred Acres, which makes the estimate about fifty four bushels per Acre, a very large average, when it is considered how much the Maize must have already suffered by lying from ten to twelve Months without having been (according to Mr. Parker's own Acknowledgment) once turned over.

10. The deficiency of (6,533) Six thousand, five hundred and thirty three bushels occurred on the above quantity, together with (2,471) two Thousand, four hundred and Seventy one bushels, the produce of Ninety Acres of the Crop of 1827, which is stated to have been measured into Store; And on which of course no deficiency could have occurred from over estimation.

11. The issue of the above Corn to the Commissariat Commenced immediately after the Survey, and was not entirely completed till March, 1828; but the quantity ascertained to be in Store on the 31 December, 1827, was 612 Bushels. It appears that, besides the two hundred Acres which are Stated to have been Cropped with Corn in 1826 at Rolland's Plains, Three hundred Acres of Land at

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Report of
commissioners
of inquiry at
Port Macquarie.
Deficiencies
of grain.

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Report of
commissioners
of inquiry at
Port Macquarie.

Deficiencies
of grain.

Settlement farm and forty Acres at St. Rocks had been under the same Crop; and it was in Consequence of the delivery of the produce of these Stations to the Commissariat, during the latter part of 1826 and the first four Months of 1827, that Storage could not be provided by the Commissariat Office for the receipt of the above quantity.

12. From the above circumstances, there seem sufficient grounds to infer that by far the greater part of the deficiencies apparent in the Monthly return of produce, when the quantities were actually ascertained in December, 1827, arose from fallacious estimates, by which quantities of Grain, which never existed, were brought to account. But it will also appear, from the circumstances already stated, as well as from what is about to be alluded to, that these deficiencies were not solely referable to this cause.

13. It has already appeared that the whole of the Maize of 1826, on which the deficiency principally occurred, was from ten to twelve Months; and, from the Monthly returns subsequent to the date of the Survey, a part of it must have been eighteen months in Store. It is reasonable to suppose that a very great deficiency must have occurred under such circumstances, even with the best management. But besides that Mr. Smith's Statement does not accord with that of Mr. Parker, "that, at the time the Survey was made, the Granary was so full that it was impossible to turn the Maize over"; even had it been so, the obvious alternative of taking out a part could not but have occurred to Mr. Parker, had he paid that attention to the interests of the Government, which in common justice he was bound to do; And, although we cannot entirely acquiesce in Mr. Smith's opinion that it is possible, by proper care, altogether to prevent the destruction which the Weevil occasions to grain in Store, we cannot but be persuaded that, had Mr. Parker employed a very small portion of the Labour which was so abundantly at his Command, in Constantly turning over the Maize, a great part of the loss, which actually occurred, might have been prevented.

14. Mr. Smith states that, in his visits to Rolland's Plains on duty, he has more than once recommended to Mr. Parker that he should bestow more attention in the preservation of the Grain, a recommendation which ought to have carried great weight, when Mr. Smith's experience in such matters while in Charge of the Granaries at Sydney is considered. But Mr. Parker, he affirms, never would admit that sufficient care was not bestowed upon it. An assertion, the correctness of which judging from circumstances that came under our own observation, we have little difficulty in admitting.

15. The Wheat in Stack at the period of the Survey, having been the produce of the previous Crop, had at that time been about five Months harvested, and, when the Second Survey was made in December, 1827, one Stack still remained unthrashed. The delivery of this Wheat to the Commissariat was more than once retarded by the State of the Mill, to which it was sent to be ground, and Mr. Parker states that considerable quantities had occasionally accumulated on the floor of the Granary owing to these delays. It appears also that, on one occasion, he was directed by the Commandant to defer thrashing out the Wheat, till the Mill should commence grinding.

16. Mr. Parker states that, from the State of the lower room of the Granary on which the Maize was stowed, he is persuaded that

the Wheat received the greater part of the injury it sustained; As the fly from the Maize beneath penetrated to it, while on the room above. But Thomas Chrown, the principal overseer, though he States that the Wheat was more injured by insects than any Wheat he had ever seen, does not join in Mr. Parker's opinion that much of that injury was assignable to this cause. And Mr. Smith's observations respecting the want of care in the Granaries, of the justness of which Chrown seemed also to be persuaded, were applicable to the Wheat as well as to the Maize.

17. In the return of 31st December, 1827, a Stack of the Old Wheat which remained was estimated to contain 500 bushels, which it appears, on being thrashed, yielded only 300, and 230 bushels were condemned as being unserviceable. The total deficiency upon the estimate of the Crop of 1826 will accordingly stand as follows:—

<i>Wheat.</i>	Bushels.
Crop of Rolland's Plains as taken by estimate on 28 Apl., 1827 . . .	7,000
Part of Crop at Owen's Plains	417
Total	7,417
Wheat delivered to the Commist. or otherwise brought to Account from 28 April to 31 Decr.	3,848
Ditto in the Granary at 31 Decr.	70
Ditto in Stack as ascertained when thrashed	300
Total Serviceable Wheat	4,218
Leaving inclusively of 230 bushels of Unserviceable Wheat, a total deficiency of	3,199

The deficiency of the Maize as estimated at the same period, is as follows:—

	Bushels.
Crop at Rolland's Plains as estimated at 28th April, 1827	11,500
ditto, ascertained by Measurement	226
Crop of 1827, by Measurement	2,471
Total	14,197
Delivered to the Commissariat or otherwise brought to Account from 28 April to 31 Decr.	7,047
In Store at 31 December	612
Total Maize bt. to Account	7,659
Total deficiency	6,538

18. Of the deficiency of Wheat reported in March, and estimated in April last to Amount to thirteen hundred and Seventy two bushels, part has already been included in the preceding Statement, as having occurred in the Crop of 1826, and, the whole of the remainder having been since thrashed out, the total actual deficiency of the Crop of 1827 is estimated to be as follows:—

	Bushels.
Estimated Produce of Four Stacks, the growth of 151 Acres at 31 Decr., 1827	3,800
Delivered to the Commist. or expended in Seed for the Crop of 1828	2,592
Total deficiency, including 320 bushels Condemned as Unserviceable	1,208

19. In this case also, we are satisfied that the deficiency principally resulted from error in the estimation of the quantity in Stack, made by the Board of Survey in December, 1827, and We cannot but strongly remark upon the conduct of Mr. Parker in misleading the Board a Second time, by a Computation so very wide of the actual quantity. Mr. Smith observed in both cases to Mr. Parker on the impropriety of an exaggerated Statement, and suggested that,

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Criticism of
superintendent
of agriculture.

while no evil could result from underrating the actual quantity, a second overestimation would not in all probability be passed over without remark. It appears that, in this case also, Mr. Parker's opinion was almost exclusively the foundation on which the board made their estimation; and even if he could succeed in screening himself from the blame of misleading them, as he endeavoured to do, by denying that he offered them any advice whatever. It would still be our opinion that as it was incumbent on him to provide the Board with data, on which to form their judgment, and as he was aware how little the Members of the Board were qualified by education or habit to form a correct opinion in such Matters, that the responsibility of Misleading the Government, by so very erroneous a Computation, should still have principally remained with him.

20. Mr. Parker has stated that, owing to the description of persons who are necessarily employed in reaping in this Colony, it is difficult to have the Sheaves made sufficiently regular in Size to admit of an average being struck of their Weight from a few Specimens. But, though we are not altogether disposed to dispute the grounds of this Statement, but are still of opinion that a little attention on his part to this point might at least have furnished data for an approximation to correctness in the estimation of the Wheat, which each Stack contained.

21. We are persuaded, however, that there are no grounds for imputing to Mr. Parker any Motive for forming these exaggerated estimates, beyond perhaps a "desire to obtain credit with the Government, for exertions to which he was not entitled." And, as has been already stated, there remains on our mind no doubt of his having been unqualified to form a correct opinion on the subject.

22. It certainly does not appear that Mr. Parker attached much importance to the correctness of these estimates, or was at all prepared for the remarks they might draw forth, till he was called upon in February last, in consequence of Orders from Head Quarters, to account for the deficiencies stated in his return. He then, for the first time, wrote to the Commandant (under date the 27th Feby.) representing that the Wheat was found not to be of the usual Weight, in Consequence of the Droughts which occurred and sudden heats after rain, when it was coming to maturity, and requesting that another Board might be appointed to estimate what remained. He has also in a Memorandum addressed to us endeavoured to account for the erroneous estimate of the Crop of 1827, by Stating that the Season was Unfavorable when it was harvesting. But besides that the former reason is inconsistent with the previous Statements of the extraordinary fineness of the Crop when harvest commenced, the Principal Overseer Chrawn has stated that it arrived at Maturity without having been either Checked by sudden heat, or attacked by rust or blight, with the exception of an extent of about four Acres on the banks of the River, which were partially injured by rust. To the other observations about the frequency of thunder Storms, with rain during the harvest, and the necessity of carrying out a portion of one of the Stacks to spread on the field to dry after it had been once harvested, it is perhaps a sufficient answer to say that this was all known at the time the Survey was made and ought to have been taken into Account in forming the estimate.

23. But, while we do not hesitate to pronounce it as our opinion that an overestimation of the real quantity of the Grain in Stack

in December has chiefly given rise to the deficiencies which appear in the subsequent returns, we are on the other hand far from being satisfied that considerable losses have not been occasioned by carelessness and Mismanagement.

24. Thomas Chrawn, the principal overseer, has assigned three particular instances, in which losses, as he conceives to a Considerable Amount, were occasioned by these causes. The first was in the Stack which remained in the Yard of the Crop of 1826, which he alleges was uncovered for several Weeks, before it could be taken into the barn, at which time, in consequence of its exposure in this State to the Wet weather which intervened, a considerable portion of it had been destroyed. And this Waste he asserts was altogether occasioned by the thatch having been taken off to roof a fowl House Mr. Parker was then building. The second instance was that of several drayloads of Wheat in the Straw having been allowed to lie unprotected in the Barn Yard, till it was so much injured by the rain as to be only fit to be carted out for food to the Swine. The third instance was in harvesting the Wheat, when very great losses were sustained in consequence of Mr. Parker's orders that, in building the ricks, every Sheaf, which happened to be loose, should be thrown out, in order that time might not be lost in tying them up, a waste which appeared so inexcusable to Chrawn that before he knew it was by Mr. Parker's directions, he had ordered an Overseer to be put in Irons to Answer for it.

25. To these causes, Chrawn attributes a loss of Grain to a very Considerable Amount, and a Statement of the same circumstances was Volunteered by one of the New South Wales Corps, named Norman, who was Overseer of the Barn at the time; but, as this Man appeared evidently to have been communicating with Chrawn relative to the evidence he was to give, and seemed to be under his influence and not unprejudiced towards Mr. Parker, we did not deem it proper to take down his Statement or to attach any weight to his evidence.

The same individual having stated his belief that Mr. Parker had induced him to affix his mark to a Statement of the contents of which he was not altogether aware, but which he believed were written with the intention of counteracting any Statement he might make to us, we requested Mr. Parker to submit the document for our inspection, and the impression made upon us by its Contents was confirmatory of what we had reason to infer from Chrawn's Statement that Mr. Parker had been influencing the individuals under his orders respecting the evidence they were, if called upon, to give.

26. In the explanations which he has afforded respecting points, in which his conduct was called into question, Mr. Parker only partially denies the truth of some of the circumstances Stated by Chrawn; and though we are not disposed to acquiesce in the opinion, expressed by the latter individual, that several hundred bushels of grain were lost in the manner above stated by culpable negligence and Mismanagement, our own observations of Mr. Parker's proceedings do not justify the expression of an opinion that it is altogether unfounded.

27. On our first Visit to the Granaries of the Establishment, Mr. Parker pointed out the three hundred and twenty bushels of Wheat, which have since been condemned by a Board of Survey as Unserviceable, and it certainly appeared to us that, considering the present

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saving grain.

Scarcity and high price of Wheat, it was worthy of a further effort to save a part. In consequence of our observations on this occasion, Mr. Parker subsequently informed us that he had Measured Six bushels of it to make the experiment, and that it required the Labour of four Men during a day to save one twelfth part of that quantity, and that even that proportion was of a bad quality. On Chrawn's being questioned on this Subject, he stated that, though the state of the Wheat then on the floor, where it had been accumulating for upwards of Six Months, was extremely bad, he had no doubt, if the experiment had been made at the time it was separated from the good Wheat, one third of this quantity, as well as of the 230 bushels formerly condemned, might have been saved, of such a quality as No Magistrate would have justified a Convict in refusing as his ration, and such as no private farmer would have sacrificed as unworthy the trouble of saving at the present prices of Wheat.

Grain stolen
by convicts.

28. To the above causes of a deficiency in the Crop of 1827, which bring its produce so very much under the quantity which a Crop on the finest land might be expected to produce, And which it seems was indicated by its appearance when in the field, must be added the depredations to which it has been subject by the Prisoners on the Establishment. Many Cases have occurred of Wheat having been found in the possession of Prisoners, and two Steel Mills, which had at one time been Stolen from the Establishment, were found concealed evidently for the purpose of Grinding the Wheat thus Stolen.

29. Neither Mr. Parker nor Chrawn are of opinion that much of this was stolen from the Barn or the Granary, although at one time twenty six or twenty eight bushels were ascertained to have been taken during the night from the latter place. But, when it is considered that the Wheat when Cleaned was Stored in the Granary without having been previously Measured, the probability is that considerable quantities were stolen, which were never missed as well from the Granaries as the Barn, and from the field, before it could be harvested. Mr. Parker's opinion, in which Chrawn coincides with him, is that the total loss from depredations did not exceed one hundred bushels.

Deficiency of
Tobacco and
sugar.

30. With regard to the deficiency of 2,783 Lbs. of Tobacco, some time ago reported by the Commandant, As it, together with the deficiency of 22,067 Pounds of Sugar, occurred on the establishment under the directions of Mr. Scott now broken up, we have not been able, in his absence and that of his overseer, to ascertain such particulars as would enable us to give any other Account of it than that given by Mr. Scott in his Letter to the Commandant, "that it arose from an overestimation of the quantity, which the growing Cane and Tobacco were expected to produce."

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31. Having thus endeavoured to explain and illustrate the nature and causes of the several deficiencies, shewn by the returns of the Agricultural Establishment, We proceed, as required by the first paragraph of the Additional Instructions, to report upon the Conduct and Management of the Agricultural Establishment generally, but more especially with respect to its past Management and present State, reserving our observations on the future employment of the Convicts for another branch of the report.

32. It appears that, in September, 1823, about two years and a half after the formation of the Settlement, Mr. Parker, Senior, was Appointed to be Superintendent of Agriculture with instructions to

employ in that Capacity all the Prisoners, who could be spared by the Commandant from other Public Works and Undertakings.

33. On his arrival on the Settlement, he found that the Commandant, Captain Allman, had been cultivating the bush and forest Land in the immediate Vicinity of Port Macquarie with very indifferent success, and he was not long in concluding that the Cultivation of that part of the Country could not be extended or continued with advantage. He accordingly obtained a boat from the Commandant and proceeded in search of a more appropriate situation. As not more than one day was consumed in this important preliminary proceeding, he does not appear to have found more difficulty in determining on the eligibility of a new situation than he had in ascertaining the unfitness of that already tried, for he returned on the evening of the same day to Port Macquarie after having fixed on two Stations, the first two Miles from Port Macquarie, and the other eight Miles higher up the River Hastings.

34. At these places, which have since been named "Settlement Farm" and "St. Rocks," he without further examination proceeded to prepare for his Agricultural operations, and, within a few days, about two hundred Men were employed in felling and burning off the timber. From this period till 1826, the Number of Men under Mr. Parker's orders varied from two to three hundred. For the next twelve Months, his Strength was from one hundred to one hundred and thirty Men; and for the year ending on the 30th June, 1828, from Seventy to Ninety.

35. Mr. Parker not having kept the accounts of each year's crops separate, it is now impossible to ascertain with any degree of correctness the result of each year's operations; but it appears from his Statement that two successive Crops of Wheat were cut off at Settlement farm and St. Rocks by blight and rust, to the extent of two hundred Acres in 1824, and three hundred and twenty five Acres in 1825. But Chrawn the overseer affirms that Seventy Acres of the Crop of 1824, which were sown at St. Rocks, was only a partial failure, about four hundred bushels having been produced there. He further States that the badness of this Crop was owing to the poverty of the Soil, and not to blight or to rust; of the 120 Acres returned as having been under Cultivation at that Station, he says that not more than thirty five or forty Acres are good Land, and he told Mr. Parker of this before it was cleared.

36. In the beginning of 1825, Mr. Parker, having been authorised to take possession of Rolland's Plains, sent his Principal overseer to commence their Cultivation. There was accordingly a Crop of Wheat produced in that Year on an extent of Ninety four Acres, which is stated to have made a tolerable return; and next year the Crop of 1826 (on which it was that the deficiency reported in December, 1827, occurred) was produced on two hundred and ninety four Acres at Rolland's Plains, and one hundred Acres on another track of naturally clear, alluvial Soil, called Owen's Plains, within three Miles of the former. Subsequently to 1825, no wheat was sown at either of the Stations first selected by Mr. Parker; and, after the Crop harvested in 1826, no maize has been planted. Captain Wright having disallowed their Cultivation till they should be cleared of Stumps in a Settlement order, which characterised the System under which they were previously cultivated as slovenly and discreditable, when the means of clearing them were so ample.

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37. The following is a Statement made up from Mr. Parker's evidence and returns of the Land Cultivated by him, and the Crops thereon produced.

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Crop of	Acres.	Wheat.		Acres.	Maize.		
		Seed.	Bushels. Produce.		Seed.	Bushels. Produce.	
1824	200	400	....	220	55	} 22,366	
1825	419	920	1,648	320	80		
1826	394	619	5,518	540	300		
1827	181	403	2,592	90	22		
Estimate of 1828	....	....	....	161	40	5,000	
Total Results	1,194	2,342	9,758	1,331	497	27,366	
Deduct Seed	....	....	2,342	....	....	497	
Total Net Produce	....	....	7,416	....	....	26,869	
Net Produce Per Acre	....	....	6 ²² / ₁₀₀	....	....	20 ¹⁰ / ₁₀₀	

38. From the Commencement of Mr. Parker's operations till, in May, 1825, when, in consequence of an order from Sir Thomas Brisbane, the alternative was proposed to him by Captain Gillman of residing on one of his farms or relinquishing his appointment, he seems to have entirely resided at Port Macquarie, paying daily visits to Settlement Farm, and Visiting the higher Station of St. Rocks generally every Second day. The more distant but much more important Station at Rolland's Plains, he appears to have been in the habit of Visiting once a week, or once a fortnight. When ordered, in May, 1825, to reside out of Port Macquarie, he removed to Settlement farm about two Miles distant, and there continued to reside for some time after all cultivation upon it had Ceased, paying as above Stated occasional Visits to Rolland's Plains as well, when under the exclusive charge of his principal overseer Chrawn, as after his brother, having been appointed his Assistant, proceeded, about March, 1826, to reside at that place.

39. It was not till April, 1827, when Captain Innes brought under Your Excellency's Notice the Circumstance of Settlement Farm being occupied by Mr. Parker with Sixteen Men after all cultivation and improvement had ceased upon it, and received instructions that it was to be in future under the exclusive Management of the Commandant, and that Mr. Parker was to confine his operations to Rolland's Plains, that he at length removed thither. Since that time, he has resided at that Station, but has been in the regular habit of paying Weekly Visits to Port Macquarie, leaving his Station in the forenoon of Saturdays and returning in the afternoon of Mondays. It appears to have seldom occurred that both brothers were at the same time absent: but the general impression appears to be that the Establishment is more indebted to the Activity and Agricultural Knowledge of the Principal Overseer, Thomas Chrawn, than to either of the Messrs. Parker.

40. The readiness, which Mr. Parker shewed to offer to us general observations and explanations, was by no means followed up, when questioned upon Matters of detail, by an ability to afford such information as it appeared to us he ought to have found little difficulty in affording, had he paid sufficient personal attention to the general arrangement and more particular details of the Establishment under his Charge: and, notwithstanding the declaration of his Clerk that he has been in the daily habit of examining the books of the Establishment, we could not but think, from the ignorance he shewed of their arrangement and the difficulty he found in making

references to them, that he did not much interfere in their Management or Minutely examine into their correctness.

41. The daily employment of the Prisoners was therein entered with regularity, as well as the occurrences on the establishment, but Mr. Parker seemed to have no idea of any ulterior use for which these entries and details could be intended. No Statement appears even to have been made of the labour and expense, which any particular Crop or field had received, for the purpose of a comparison with its produce; and, as has been already Stated, even the general produce of each year has been so much intermingled with that of the years preceding and following it, that no data are afforded to estimate the produce even of the aggregate Crop.

42. On the removal of Mr. Parker's Establishment to Rolland's Plains, it appears to us that he would have Acted more judiciously, if, instead of or in addition to the Cultivation of a part of the more distant Plains, he had employed a portion of his strength in bringing all the fertile Land in his immediate Vicinity into cultivation. Much we think might have been done by him towards clearing some rich Brush Land, which separates the cultivated Plains; and a portion of the Land naturally clear might after a very little trouble in draining have been broken up with much advantage. But Mr. Parker would appear in this, as in former instances, to have considered it an advantage to have a scattered Establishment, instead of perceiving that it increased so much the difficulties of controlling the labours of the Convicts, and their facilities for Committing depredations, as almost to preclude the chance of deriving any profit from them.

43. It appeared to us also that the Minor arrangements of the Establishment were not made with much attention to the interests of the Government. The Working Bullocks were daily fed with Corn to the extent of Thirty Bushels per Week, although their pasturage is most luxuriant, and their condition far from indicating the need of such food (which, we feel convinced, no private individual under such circumstances would have given them) to enable them to sustain the Work required of them; And a herd of Swine of the Number of two hundred and fifty eight of all ages had the same quantity issued to them.

44. These Animals are of a very inferior description, and with few exceptions are diseased, apparently from living on such heating food. It appears, from a Return with which we were furnished by Mr. Parker, that, in February, 1826, Ninety barrow Pigs were sent from Sydney for the purpose, as appears by a Letter from the Colonial Secretary, of consuming a quantity of damaged Corn. Along with these, were also sent eight breeding Sows, which were the origin of the present herd. Between the above date and 24th November of the same year, 212 bushels of good Corn seem to have been consumed in their sustenance, and eighty one Pigs, weighing 10,297 Lbs. of Pork, turned into the Commissariat Stores. 3,763 Lbs. more has since been added to the above quantity, and 1,654 bushels of Maize, besides 230 bushels of condemned wheat consumed. Seven more have been Slaughtered since the 24th June, weighing 752 Lbs. The Majority of the remainder are of a most wretched description, and seem as if they would never repay the Government for the trouble of looking after them, much less for the Value of the Corn with which they have been indiscriminately and, as it appears to us, most injudiciously fed.

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45. In consequence of our conversations with Lieut. Meyrick on this Subject, he has given orders to discontinue the issue of Maize to the Working Oxen, and, instead of Corn, has ordered the Pigs to be fed with some of the Sugar Cane, which he has considered it advisable to cut down from the borders of the Plantation, partly with this view and partly to remove the remainder more effectually from danger by fire.

46. The Crop of Maize, now harvested or ripe, is estimated by Mr. Parker at Five Thousand bushels. It is the produce of about one hundred Acres of Land at Owen's Plains and of a small Clear Plain near Rolland's Plains, which is supposed to contain Sixty Acres. At the latter place, a great part of the Maize was un-gathered in the Middle of July; and, at the former place, it has been secured in a wooden erection, till it can be brought down to the Homestead at Rolland's Plains, a distance of about three miles and a half.

46. The Wheat, now in the ground at Rolland's Plains, has rather a promising appearance, and the soil, which is naturally very rich, appears to have been reduced to a State of excellent tilth before it was sown. It is said to extend over about one hundred and Seventy Acres, and Captain Crotty had, on the receipt of the various letters from Head Quarters indicating a scarcity of Grain, caused the ground at Owen's Plains, from which the Maize had just been gathered, to be laid down with Wheat. The Sowing of this quantity was Completed on the 28th July, and Mr. Parker considers that none of it has been sown too late to yield a good Crop.

47. On the farm called Ballyngavra, there are also about ten acres of Land under Wheat, which has no appearance of yielding half a Crop. Mr. Blackie, the overseer, states his belief that this is owing to the badness of the Seed, with which he was supplied by Mr. Parker. It appearing that he had applied for Seed before Mr. Parker had himself commenced Sowing, and that the Wheat, which he intended for Seed, not having been thrashed, he had sent some of a very inferior quality, which Mr. Blackie sowed, supposing that Mr. Parker would have sent better, if he had possessed it. In answer to a query which we addressed to Mr. Parker on this point, he states that he mentioned to the person sent for the Wheat that, if he would wait for a few days, he expected to have better Wheat thrashed out. But Mr. Blackie affirms that he heard nothing of this, till the Seed was sown. It is evident that neither party shewed that care in the transaction, which a due attention to the interests of the Government would have ensured.

48. Of Mr. Parker's own Wheat, it is not out of place to remark that the Seed has not been Changed for the last three Years, during which the Same Soil has yielded Successive Crops of Wheat without intermission; And this is perhaps the true reason of the Smallness of the Grain, which Mr. Parker attributed to its being checked in its growth by sudden heats and drought. To whatever cause its lightness is attributable, a person, well acquainted with Agricultural business and anxious about prosecuting it with advantage, would scarcely have used it for seed to the same ground without having tried every means in his power to obtain a change.

49. Mr. Parker has made a return of the buildings erected on the Several Stations, he has occupied, but without describing the Materials with which they are constructed. The Granary at Rolland's Plains seems a most substantial Building, of Logs weather boarded.

and there are also two good Stores or Granaries at Settlement Farm. The Superintendent's quarters seem also of a more durable construction than the remainder of the buildings at that Station, which seem going fast to ruins. And which, with one or two exceptions, we can only consider as forming a part of the vast waste of labour and Materials, which a little foresight, exercised in a more careful and judicious choice of the Stations originally selected for Cultivation, might have prevented.

No. 2. With respect to the present state of the Sugar Plantation, we found on our first Visit, which, with the view of availing ourselves of the delay of the "Lucy Anne" to obtain the advantage of Mr. Frazer's opinion, was made almost immediately after our arrival, that the Sugar Cane had suffered severely from the frost, the effects of which were indicated as well by the brown appearance of the leaves, as by an Alteration in the taste of the juice of the upper joints. It is stated by Mr. Wilson, who has been in charge of the plantation Establishment since Mr. Scott's departure, that the effects of the frost were first observed on the 15th May.

It appears that the Plantation of Canes at Rolland's Plains was first commenced in 1825. Sixty Six of the Eighty Eight Acres, which are said to be under Crop, having been planted in that year, and the remaining twenty two Acres in the Year following. The present appearance of the Sugar Canes suggests the idea of a field covered with reeds in a State of Nature, rather than of a plantation, on the arrangement and culture of which care and labour had been bestowed.

The Stools appear to be placed at the distance of $2\frac{1}{2}$ to 3 feet, measuring from the Centre of each, and every Shoot, which has shewn itself above ground, has been allowed to Vegetate unchecked. The Number of Canes from each stool averaging from thirty to forty. They are generally from $\frac{3}{4}$ to 1 inch in diameter, and nine feet high, Shewing altogether a Strength of Vegetation, which indicates the high degree of luxuriance they might have been expected to attain under proper Culture.

It would appear, from Lieut. Meyrick's Statement, that Mr. Scott had scarcely considered the tillage of the soil at all requisite, after the shoot was above ground; and it was not till after the Matter was Strongly represented to him that he at length sent a few Men to till it up. It was then however too late, for the plants had attained such luxuriance as to render it impracticable for Workmen to be employed among them, from their height and closeness. Only about one fourth of the extent of the plantation accordingly received any tillage, and none of the Suckers were destroyed nor the Canes thinned.

When Mr. Wilson first took charge of the plantation in February last, he states that the Canes had attained their present height, though they have since increased in thickness, and that, when Mr. Guilding Visited them shortly after, he expected from their appearance they would be ripe in April. Few indications of ripeness have however yet been observed with the exception of a slight Colouring, which was chiefly observable on a few of the outer rows, which Mr. Wilson, on Mr. Guilding's recommendation, had stript of their leaves.

We have entered into these details on the present state of the plantation from a strong persuasion of the importance of removing impressions, unfavorable to the capability of the Climate for the

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Culture of the Sugar Cane, as, while we are aware that its Capabilities have not yet been sufficiently ascertained to afford criterion for a decided opinion on the subject, we consider it extremely probable that in no Climate, nor under any Circumstances, would it have succeeded with such Management.

When we consider that, even in intertropical Countries, where the Sugar Cane is cultivated under the circumstances most favourable for its success, each stool is placed at a much greater distance than those at Rolland's Plains; that the Canes allowed to grow from each Stool is limited to a much smaller number; that, with a view to favor by every possible means the growth and strength of these Canes, the ground is kept in a state of constant tillage, more especially when they are young, and every superfluous Shoot, carefully removed; and that, as the Canes approach to ripeness, they are stript of their under leaves to allow the full influence of the Sun in the Maturation of the Sap; And, when we contrast these circumstances with those under which the Plantation at Rolland's Plains has been conducted, it is so far from being to us a matter of surprise that the Sugar, made last Year by Mr. Scott under exactly similar circumstances, should have been so small in quantity and inferior in quality, that it rather appears wonderful, when the effects of Cultivation on all Vegetable productions are considered, that the Canes should have yielded any juice Capable of being reduced into Sugar.

The Samples of Sugar first sent to Sydney by Mr. Scott, which were so highly approved, were produced at Port Macquarie from Canes, which were planted at a greater distance and in soil that was more carefully cultivated, and which had accordingly obtained a greater size. But Mr. Wilson asserts that samples were also made of a very excellent quality at a place called Prospect, where the Plants were produced, which supplied the Cuttings from Rolland's Plains, And where the Canes, though they received no more culture than at the latter place and were not wider planted, had attained a greater size. Both at this station, which is considerably nearer the Sea than Rolland's Plains, and at Port Macquarie, the Canes suffered nothing from the frost. And we think it extremely probable that, had those at Rolland's Plains received proper Cultivation, they might have been ripe and off the ground before the date of its commencement.

At the Station called Ballyngarra, there is a small Plantation of about two Acres of Canes, which have not suffered Materially from the frost; and, as this is sufficient in extent to supply Cuttings for a very extensive Plantation, we should recommend that its cultivation should be continued with the view of retaining a Stock of Plants for those individuals, who shall hereafter turn their attention to the Culture of the Sugar Cane. To provide against accidents, it might also be desirable to continue the Cultivation of a few Canes in the Government Garden at Port Macquarie; but we do not think their more extensive Cultivation at all requisite to accomplish your Excellency's views in this respect.

As there is no probability however of any considerable demand arising for Cuttings for the present Season, and as, if otherwise, it could be supplied from Rolland's Plains, it seems desirable to cut down the Canes at present growing at Ballyngarra, as soon as possible, in order that those of the succeeding year may have the greater strength, and to cause the Stools to be thinned to less than

half their present Number, And the Canes to be allowed to each in no case to exceed twelve or fifteen. Perhaps it might also be desirable that half an Acre of ground should be newly planted to afford a variety in the Age of the Cuttings.

As connected with the subject of the plantation Establishment, we think it right to take some notice of the Buildings erected for it. These consist of a large two Story building, intended for a Store and Curing house, with a boiling house attached in the manner shewn by the Annexed Sketch,* which was laid down from Actual Measurement by Mr. Ralfe, the Assistant Surveyor. This building, which is about one hundred feet in length, is constructed of brick with Mortar, which it is said is chiefly composed of Clay and is situated upon the alluvial ground, which is liable to be overflowed by floods, and actually has been covered to the depth of twelve or fifteen inches since the plantation was commenced.

The foundation, which we examined, is laid upon the same Materials, namely, an alluvial loam, though at the depth at which it is laid, "Vizt.," three feet, it is more compact than on the immediate surface. The foundation is stated to be five feet in breadth, by a Man who assisted in laying it. This building is generally considered insecure on account of the impression, which a heavy flood would probably make on its foundation. The North east end is fitted up as a Sugar Curing house below, and, on the floor above, are unfinished apartments, which Mr. Scott intended to occupy. The South West end is occupied as a Commissariat Store on the Ground floor, and as a Barrack for the Military above. The boiling House is fitted up with boilers, and the Coolers are in an open Shed attached.

The Mill is fitted up with Machinery for grinding Wheat, as well as Canes, and has been principally employed as a Grist Mill. It is altogether constructed of Wood, and Mr. Wilson conceives it to be so strongly founded upon and jointed into Sleepers, as to be perfectly secure, even in very heavy floods.

The other buildings are of a more temporary Construction, and, besides those shewn in the Sketch, consist of a Cottage which was occupied by Mr. Scott, A Prisoners' Barrack, some overseers' Huts, and a long shingled Barn for curing Tobacco. There is also a Tobacco Shed at Prospect, several hundred feet long, part of the roof of which has already fallen in, and some other buildings, which must have been erected at a vast expense of time and labour, and which are now become ruinous and useless to the Government.

The dam, which was constructed across the River at Rolland's Plains with the view of raising the height of the Water in the River, and retaining a sufficient quantity to keep the Mill Constantly at Work at all Seasons, was at first thrown across to a shingly bank at A.* But as the Water in the flood, which next occurred, forced its way behind this bank and opened a New Channel, it was found necessary to extend it to the opposite bank at B, a distance of about three hundred feet. This latter part of the dam has just been completed in a very substantial manner by Mr. Wilson, under the directions of Lieut. Meyrick, and, as the Water in floods can pass over the Boards, which form a gradual descent at C, and is moreover extended over a Wide Space, instead of being contracted and forced over an abrupt descent in the old part of the dam, there appears to be little reason to apprehend its being again carried away or destroyed by floods. During the

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greater part of the time of our residence at Port Macquarie, Mr. Wilson had been employed with very little effect or judgment in attempting to prevent the escape of the Water under the dam by spreading large quantities of Clay over its face. The Water, which would have proved sufficient even in the dryest Weather to keep the Mill constantly at Work, escapes in such quantities from under the old part of the dam, as to render the supply insufficient to Work the Mill during more than twelve out of the twenty four hours. This is easily accounted for by the nature of the bottom on which the dam is founded, which consists of Gravel and Shingle to the depth of eight feet from the Surface; and there cannot be any hope of the leakage being stopt by any other means, than by closing up the communication through the Shingles down to the Clay by Sheeting Piles or other means throughout the whole extent of the dam. Authority had also been received through the Colonial Secretary to secure by means of Piles and boards the face of the bank at D, as it was apprehended that the force of the Current, owing to the late extension of the dam, would gradually wear away the bank and endanger the buildings, which are placed near it. Though this seems a very judicious precaution, we apprehend that no great danger is to be apprehended from the source which it is intended to provide against. And the Means resorted to will doubtless remove any that there might be.

Land cultivated
and pigs and
poultry bred
by free persons
and convicts.

No. 3. Before proceeding to state the nature and extent of the "Indulgences" at present enjoyed by Individuals on the Settlement, it seems proper to remark that the Custom of allowing Free persons and even Prisoners to cultivate a portion of Land for their private advantage, and to keep Pigs and Poultry, seems to have existed from a very early period, though we have not been able to ascertain the date of its commencement. It is said that, during the Commandancy of Captain Rolland, no Prisoner was allowed to keep either Pigs or Poultry; but several Settlement Orders of his Successor, Captain Gillman, prove that the Custom was general during his time. And, before leaving the Settlement, he himself made a Sale of a very large Number of Pigs and Poultry, which had been produced at the Farm called Ballyngaira, as well as on the Settlement, to the Amount, as Stated by Mr. Partridge, who conducted the Sale, of £43 or £45. the Purchasers being indiscriminately free persons and Prisoners.

It does not appear that any check was put to the practice, thus sanctioned, of prisoners possessing Pigs, although it appears that they have not been allowed to tender Pork to the Stores in their own Name. They found little difficulty however in disposing of it to the Individuals, who have from time to time taken the Contracts, and several instances have occurred of the free Wives of Prisoners having been permitted by Authority from Head Quarters to send it to Sydney.

Farm cultivated
for
commandant.

It appears that the Farm called "Ballyngaira," which was originally cleared by Captain Rolland for the purpose of supplying the Prisoners at Port Macquarie with Vegetables, has always been considered the "Commandant's Farm," and its produce, not having been brought to account in the Books of the Settlement before Captain Crotty assumed the Command, was disposed of by the Commandants in supporting Pigs and Poultry for their own Table and donations to the Blacks. It does not appear, however, that any

of them with the exception of Captain Gillman conceived they had a right to dispose of its produce for their private advantage, further than the supply of their own Tables required.

On Captain Crotty's assuming the Command, he found that the Grain on hand and growing on that Farm was considerable in Quantity. And, without doubting his right to the privilege which all his predecessors had been accustomed to enjoy, he made a Statement of the whole produce in the Books of the Settlement and in his Returns to Head Quarters. Previous to the late Crop of Corn becoming ripe, Captain Crotty had borrowed 64 Bushels from the Commissariat for the purposes above mentioned, which, as well as a debt of 61 Bushels, incurred in the same way by Lieutenant Owen, he repaid from this Year's Crop of Ballyngaira. This he entered in his return of 31st March, and the Corn issued to his Pigs has been measured and regularly entered in an Account kept by the Overseer, to be accounted for in his Returns.

The produce of two Paddocks, planted last Year with Maize at Port Macquarie, is not entered in the Accounts; it is expended in donations to the Native Blacks and in feeding Fowls for the Commandant's Consumption. It appears from the Stalks remaining on the Ground to have been a very bad Crop; and, though the Paddocks contain several Acres, we can readily believe from its exposed situation that the total produce saved did not exceed fifty Bushels, as is stated by Captain Crotty.

The Live Stock, kept by Captain Crotty at Ballyngaira, consisted of 20 Pigs; of which Number three were breeding Sows and the remainder their produce from four to six months old. The Quantity of Corn issued for their Consumption and that of a few Turkeys, between the 1st January and 30th June, was 109½ Bushels. It does not appear that any abuse has been made of this privilege by Captain Crotty, or that he availed himself of it with any other view than to supply the consumption of a very hospitable Table.

The Farms of the other Officers of the Settlement are situated on the North Shore of the Harbor, and seem in no instance to have been confined to the production of Vegetables and of a small quantity of Maize to feed a few Fowls for the Consumption of their Families, as was originally intended; the practice in fact of rearing and fattening Pork to a considerable extent from their Farms has for a long time been sanctioned by the Commandant's authorising its purchase by the Commissariat.

A Return, which we procured from the Commandant's Office, shews that these Farms vary in extent from Seven to Twelve Acres. William Evison the Wharfinger is the only Individual not free, who is allowed to Cultivate Land. His Farm is 3 Acres in extent, and is situated about 3 Miles from the Settlement. The Garden's attached to the Prisoners' Huts form also an exception of this Statement.

All the Free Individuals employed on the Settlement, with the exception of Lieut. Meyrick, the Revd. Mr. Cross, and the Messrs. Parker, have availed themselves of this Indulgence. Besides their Farms, all the Officers and free Overseers on the Settlement have Gardens attached to their Houses, and, from both together, several of them gathered in the present season from two to four Hundred Bushels of Corn. From a Return made to the Colonial Secretary on the 16th April last, it also appears that each of them had two or three Convicts, who were maintained at the Expense of Government,

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for
commandant.

Farms
cultivated by
officers.

Convicts
employed
by officials.

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Convicts
employed for
private work.

and were chiefly employed on these Farms. These Convicts were withdrawn by a Settlement Order of June last, till Servants could be procured from Head Quarters, each Officer is temporarily allowed to retain the Service of one.

There is reason also to suppose that occasional assistance, though not to a great extent, was obtained by different Individuals from the Prisoners placed under their Charge for Government Purposes. Doctor McIntyre's Maize was brought down from his Farm by the Government Boats, And the Commandant also allowed him to have it carried by the Gaol Gang up to one of the Sleeping Rooms of the Prisoners' Barracks, where it is stored. The Corresponding room in the other Wing of the Building is by the same permission occupied by the Corn of Mr. Partridge, the Superintendent of Convicts, the Prisoners in Barrack, whose Number does not exceed 18 or 20, sleeping in the Mess Room.

Messrs. Smith and Bell acknowledge that they have occasionally employed the Store Men, whose Constant Attendance on the Stores is stated to be necessary, though their Labour is not always required, in turning their Corn or in overlooking the Native Blacks whom they employed in turning it, as well as in other little offices for their private Accommodation.

Successive
sales of farm.

Mr. Smith states that the Farm which he occupies was originally held by the Revd. Mr. Hassall, by whom it was transferred to D. A. C. G. Bowerman, the latter paying the Sum of Twenty Pounds for the Fruit Trees, which Mr. Hassall had planted. On Mr. Bowerman quitting the Settlement, it was transferred to Mr. Smith, who paid to its former occupier £35, in consideration of the Sum he had paid and the Improvements he had effected upon it; and Mr. Smith has himself fenced it in with the hope of having it granted to him, when the Settlement should be thrown open.

Pigs and
poultry kept
by W. and
H. Parker.

The Messrs. Parker, being restricted by an Article in their Instructions from Cultivating any Land for their private advantage, have been accustomed to keep a few Pigs and a large Number of Fowls in the Barn Yards of the Farms where they have resided. The Number of Pigs possessed by them at present is stated to be 3 Breeding Sows and 12 Young ones. These Pigs are fed along with the Government Pigs, and no account has been taken of the Corn they have Consumed. In April, 1827, Mr. W. Parker having left Settlement Farm, and his Brother having removed from a Cottage close to the Barn to the one which they both now occupy at Roland's Plains, a Poultry House and Yard near to this was Constructed for them, and, as the Fowls had not then access to the waste Corn of the Barn Yard, Quantities of Corn have been from time to time issued to them; this was entered in the Ledger, and the Quantity of Maize thus appropriated, between April, 1827, and June, 1828, appears from this account to have been 47 Bushels, 27½ in the Name of Mr. William and 19½ in the Name of Mr. Henry Parker.

Military
gardens.

A portion of Ground to the extent of 6 or 7 acres has been enclosed at Port Macquarie for Gardens for the Military, Many of whom have been possessed of Pigs and have Sold Pork to the Commissariat, fattened, as is stated, by the produce of their Gardens. Serjeant Wilcox of the 39th Regt., who supplied a part of the Pork lately contracted for, states that his Garden this Year yielded about 20 Bushels of Maize.

The Live Stock of other descriptions on the Settlement are, with the exception of Goats, exclusively in the possession of free persons, and are chiefly the property of Messrs. Partridge and Wilson.

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Returns of
live stock.

By a Return of Live Stock possessed by Individuals on the Settlement, which was procured by Captain Crotty, it appears that the Number of Horned Cattle, possessed by Individuals, is 124 Head including all ages and descriptions. These are the produce of what have been brought to the Settlement by the various Commandants and other officers, and have been sold to their present Proprietors on their departure; exclusively of Mr. Bowerman's Flock of 173 sheep, there are only 20 on the Settlement possessed by private Individuals.

The total Number of Swine is returned at 304, and of Goats at 190. Of the Swine, 200 are stated to belong to free Persons, 20 to the Military, and 84 to Convicts. But there is reason to suppose that these Numbers, particularly the latter, are greatly understated; of the Goats, 54 are returned as belonging to the Free Inhabitants, 20 to the Military, and the remaining 125 to the Convicts. There are only Seven private Horses on the Settlement, which belong to the Revd. Mr. Cross, Messrs. Smith and Partridge, and Mr. McIntyre.

The Horse belonging to the latter Individual is kept at the Stable of Government House, and has for some time received an Allowance of Forage from the Store, which Mr. McIntyre considered himself liable to repay along with some more Corn, which he had borrowed from the Commissariat Stores. But Lieut. Meyrick states, he does not consider he ought in justice to be made to repay it, as His Horse received the Allowance, which was issued to a Government Horse, intended for Mr. McIntyre, when he has occasion, as frequently happens, to go up to Rolland's Plains on public duty, but which is incapable from age and weakness of the journey, and is consequently turned out to grass, receiving a feed of Corn once a day, when the other Horses are fed out of their Allowance.

It did not appear to us, on an Investigation into the Origin and encrease of the Cattle of Individuals, that any abuse has been made of the privilege they have generally been allowed of running with the Government Herds.

The encrease of Government Cattle appears as great as that of Individuals, and the proportions of the Sexes not different, the Government Herd, which, including about Ninety that remain of 117 Working Bullocks sent from Sydney, consists according to the Return with which we are furnished of 229 Head, and are with the above exception the remains of 24 Cows which had been received from Sydney previous to September, 1822. In addition to the above Number, a dozen Head appear to have been Slaughtered. No doubt on the whole the encrease may be considered in fair proportion. The Milking Cows are kept at Port Macquarie, and the Milk and butter are most liberally distributed among the free Inhabitants of the Settlement and the Soldiers, who have Families, from the dairy at Government House.

Increase of
government
cattle.

Issue of milk
and butter.

The Sheep, which were sent from Sydney, do not appear to have thriven equally with the Horned Cattle, but, whether in Consequence of natural causes or neglect, we had not an opportunity of ascertaining. The Number of Ewes in all sent from Sydney has only Amounted to 132 in 1825, and 11 in 1826; to which Number only

Sheep.

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Inquiry re
employment
of mechanics
for private
purposes.

146 have been added by natural increase. The decrease has been by Slaughter 70, by death 122, leaving the Number smaller than when they were originally sent.

With a view to ascertain with what strictness the Instructions regarding Mechanics not being allowed to work for private Individuals have been attended to, And in compliance with Your Excellency's Instructions on that Head, we have procured a Return of the Furniture and Boats made on the Settlement, from as early a period as possible, and have availed ourselves of every other means of information within our reach to ascertain its correctness.

It is the opinion of those, however, who have furnished the information, which is altogether from memory, that the Return Contains a very small proportion of what has actually been made, especially while Captain Gillman was Commandant. That Officer had a Cabinet Maker assigned to him during almost the whole of the time he remained at Port Macquarie; and he is stated to have taken with him 18 or 20 Cases, Chiefly of a large description, containing Furniture, on his retirement from the Command of the Settlement, exclusively of what he had sent up on previous occasions. Mr. Bowerman and Dr. Moran had also Cabinet Makers assigned to them about the same period, and there is a Quantity of Furniture belonging to the Former, and of doors and Window Frames and Agricultural Implements belonging to the latter, now on the Settlement. In Appendix 2 to Return D, it appears that during the same period Captain Gillman has charged the Government with Sums paid to Mechanics working in their own time to accelerate the progress of the Public Buildings.

It appears from the Articles shewn by this Return to have been manufactured after the date of the Colonial Secretary's Letter of 7th April, 1827; that the Instructions contained in that Letter, that the whole of the Labour of the Convicts was to be devoted to the Service of Government, has not been acted upon in its full and literal acceptation, although a considerable change took place in consequence of that Letter and of the Circular of the 7th January of the same Year, ordering that the Prisoners in Government Employ were not to have task Work assigned to them.

System of
task work.

Before going into the particulars and extent of this change, it may be necessary to remark that, previous to that period, it had been customary to assign daily or Weekly tasks to the Prisoner Mechanics, which, in the former case, they appear to have been generally able to finish by Eleven or Twelve O'Clock, and in the latter Case by Noon on Thursday. The remainder of the day or Week was accordingly at their own disposal, and they were more-over allowed to Carry the Government Tools without restraint to their Huts or the Quarters of the Individuals who employed them.

Demand for
labour of
mechanics.

It appears that an abundant demand has always existed on the Settlement for this Extra Labour, and that it was by no means uncommon for Men to be allowed to work during the Night. The Sundays appear also to have been regularly devoted to Labour by the Mechanics, especially the Cabinet Makers and Boat Builders. It does not appear that any attempt was made by the Commandants, since Captain Gillman assumed the Command of the Settlement, to check this practice; but, on the contrary, it was sanctioned by that Officer having kept the ship wrights regularly at Work for several successive Sundays, while the Government

Vessel Mary Elizabeth was on the Stocks, for which extra Labour it is said they were afterwards allowed to have a Week at their own disposal.

Subsequently to the order of the 7th April, 1827, that their whole Labour should be devoted to the Government, the Mechanics were kept to work till 2 o'Clock on Saturdays; but from this time till Sunday Morning was still considered their "own time," and the Government Tools were still allowed to be carried from the Lumber Yard, that they might be employed in the Manufacture of Articles for Individuals, as well during this time, as during the Night. The Government Materials were appropriated as before for the same purposes, but were not entered as "Sold" in the Engineer's Books, a private Memorandum only having been made of the Articles which were "lent," and stated in the Return "as Stores in Hand," till they should be repaid in kind by the Individual to whom they were issued. A reference to the first Appendix to the Return D will shew that several of these Articles have not yet been repaid, and that the price of other Articles sold still remains due to the Government; according to the Return, Lieut. Scarman, the late Assistant Engineer, appears to have been the Chief Employer of the Mechanics in their "own time" during the period under review; but Lieut. Owen, then Commandant, had also a Boat of Twenty five feet keel built, and some other Articles Manufactured by the Mechanics and free Apprentices, and Mr. Partridge states that much of this was done on Sundays.

Since the receipt at Port Macquarie of Your Excellency's Minute of 21st January, 1828, No. 13, it appears that considerable pains have been taken to prevent a continuance of the practice. Every means were adopted to give the most extensive publicity to the order among all Classes of the Inhabitants. The Prisoners' Huts were searched for the Tools they had been accustomed to use, and a stop was put to the practice of allowing Tools to be carried out of the Lumber Yard. The Number of Mechanics also is so much diminished that less difficulty has been found, than would have been under other Circumstances experienced, in carrying it into effect; and the Case of a Man, who was brought to the Commandant's Court for having been found making a Tea Caddy in the Lumber Yard, is said to have been the only instance of its infraction known to have occurred. Mr. Partridge was however permitted by the Commandant to have a Boat completed, which was nearly finished when the order was read, and Burgin, the Overseer of Carpenters, finished a Chest he was making for Mr. Bell without having received Authority.

The Small Articles, Vizt., Bird Cabinets and work Boxes returned as having been manufactured for Captain Crotty and Lieut. Meyrick, are stated to have been made previous to the receipt of the Minute of 21st January, 1828, No. 13. But it appears that, independently of these, several more considerable Articles of Furniture have been manufactured in the Lumber Yard, chiefly with Government Materials and in the Working Hours of the Men. These are stated to have been made for Government House and the Engineer's Quarters and to have been entered in the Books of the Settlement as Public Property in Charge. A Mangle, which was constructed for Lieut. Meyrick's Quarters, is said to have been made, though of Government Materials, in the Men's own time, that no Work of a more Public nature might be impeded thereby. This Mangle, as

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task work.

Use of
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Mechanics
employed
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Prevention of
employment of
mechanics.

Articles
constructed
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Articles
constructed
for officers.

well as two Bird Boxes made by Captain Crotty's order, did not appear in the Books on our referring to them. The other Articles, consisting of a Rosewood portable Bedstead for Govt. House and a table and two Bed stands for the Engineer's Quarters, appeared to have been entered. It having been stated that one of the Boxes, said by Captain Crotty to have been intended for Birds, was a luggage Chest to contain the portable Bed Stead, and that his Name with the Number of the Regiment was painted on it, he requested one of us to look at the Boxes in question, and it was evident that neither of them had ever been so painted. A large Luggage Chest of Captain Crotty's, evidently not made within the last Twelve Months, but publicly painted, which stood in the same room, appears to have been mistaken for it and to have given rise to the Statement.

It was also stated that Captain Crotty had employed the Overseer of Blacksmiths to make him some brass spurs, and that that Individual, when afterwards brought to the Commandant's Court by the Engineer's Clerk "Desroches" to answer for a deficiency in the Government Brass issued to him, produced three pairs of unfinished Spurs, which he said were made from the Brass which was deficient. It clearly appears however from the Statement of Lt. Meyrick that these Spurs were the property of Lieut. Scarman, which had been left by him unfinished, when proceeding on a very Short Notice to Head Quarters; and, as this was well known to the Man who had become free, he was dismissed from the Lumber Yard and sent up to Sydney by the next following opportunity, instead of being allowed to remain at Port Macquarie as a Volunteer with the intention of settling, when it should be thrown open to the residence of a free population. Captain Crotty however states that he had one pair of Spurs made in the Lumber Yard from Government Brass; but it was several Months previous to the above occurrence, and Lieut. Meyrick says it must have been before his arrival at Port Macquarie.

Difficulty
in finding
employment
for mechanics.

Mr. Meyrick states that, from no public Buildings being in progress, there is some difficulty in providing useful Employment for the 4 Joiners and Cabinet Makers who remain at Port Macquarie. On our first visit to the Lumber Yard, we observed a Man at work upon a Canteen, which is said to be intended for the Officers of the Settlement, when absent on boards of Survey and Excursions from Port Macquarie. This appeared from the Returns of Labour to have occupied time about 3 Weeks, and was entered in the Returns as Labor employed in the "Surgeon's Quarters"; the same mode of accounting for the Labour of the Mechanics was used in the Case of the Furniture made for Government House and the Engineer's Quarters; and, throughout these Returns, we observed an indefiniteness of expression, which was not fitted to convey an exact idea of the specific employment in which the Men were engaged.

Convicts
exempted
from labour.

It has been customary to allow Men, who from lameness or debility were incapable of Labour, to act as Hut Keepers to parties of the Convicts, who enjoyed the Indulgence of Living out of Barracks, and from the Number who, under this and other denominations, appeared in the Superintendent's Books to be exempted from Labour, we were led to examine into the Indents of these Individuals, as well as of those assigned to the Free Inhabitants. But, although one or two of these proved to be Shoemakers, we were

satisfied that this did not arise from any abuse having been practised, as it appears that there is not sufficient employment for the Shoemakers on the Settlement in repairing the Shoes of those Prisoners, who, from the nature of their Employments, require to have them repaired. And those Individuals, who are not thus employed, are not returned as Shoemakers in the Muster Book. One or two Shoemakers and Tailors, who have Families, are also allowed to work for their own advantage; and it appears that a Quantity of Boots, which were taken to Sydney by Thomas Hart, were chiefly made by a Man Named Johnson, who was designated "Store Constable," but who occupied a Hut near the Stores, and only attended stately one day in the Week unless specially called upon, occupying himself during the remainder of his time in making Boots for Hart and for others who employed him.

Hart appears to be, however, the only Individual who has had Boots made with a view to sale of late; and, indeed, we are satisfied that all employment of the Prisoners and trafficking with them in this way, which was formerly practised by this Individual and by others to a great extent, has been of late nearly done away with, although two or three infractions of the Regulations against trafficking with the Prisoners by Messrs. Partridge and Neave were brought under our Notice, which, especially in the case of the latter, we believe to be not altogether void of Truth; and Captain Crotty has stated his belief that the practice still existed in some degree among the Prisoners themselves, although he had used every effort for its suppression.

No. 4. 50. With regard to the deficiencies which have taken place in the Commissariat Stores, as shewn by the general abstract from 25th June to 24th December, 1827, we beg to remark generally that, though the quantities at first sight appear considerable, they are less so when viewed in relation to the Stores on which the deficiencies have occurred. The rate per Cent. of deficiency appearing to be on wheat $1\frac{7}{10}\%$, on Salt Beef $3\frac{0}{100}\%$, on Salt Pork 4, On Flour $2\frac{5}{10}\%$, On Maize Flour 3, and on Spirits $3\frac{5}{100}\%$ on the quantities of these articles respectively issued during the six months. On the other articles in Store, the rate of loss is still less considerable.

51. It appears that at one time, when in consequence of want of room within the Brick Building, it was necessary to store part of the Meat in a slab shed behind, a quantity of it had been taken out by means of Skeleton Keys and with the connivance of the Sentry. Lieut. Meyrick states that, though it was found impossible to bring the evidence home to the conviction of any Individual among the Soldiers who were then on the Detachment, it was such as left no doubt that Robberies had been perpetrated in this manner. The means resorted to by the depredators prove the general security of the place to which Mr. Smith had recourse for the Storage of the Meat when the general store did not afford room. It also appears, by the Certificate of Captain Crotty and Lieut. Meyrick, that the half Gallon Measure, by which the spirits were issued to the Soldiers, was three sixty fourths too large; and this incorrectness will account for 169 of 207 of Pints of the deficiency in that article.

52. Considering these circumstances and the unavoidable danger to which the Stores are always exposed in such a place as Port Macquarie, we are not prepared to say that much of the loss which has occurred can be fairly attributed to want of due care in providing for the security and preservation of the Stores. But on the

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Suppression
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Deficiencies in
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other hand we cannot acquiesce in the prudence and propriety of all the arrangements, to which Mr. Smith has had recourse in the general management of them.

53. It appears that on various occasions Mr. Smith has been called to take a part in the proceedings of Boards of Survey, which would remove him for several days successively from Port Macquarie, and oblige him to delegate his charge there to persons, who, however unexceptionable in their individual Character, were not such as, in our view of the case, he was authorised in delivering over the absolute and uncontrolled charge of the public property committed to him, without the means of checking by an inventory on its delivery and return the correctness of their proceedings.

54. Mr. Smith that the first occasion, on which he delivered over his charge to any other than an assistant appointed from Head Quarters, was on being ordered, in the absence of such a person, by Lieut. Owen then Commandant, on a Board of Survey at Rolland's Plains. In reply to questions addressed to him on this head, Mr. Smith states that he did not apply for the written official authority of Mr. Owen before he delivered over the charge, nor did he report the circumstance to the head of his Department; but that he did mention verbally to the Commandant the impropriety of the proceeding and that the latter justified it by the necessity of the case, as he had not the means of forming a Board without him. The same necessity does not, however, appear to have existed for the practice, which Mr. Smith afterwards introduced of leaving an overseer to manage the issues at Port Macquarie, while he himself proceeded to Rolland's Plains to make the weekly issues as the Stores at the latter station seldom exceeded a month's supply of the most common description of articles, and as the number of the men to be rationed did not at any time amount to the half of those victualled at Port Macquarie.

55. The Individuals, to whom this responsible charge was committed, were William Wilson, Overseer of Works, and James Blackie, Overseer of Agriculture at Ballygarra; and it is much to the credit of these individuals that no person on the Settlement seems even to have doubted the propriety of reposing such a trust in them. Under these circumstances, we advert rather to the general principle involved by the arrangement, which if sanctioned would compromise all security in the custody of the Public Stores, than to the particular case in which however we should apprehend Mr. Smith is not borne out to the extent he seems to suppose, when he states that it was quite common in Sydney to leave the Stores under such circumstances, when the pressure of business required it; and that it occurred even in the case of the Bonded Stores.

With the exception of the above persons however, we have not been able to establish after the most rigid scrutiny any case in which Mr. Smith improperly admitted individuals to have access to the Stores under his Charge. With the view of investigating this, we have made very particular inquiries into the character of the individuals employed about the Commissariat, and more particularly into that of John Wyatt, a Clerk, and Thos. Carpenter, Overseer of the Store, Men mentioned in the Depy. Commissary General's Memorandum as appearing to have had at all times access to the Stores; and, though the latter of these Individuals is admitted by all persons, with the exception of Mr. Smith and Mr. Bell, to be a Man of the worst Character, yet we have been able to

establish no case, in which these Men have had opportunities allowed them of taking advantage of their employment to commit depredations; and Mr. Smith asserts that no such case has ever occurred, with the exception of that which appears to have originated the query in the same Memorandum, "whether these men had not at one time been punished for stealing Rum from the Stores."

56. The case is very fully and satisfactorily explained by Mr. Wilson, as having occurred while he was, for the first time, entrusted with the management of the issues, and is as follows:—When Mr. Smith was about to accompany Mr. Owen up the River, and was giving him instructions relative to the issues, he cautioned him to be particularly careful about the Spirits, observing that there was not so much danger of anything else. Lieut. Owen, who was present at the time, also placed a Corporal on the outside of the Store with orders to watch the proceedings of the Men employed within. From this circumstance, Mr. Wilson's impression was that he was only required to look to the Security of the Spirits, and he accordingly locked up the inner Store, where they were contained, after the issue was completed, leaving Wyatt and Carpenter at work in the outer Store under the superintendance of the Corporal.

57. It happened however that a small quantity of spoiled rum, which had been put aside to be submitted to a Board of Survey, was left in the outer Store, and these Men, unable to resist the temptation to which they were thus exposed, had drunk a portion of it, and also offered it to the Corporal, who made a Charge against them for it. The Men were accordingly slightly punished, and returned to their respective employments. Wyatt is stated to have been employed as a Clerk in the Commissariat and other offices at Port Macquarie for the last four years; and the character for usefulness and general good conduct, which is given him by Mr. Smith, is fully borne out by Mr. Wilson, who has had during all that time an opportunity of observing his conduct, and whose testimony we have always found to be most consistent and worthy of belief. He also knew that Mr. Smith was in the habit of supplying him with articles of dress and occasionally with money, and he was not therefore disposed to join in the general suspicions that he was in the habit of pilfering the Stores, and which appear to have been entertained on little better grounds than the inability of those who held them to account for his appearance being superior to that of the other Convicts.

59. With respect to the character of Carpenter, who has held the Situation of "Overseer of the Store Men" from a short time after his being Sent to the Settlement from Newcastle, it is stated in his favour by Mr. Smith and Mr. Bell that, when in Jail on a late occasion, he ascertained that the men, who are locked up in the room above the store for the purpose of sifting the meal, had discovered a means of entering it by removing the bolts of the trap door, and that on his release he gave immediate notice to Mr. Bell that means might be taken to secure it.

60. The general character of this Man however appears to have been so very bad by all parties. And Mr. Smith has been so very frequently put upon his guard against him that, however useful and expert he found him in issuing the smaller stores, he seems scarcely to have been justified in retaining him in a situation, where with

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every possible care opportunities might present themselves for indulging the propensities to which he appears to have been so strongly inclined; much less in appointing him, after Thomas Hart had left the Settlement, to be Overseer of the Granaries, where it certainly does not appear that the same care was taken to restrain him.

61. It does not appear from the Abstract that the Maize, which was the principle article stored in the Granaries, proved much deficient. But, as the Maize was frequently received in Cob, and the measurement in this way is considerably in favour of the Store, Robberies to a considerable extent might have been committed without any deficiency appearing. It was well known also to Mr. Smith that Carpenter kept Pigs; and it was the general belief that he trafficked to a considerable extent with the prisoners.

During our residence at Port Macquarie or shortly previous to it, four Convicts were apprehended carrying a quantity of Maize Meal to his house, and on its being searched a quantity also appeared to be there, greater than he was entitled to have from his ration.

62. Mr. Smith explains this by stating that the quantity of Maize Meal at that time issued (Vizt., 21 lb. per Week) as a ration was greater than any man could consume, and the defence of the men was that they were taking to Carpenter's house to have it sifted. But, making every allowance for the usefulness of this Man in the situation in which he was employed, and giving Mr. Smith full credit for preventing his access to the Stores of greater value, we cannot altogether resist the persuasion that, in shewing favour to this Man, he was not influenced exclusively by the consideration of his usefulness in that capacity. It appears that Carpenter had carried with him a large sum of money to Port Macquarie when sent thither from Newcastle, which it is said he has improved by trafficking in the Settlement; and Mr. Smith acknowledges that Mrs. Smith has occasionally borrowed money from him and on one occasion to the amount of £65 or £68, paying 10 per Cent. per annum as interest. Notwithstanding that Mr. Smith asserts, he is not the only officer on the Settlement, who has had recourse to this dishonorable mode of raising money; and, while the evidence before us does not justify us in imputing it as a motive to him for shewing unmerited favour to this man, we cannot but remark upon the practice as extremely derogatory to him when the relative situation of the parties is considered.

63. With respect to the cause and extent of the extra issues of Flour and other articles on Sale from the Commissariat, we have found, on enquiry from Mr. Smith and on an examination of his books, from which an abstract was taken, that the custom originated in the difficulty which those individuals who had families found in obtaining additional Supplies, when the ration allotted to them proved insufficient for their support. It is stated by Mr. Smith that, when application was made to Head Quarters for authority to commence the practice, he himself had found it necessary to borrow from the Stores on various occasions, and the 500 pounds of Flour charged to him at the commencement of the account was chiefly to repay the quantity so borrowed.

64. A Settlement order of Lieut. Owen, then Commandant, dated 14th April, 1827, notifies to the free individuals that they were allowed to purchase Wheat from the Stores, but in such quantities

only as was necessary for the consumption of their families; but, it appearing some time afterwards that some of the Veterans had abused this indulgence by selling to Prisoners at an exorbitant price the flour thus purchased, the quantity, which each individual was allowed to purchase, was restricted to one half the ration he was entitled to draw. The Military have proved the chief purchasers and the whole quantity sold from 26th May, 1827, the date of the commencement, till 21st June, 1828, amounts only to 11,530 Pounds, not more than one half the quantity, which, according to the Return furnished by Mr. Smith, the persons privileged were entitled to purchase.

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65. The flour appears to have been charged at a reasonable price, and we have not been able to discover any instance in which the indulgence has been abused. The quantity of (350) Three hundred and fifty pounds, although charged against Assistant Surgeon McIntyre in one Month, has been issued to him from time to time during the whole of the above period, and is all that he has at any time purchased. It is charged in two separate quantities, because it had been partly issued to the Mess at Government House, and partly to his own Quarters, where he has a Servant not victualled from the Stores. The Sales from the Commissariat have been exclusively confined to the article of Flour.

66. "The Conduct of Mr. Bell Commissariat Clerk in resisting an order of the Commandant for his proceeding to Rolland's Plains," we conceive will be most clearly illustrated by a short detail of his proceedings since his arrival at Port Macquarie.

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commissariat
clerk.

67. It appears that, previous to that period, the Mill at Rolland's Plains, though considered under the Charge of the Commissariat and though the receipts of the person immediately in charge for wheat received from the Agricultural Establishment were consolidated monthly into receipts from the Commissariat Officer at Port Macquarie, was actually under the superintendence of Mr. Scott, Superintendent of the Plantation Establishment, and managed by his Convict Clerk, Christopher Reid.

68. Mr. Smith appears about this period to have paid weekly visits to Rolland's Plains to issue rations; and, various circumstances having led him to suspect that a fraudulent system of management had been carried on by Mr. Scott and his Clerk, he about the time of the visit of the former to Sydney in December last took possession of the Mill, discharged the Clerk, and placed a Convict named Bult in charge, till he should apply to the Commandant for the temporary employment of Overseer Cheyne on this duty, which application the Commandant after a short delay complied with.

69. Matters appear to have been in this state when Mr. Scott returned from Sydney, at the same time that Mr. Bell arrived on the Settlement; and, as the quarters which he intended for himself on the upper floor of the Sugar house were not finished, there was no accomodation for Mr. Bell better than a Convict's Hut. In consideration of this circumstance, the Commandant, who appears in consequence of private recommendations in favour of Mr. Bell to have shewn him on his first arrival much attention and kindness, allowed him to remain at Port Macquarie, and appears in some degree to have entered into his feelings of repugnance to fix his family in such a remote situation, where they must necessarily be removed from the protection and comfort of society.

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70. It appears from Mr. Bell's Statement that he was induced by this disposition of the Commandant to look forward to a permanent residence in Port Macquarie; and he had accordingly made a purchase of the Growing Crop of Maize, and of a boat which belonged to the Schoolmaster Mr. Roberts, then leaving the Settlement, and also of a number of Swine; Mr. Bell does not scruple to adduce these circumstances and the injury, which his interests would sustain in consequence, as additional reasons for his refusing to obey the injunctions of the Commandant that he should remove to Rolland's Plains, where Mr. Scott's dismissal from his situation afforded the means of accomodating his family.

71. In the interval it appears that, in consequence of an irritating correspondence between Mr. Smith and the Commandant, originating in a complaint made by the former of the disrespect shewn him by Desroches the Commandant's Clerk, and in which it was supposed that Mr. Smith was assisted by Mr. Bell, the Commandant had withdrawn his countenance from him; and Mr. Bell states that he attributed the order that he should proceed to Rolland's Plains to the personal feeling of Captain Crotty rather than to his sense of Public Duty. He states, in corroboration of this opinion, the fact that Mr. Scott's house was vacant from the 22d February, and that the order for his proceeding to the Plains was not issued till the 17th March. But, on the other hand, the Settlement order of 19th January only required Mr. Cheyne to take charge "until the quarters intended for Mr. Bell should be completed," and Mr. Smith states that the incapacity of Cheyne for the charge rendered the change necessary.

72. On receipt of the letter from the Commandant of the 17th March, 1827, which recommended that either Mr. Smith or Mr. Bell should "proceed to take charge of the Mill at Rolland's Plains, the house formerly occupied by Mr. Scott being ready for their accomodation," Mr. Smith wrote officially to Mr. Bell, requiring him to proceed to Rolland's Plains in order to take upon him the charge of the department at that station. In reply to this communication, Mr. Bell wrote to Mr. Smith, declining to remove his family and stating his reasons, which are recapitulated in his second letter of 17th April, viz., "that the house intended for him was situated so far from the Store (fully a quarter of a mile) and as it was in a situation where he could not even see the stores from it, he might as well be twenty miles from them; and that he could not think of planting his family in the midst of a camp of Convicts devoid of all protection from violence or Robbery."

73. Mr. Smith states that he remonstrated with Mr. Bell on the consequences of resisting the order, and Mr. Bell proceeded on the next occasion to make the weekly issue at the Plains; he however stated to him that he was indifferent about remaining in the department. On this being represented to the Commandant, he issued on the 25th March an "Official Memorandum" apprising the Commissariat Officer that the objection to an Officer of that Department proceeding to Rolland's Plains was now removed as the house in which Mr. Scott had resided could be immediately appropriated for his accomodation. Mr. Smith having been at this time resident at "Settlement farm" about two miles from Port Macquarie and unable to attend to his duty from sickness, Mr. Bell appears to have remained on the Settlement without further notice from the Commandant till the 17th April, when Captain Crotty asked Mr. Smith

why he had not proceeded; Mr. Smith again wrote officially to Mr. Bell reiterating his former order, and Mr. Bell replied, repeating his refusal for the same reasons stated in his former letter and requesting that a copy of his letter should be laid before the Deputy Commissary General.

74. On Mr. Smith's submitting this letter to the Commandant, he observed that he felt inclined to suspend Mr. Bell, and to send him off the Settlement; and that he should not in future notice him or consider him as holding a situation on it. It appears to have been in pursuance of the resolution thus expressed that when, on the Commandant's removing Mr. Cheyne from the Mill, he would not allow Mr. Bell to take charge of it, although it appears he had then come to the resolution of removing thither with his family and voluntarily offered to proceed.

75. Independently of the very insubordinate conduct above detailed, which it appears to us would have quite justified Captain Crotty in sending him off the Settlement, he appears to have taken several occasions to annoy him with a correspondence couched in a very disrespectful and unbecoming style, on complaints generally speaking of a very frivolous nature. And it appears to be the impression of the different Officers of the Settlement, judging from Mr. Smith's former respectful demeanour, that, in his late improper and unjustifiable conduct to the Commandant which will be hereafter noticed, he was influenced chiefly by the suggestions of Mr. Bell.

76. With a view to ascertain the real quality of the Beef, which is stated, by Mr. Smith in his letter to the Deputy Commissary General, to have rendered necessary the purchase of a quantity of Pork, we visited the Commissariat Store, where a considerable number of the Casks were ranged outside for the purpose of having new brine added to them, and requested Mr. Smith to select three of the Casks which he considered to be in the worst condition. These Casks were opened in our presence and three pieces of Beef selected one from each Cask: The pieces were not only of that part of the beef which are most liable to spoil, but they were selected as being in reality the worst in the respective Casks. These pieces were cooked next day, and the worst of them was very tolerable Meat. The Beef generally seemed in our estimation to be in sound and perfectly wholesome condition. And, though Mr. Smith stated that he could not judge of the state of the Casks till they should be opened, he did not give us notice, as we requested, when the Beef for the two subsequent general issuing days was unpacked, that we might have a further opportunity of examining it, which we have no doubt he would have done, had he found any in a worse state than those we had previously seen.

77. Lieut. Meyrick has also stated that, though the Military have occasionally complained of the quality of the beef, he always had reason to believe that their complaints were occasioned rather by their preference to the Pork, than to a well grounded cause of complaint of the quality of the beef. It will subsequently appear also that many of them were interested in increasing as much as possible the issue of Pork from the Stores, that they might thereby obtain a market for their own Pigs. Mr. Meyrick also states that he has always found the beef which was issued for his own use very good; and Mr. Partridge, the Superintendent of Convicts, states that *they* have not for some months complained of it.

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Quality of
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78. A quantity of American beef was some time ago condemned and has been manufactured under Mr. Smith's directions into Soap, and also two or three Casks of the quantity supplied by Mr. Raine; but the beef now in store is considered to be generally good, and a portion of the worst of the Cargoes to which it belongs, which was submitted to a Board of Survey, was subsequently recovered by the application of new Brine and all issued without complaint.

79. It was on the state of this portion of the Beef that Mr. Smith's representation to the Deputy Commissary General appears to have been made; and, from the evidence of the Members of the Board of Survey in its state previous to the application of the brine, Mr. Smith appears to have been in some degree justified in representing the circumstance to the Deputy Commissary General. An inquiry into the circumstances connected with the late purchase of Eight Thousand Pounds of Pork proved, however, that, as Mr. Smith himself supplied a portion of it, he might have been actuated by another motive than what was at first sight apparent. And, while he thus exposes himself to a well grounded suspicion of having compromised his public duty with a view to subserve his private interests in recommending the purchase to the Commandant, it is difficult to resist the conviction, when the circumstances connected with the subsequent issue of the Pork are considered, that he was guilty of intentional misrepresentation in order to serve these interests more effectually.

Purchases of
pork for stores.

80. It appears, from the correspondence of the Settlement, that it has on several occasions been necessary, as well from the actual want of provisions as the bad quality of those in Store, to have recourse to purchases of Pork from the "Free Overseers" on the Settlement. These purchases have always been effected by means of Tender, and Mr. Smith acknowledges that on several occasions he furnished a part of the supplies thus obtained during the period of Mr. Bowerman's charge of the department, and that he has also had a share in supplying as a private individual a part of the Pork which as a Government Officer he himself has contracted for on the part of the Public, since the retirement of that gentleman from the Station, although his name did not appear in the tenders.

81. The tender more particularly under review for the supply of 8,000 Pounds of Pork on the 26th April last was made in the name of Mr. Neave, the Pilot; but Mr. Smith and Assistant Surgeon McIntyre had both previously engaged to supply a part of the quantity. The notice was made public on the 25th and the tender accepted on the 26th April; and it was not generally known till after the tender was accepted that the supply was required. We have however ascertained no instance of disappointment having been experienced by individuals, who might have been disposed to tender, had they known in time. Neither does it appear that the Pork could have been purchased much cheaper on the Settlement, as Mr. McIntyre seems to have been quite indifferent about taking a part in the Contract, and actually withheld a part of what he seemed disposed to supply in expectation of obtaining a higher price, when the Settlement should be opened to free Settlers, a change which was looked for in a few months. It appears also, from the prices which Mr. Neave actually engaged to pay to the prisoners from whom he purchased the greater part of the quantity supplied by him, that the pork could not have been obtained much cheaper, as these individuals, who were disqualified from making

the tender in their own names, could scarcely have expected a person to be guilty of a breach of the regulations against trafficking with prisoners for a smaller consideration than Mr. Neave received.

82. On the other hand, Mr. Smith was in possession of Mr. Laidley's Letter of the 9th April on the 14th of that Month, wherein it was stated that, "though the cause of a purchase of Pork made by him in December last (viz., the badness of the beef) was satisfactory, the price appeared to be rather high as the best Irish Mess Pork could be obtained for six pence per Pound."

83. Under these circumstances, it is probable that, had not Mr. Smith's private interests been concerned, he would scarcely have considered himself justified in advising the Commandant to accept the tender of Mr. Neave without endeavouring, by refusing it in the first instance and protracting the period of notice, to obtain it at the price for which it could be procured in Sydney. Captain Crotty denies the truth of Mr. Smith's assertion that, previous to the contracts being accepted, he mentioned that Mr. Laidley had thought the same price too high on a former occasion, and it does not appear that he was aware of the Individuals who were to supply the contract, although he states that he had a suspicion that Mr. Smith was himself interested in the price.

84. The light, in which he viewed the transaction, appears to have been that, as Mr. Smith was accountable to the Head of his Department for making the application to him, he had no discretion in the matter, the course of proceeding having been authorised by the previous custom of the Commandants, which had been sanctioned by approval from Head Quarters.

85. A worse feature of Mr. Smith's case is his having omitted to take advantage of two opportunities, which have since occurred by the "Lucy Ann" in May and the "Alligator" on the 17th June, of making requisitions on Head Quarters for a supply of Pork, while it appears by his book of weekly issues, from which an abstract was made, that, instead of husbanding the small quantity that he had in store "to issue with the beef" which was stated to be his reason for procuring it, he issued Pork exclusively to the Military while it lasted, and, during the ten weeks from 5th April to 20th June, he issued to the Convicts 9,355 Pounds of Pork, while for the nineteen preceding weeks commencing on the 24th November, 1827, the quantity issued to them was only 5,347 Pounds. It is worthy of remark too that, during the period last mentioned, the quantity of Pork in Store varied from 6,000 to 19,000 pounds, while in the greater part of the period, during which it was served out so profusely, it was only issued as received from the Agricultural Establishment and the Contractor; during the three successive weeks ending on the 20th June, the Convicts had pork exclusively, and it does not appear that on any occasion a half ration of each description of Meat was issued. The quantity on hand on the 20th June was only 1,904 Pounds, and Mr. Smith was not in expectation of receiving any supplies from Head Quarters. The quantity of Beef in Store was at the same time 67,825 Pounds.

85. On a review of these circumstances, the conclusion seems scarcely avoidable that Mr. Smith, in thus hastening the expenditure of the Pork with so little regard to a providential arrangement for the public advantage, was preparing the way for another contract, by which he or his friends might be enabled to dispose of

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a further quantity of Pork, a commodity which in its live or dead state seems to be still sufficiently abundant on the Settlement.

86. The proportions in which the 8,000 Pounds were furnished by the three individuals mentioned are as follows:—Asst. Surgeon McIntyre, 1,540 lbs.; Mr. Smith, 1,317 lbs.; Mr. Neave, 5,143 lbs.; Total, 8,000 lbs.; Mr. McIntyre states that he was not aware that a supply of Pork was required by the Government till, on the notice being given, Mr. Neave came to him on the beach and asked him whether he intended to tender a part. He replied that, though he would not tender in his own name, he would supply a part if Neave would take the Contract. He thought the price should be eight pence, but Neave informed him that, in consequence of a letter from Sydney, Mr. Smith could not give more than seven pence.

87. Mr. McIntyre further states that, previous to joining in the Contract, he questioned Mr. Smith on the propriety of the proceeding, and Mr. Smith informed him that it had been customary with all the Officers to do so, and that he himself proposed to supply a part. He also remembered that Dr. Moran had told him that he had supplied Pork to the Government by tender.

88. Mr. Neave says that Mr. Smith was desirous that the tender should be made at sixpence halfpenny, but that this was not agreed to. And that, when the arrangement was made, he expected Mr. McIntyre would supply a larger proportion than he did. He was consequently under the necessity of making larger purchases than he expected.

On his being called upon for the explanations he has furnished, Mr. Neave came prepared with a list of the names of the individuals from whom he said he had purchased the quantity for the supply of which his own stock proved insufficient. He also stated that it was altogether purchased from the Military and the free residents on the Settlement, and that in every case he gave the contract price. A good deal of inconsistency was however observable in the statements he made, and we afterwards ascertained that a statement, made by a private of the "New South Wales Corps" named Holliwell, who appeared in his list as having furnished 498 Pounds, was totally false, the pork which this man said he had reared and fattened, partly on Maize grown in his own Garden, and partly on some he had purchased from Overseer Hawkins, having been supplied to Neave by a Prisoner named Davis, who on his suggestion induced Holliwell to allow it to be returned in his name.

Price paid
for pork.

89. Mr. Partridge, the Superintendent of Convicts, also furnished a list of eight Men previous, who had supplied him with pork; and it appears from it that in no case had he agreed to give them the contract price; the price generally given by him was sixpence, and in some few cases sixpence halfpenny per pound; but it is supposed that the payment will be made by him in Dollars at five shillings each. Mr. Bell, the Commissariat Clerk, acknowledges having supplied 400 pounds for which he understood he was to receive sixpence sterling; but Serjeant Wilcox of the 39th Regt. asserts that he was to receive sevenpence for the 692 Pounds furnished by him, and joins with Mr. McIntyre in stating his belief that he could obtain a better price, and that he was indifferent about selling it at that rate.

90. The names of Captain Crotty and Lieutenant Meyrick having been introduced by Mr. Smith as having furnished a part of the Contract, we considered it our duty to make a very minute inquiry

into the circumstance, when it appeared that these gentlemen having had a quantity of Pork at their credit in the Store in consequence of not having drawn all their rations, and having been urged by Mr. Smith to draw it out, they had acquiesced in a proposal, which he himself had suggested, that, as they had no use for the pork in question, they should allow it to be taken to account as received from Mr. Neave, from whom they would obtain the contract price. Subsequently to our inquiry into the circumstances, this arrangement was altered, and Captain Crotty transferred his pork as well as some other supplies which stood at his credit in the Store to the Revd. Mr. Cross. The quantity due from the Store to Captain Crotty was 248 pounds, to Lieutenant Meyrick about half that quantity. There did not, however, appear the slightest ground for suspicion that these gentlemen thought of this arrangement, till it was proposed by Mr. Smith nearly two months after the Contract was made, and when it was nearly completed.

91. Before closing with these observations, that branch of our report which relates to the Commissariat Department, it is but justice to Mr. Smith to state that the testimony of all the officers of the Settlement is in favour of his general industry and correctness in the discharge of the duties of his office, and, up to the commencement of his altercation with the late Commandant, of the propriety and decorum of his conduct; our own examinations into the correspondence of the Settlement, and into the accounts of the different Departments with which his Duties connected him, afford us no grounds to doubt the correctness of this general impression, and we think also that the circumstance, which he states in extenuation of some of the irregularities which have been noticed, "that he has never been supported by the aid of steady and efficient assistants," is not altogether unworthy of consideration.

No. 5. With respect to the general Conduct of the Settlement, and of the proceedings of Individuals holding employments thereon. We have the honor to observe that, as the subjects of our enquiry under this head have in some degree come under casual Notice in the progress of our Report on the more Specific Articles of our Inspections, We propose for the sake of brevity to consider them with reference to what has been already Stated on the Conduct of various individuals.

It has happened to Captain Crotty, in the discharge of his ordinary duties as Commandant and in the execution of more specific orders from Your Excellency relative to the discipline of the Settlement, to come into collision with some of the persons holding employments upon it in matters, in which their private interest was concerned, and to have exposed himself in consequence to no small degree of resentment and ill will.

It appears to have been the accidental discovery of an instance of gross neglect of discipline on the Establishment under Mr. Scott that induced Captain Crotty to institute an enquiry into certain circumstances therewith connected, the representation of which to your Excellency was followed by the dismissal of that individual. And the more systematic changes, which have been introduced since that period in the discipline of the Settlement, have in a variety of ways affected the interests and excited the hostility of other individuals besides Mr. Scott.

To this cause we think we can chiefly, if not exclusively, trace the conduct of Mr. Smith and Mr. Bell, which we have already alluded

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Testimony
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Opposition
experienced by
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experienced by
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to or are about to describe. These individuals have asserted, that their dissatisfaction originated in the countenance shewn to "Desroches," the Principal Clerk in the offices of the Commandant and Engineer, by Captain Crotty, upon an occasion in which Mr. Smith complained of that individual; And from the influence which he is supposed to possess with Captain Crotty, having been, as they allege, exerted to insult and annoy them. But, from certain portions of a correspondence which came under our Notice, We were satisfied that the liberties, which Mr. Smith complained of this individual having assumed towards him, and which certainly appears to have exceeded what the situation of the parties rendered befitting, ought to be referred rather to the familiarity with which he had been previously accustomed to treat him, than to any other cause; and we think there was no disposition on the part of Captain Crotty to screen "Desroches" from any well founded complaint of Mr. Smith, although he very properly treated the Complaint alluded to as frivolous and trifling.

Immediately after our arrival at Port Macquarie, Captain Crotty laid before us a correspondence, which had recently taken place between Mr. Smith and himself, relative to the Returns of Agricultural produce on the different Farms; and, on a remark being made to that individual on the very improper tone of one of the Letters of that correspondence, he addressed to us a Communication, in which he endeavours to implicate Captain Crotty as having improperly applied the produce of the Farm called Ballyngarra to his private use.

False charges
against
F. C. Crotty.

The real circumstances of this transaction are detailed in another branch of the report, and they prove that Captain Crotty's conduct was not only free from any incorrectness, but that, in his returns to Head Quarters, he had gone into a detail with respect to the produce of that farm, which none of his predecessors had ever done, And which made it necessary for him to account to the Government for every portion of it, which he might appropriate for his private use.

The Correspondence above referred to proves that Mr. Smith had, under the pretext of obtaining information in Compliance with instructions from the Head of his Department, made an unauthorised application with the view, as he avows in his Letter to us, of implicating the Commandant; and, while the latter most properly declined to furnish the required information to him, it is clear from the returns he had previously transmitted that it had been already supplied to the proper Quarter.

The concluding Letter on this Subject from Mr. Smith, as well as some other Letters relative to subjects on which we think it unnecessary to go into any detail, evince a spirit of insubordination and disrespect, which is totally inexcusable in any Officer to his Superior in Command, and which, if passed without Notice, would infallibly destroy all semblance of Authority in such a place as Port Macquarie. And such as perhaps called for a severer reprehension than it received from Captain Crotty.

We cannot, however, pass over the Letter addressed to us by Mr. Smith, without remarking that its tenor is strongly and we fear intentionally calculated to convey a false impression of the State of the case, even as it appeared to Mr. Smith; The Pigs he mentions which were seen by us the day after the date of the Letter,

being mostly very young and indicating by their appearance that they rather received less Corn than more than what was sufficient to keep them in a fit State for the Commandant's table, for which we have no doubt they were exclusively intended.

There were not wanting also other imputations, and those of a very flagrant Character upon the conduct of Captain Crotty, which, though we only think it necessary to allude to them in our report, it will be seen by the Appendix we did not fail to sift to the bottom, conceiving we were not less called upon to do so by the Spirit of our Instructions, than by what was due to that Officer in the delicate Situation in which he was placed. The result of our enquiries on this head has convinced us that advantage has been taken of circumstances, Misunderstood or Misrepresented by individuals, who have felt their conduct obnoxious to the Active reformation of Abuses, which followed the instructions lately transmitted by Your Excellency to Captain Crotty, most unjustly to impugn the character and Conduct of that Officer.

It does not appear however that Captain Crotty had seen, in a sufficiently strong point of view, the Necessity of adhering to the regulations abstractly, as such without exception of particular instances, from which as the interest of the Government could not suffer in a pecuniary point of view, no injury appeared to arise, but which, as compromising the integrity of the principle on which these regulations were founded, supplied precedents for their infraction in points which would eventually lead, as the previous history of the Settlement very strikingly shews such precedents to have done, to the entire Misapplication of Government labour and Subversion of discipline in the Settlement.

He has accordingly authorised some proceedings and overlooked others, which he must have seen to be injurious, had he regarded them in this point of view; and, in some cases, he has refrained from correcting abuses, to which he found it difficult from the very invetracy of the evil to apply a remedy.

Lieut. Meyrick the Assistant Engineer appears to have been an Active Coadjutor to Captain Crotty in carrying into effect the instructions of your Excellency; and our examination into the public books of the Settlement convinced us that he had devoted considerable attention to a correct discharge of his duties. The Stores under this officer appear to have been kept and expended with every attention to economy and to their preservation, and the books of his Department are arranged with Skill and ingenuity. For this, he is in a considerable degree indebted to the industry and Ability of "Charles Desroches," the principal Clerk in his Office, as well as in that of the Commandant.

Indeed the whole books of these two Offices have been for some time kept by this individual or by others under his immediate direction; and their present state does equal credit to his talents and to his laborious and indefatigable application.

These qualities, which have been exerted by "Desroches" under several successive Commandants, have naturally obtained from them some degree of favour, which has given him an influence on the Settlement, which he has not escaped the suspicion of having improperly exerted. It certainly appeared to us that this individual had been accustomed to Act upon his own Authority in matters which ought not to have been entrusted to him.

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commissioners
of inquiry at
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False charges
against
F. C. Crotty.

Regulations
not strictly
enforced.

Testimony in
favour of
assistant
engineer.

Books kept by
C. Desroches.

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commissioners
of inquiry at
Port Macquarie.

Conduct of
J. McIntyre.

Adverse
criticism of
conduct of
W. Parker.

The conduct and proceedings of Messrs. Smith and Bell, the Commissariat Officers, have already been so much under review that we consider it Unnecessary to add any further observations with respect to them.

To the observations already made on the proceedings of Assistant Surgeon McIntyre, which shew him to have availed himself to the full extent of the indulgences, which had been Authorised by order or sanctioned by Custom on the Settlement, we can only add our very favorable testimony to the manner in which his professional duties appeared to us to be performed.

After having already considered it our duty, in reporting on the subjects connected with the Agricultural Establishment, to make some Strong Animadversions on the Conduct and Proceedings of Mr. W. Parker, it would have been a pleasing task, had we been able to bring before your Excellency some redeeming qualities in the character of that Gentleman. But, though he appears to have secured to himself the good graces of Captain Crotty to such a degree as to receive the thanks of that officer in the Settlement Order which Notified his retirement from the Command, and though we are willing to believe, that his conduct under Captain Crotty was an improvement in some respects upon what it had been under any other Commandant, we are far from being persuaded that this expression of approbation was Merited by the Manner in which his public duties were discharged; and it was certainly much less so by the example which his private conduct had afforded to the Settlement.

In the course of our examinations into the causes of the deficiency of Grain on the Agricultural Establishment, it was mentioned that Mr. Parker was in the habit of feeding 400 or 500 Fowls and other Poultry, and which he acknowledges not to fall much Short of half that Number, from which weekly supplies were sent to Port Macquarie for a Woman called "Isabella Hewitt or Wise," who was said to be kept by him at the House of Overseer Branch. Further enquiries on this head satisfied us that this Woman, the Wife of a person in Sydney, who has Visited her at Port Macquarie since she was sent thither under the penalties of a second conviction, has been nominally assigned to Branch, since a short time after her arrival, as a Servant, but is in reality occupying one of the best apartments in Branch's House, whose Wife is said rather to be a Servant to this Woman than she to her.

It will surprise Your Excellency to find that this abuse has been tolerated under all the Commandants since Captain Gillman's time, that officer having again suffered the Women, who were at the Settlement in Consequence of a Second Conviction, to be at large, on Dr. Moran's certifying that their health was suffering from the confinement, in about three Months after they had been shut up in the factory by a direct order from Head Quarters.

When Mr. Parker resided at "Settlement farm," this Woman at one time Staid openly in his house instead of that of Overseer Branch, who was employed under him, till, by a Settlement Order of Captain Wright's, the latter individual was removed from Settlement Farm to Port Macquarie, and Mr. Parker himself prohibited from coming thither, unless on duty or for some sufficient reason.

Since the retirement of Captain Wright from the Command, it appears however that no restraint had been put on Mr. Parker's

Visits to Port Macquarie, which, since his residence at Rolland's Plains, appear to have been made regularly once a week, although there cannot exist a doubt that their object was known to all the Commandants.

Mr. Parker's Visits to Port Macquarie have been regularly preceded by that of one of his Servants with poultry and other supplies, and he openly resides at Branches, where it is said the Wife of that individual has been Accustomed to wait upon this Woman and himself at table. It is also stated that he has been seen walking out with her in the Neighbourhood of Port Macquarie, and that Mr. Owen remonstrated with him on his Conduct in this respect.

Mr. Henry Parker was appointed to assist his brother, when the Cultivation of Settlement farm and Rolland's Plains, which are about twenty Miles apart from each other, was going on simultaneously. He has always resided at Rolland's Plains, and, though he has been less in the habit of leaving his Post to Visit Port Macquarie than his brother, we saw no reason to infer that he had been or was qualified to be a more efficient Servant to the Public than him. A Circumstance, which came under our Notice, proves also that the example of his brother, in the Conduct which we have been above describing, did not lose its influence upon him, As he appears to have been instrumental in an application which was lately made to the Commandant for the Assignment of another of the females at Port Macquarie, under a second conviction, to the Wife of a private of the New South Wales Corps, named Norman, who is employed as an Overseer at Rolland's Plains. Mr. William Parker's explanation of this circumstance is more disgraceful to his brother than the direct fact, with which he was Charged of having written the Letter in the Name of Norman's Wife.

Mr. Partridge, the Superintendent of Convicts, has always been considered very Active and industrious in the discharge of the duties of his Situation, and as a well meaning and well conducted Man. His Conduct came more particularly under our review, as having been at one time the most considerable dealer on the Settlement, and as having been under the suspicion of trafficking with the Prisoners, even subsequently to the promulgation of the regulations against that practice.

Though from our own observations and from the general history of the Settlement on which he has resided almost since its formation, we are not prepared to acquiesce in the high Character he has received from all the Commandants for Activity and Zeal in the discharge of his duties, We are Notwithstanding satisfied of his being a Steady and well conducted Man, and quite undeserving of the imputations, which have been Cast upon him, of feeding his Stock with Government Corn and other practices of a similar nature.

Referring his deficiencies rather to the Vices of the System under which he has acted than to himself, we believe that, under an active and energetic Commandant and under a better system, his duties as Superintendent would be very respectably discharged.

Captain Crotty and Lieutenant Meyrick are disposed to attribute the traffic with the Prisoners, which we are inclined to believe he has been engaged in even of late through the Medium of a Convict named "Owen Bryarty," rather to his Wife than to himself; but we are not satisfied that Mr. Partridge has been perfectly active and

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Adverse
criticism of
conduct of
W. Parker;

and of
H. Parker.

Testimony in
favour of
S. Partridge.

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Port Macquarie.
Conduct of
R. Neave;

impartial in bringing forward cases, which he might have discovered to exist, of infractions of the regulations against employing Prisoners of the Crown and trafficking with them.

The Conduct of Mr. Neave, the Pilot, has been already under Notice, as having purchased from Prisoners the greater part of the Pork which he lately supplied to the Commissariat, and as having made a false Statement to us upon the Subject. We have no doubt that, in other instances also, he has been guilty of a breach of the regulations on this head; and we are not satisfied that the charge, which has been made against him or his Wife of disposing of the Spirits which he is allowed to draw from the Store to prisoners, is altogether destitute of foundation.

It will also be seen by a Letter, which he has addressed to us, that he has incurred Suspicions of a still worse Character, though on the justness of these it does not come within the Scope of our enquiry to enter into an investigation, or to deliver an opinion. We have already had occasion to observe upon the intelligence and trustworthiness of Mr. Wilson, the Engineer's Store Keeper, who is at present in Charge of the Plantation Establishment; and it gives us great pleasure to add that we have not been able to ascertain any instance, in which his conduct and character have been brought into question during the whole period of his residence on the Settlement.

This individual together with James Blackie, at present overseer of the Farm at Ballyngarra, are Pensioners of the Royal Sappers and Miners, who were sent from England by the Secretary of State to Act as Overseers of Public Works in the Colony; and, having been sent direct to Port Macquarie, they appear to have done great justice to the employments with which they were entrusted. Mr. Blackie, who is but indifferently qualified for the Charge of the Farm at Ballyngarra from his ignorance of Agricultural business, is inferior to Mr. Wilson in intelligence and activity, but he deserves equal credit for his good Conduct and integrity.

The Conduct of William Branch, the other free overseer of the same Class, does not appear to have secured to him the good opinion of the Officers of the Settlement in other respects, and the circumstances above detailed, relative to the case of the female Convict assigned to him, is of itself sufficient to fix his Character on the lowest Scale.

The only remaining individual, whom it appears of consequence to Notice, is Mr. Cheyne, who holds the Nominal Situation of Overseer of Stock, but in fact has at present no employment and seems to be considered almost incapable of any. This person has been in different Situations on the Settlement, where he has resided for the last five or Six Years, and is the individual, who was placed in Charge of the Mill and Commissariat at Rolland's Plains, till accommodation should be provided for Mr. Bell. But, although no imputation appears to have rested upon his integrity, such were the losses occasioned by his incapacity, from extreme short sightedness, that it became necessary to remove him from the charge, and to appoint a Corporal of the 39th Regiment to the duty, which he still continues to discharge.

With respect to the future employment and discipline of the Prisoners at Port Macquarie, while it continues a Penal Settlement, we would observe that we feel the greatest difficulty in proposing any advantageous employment for the Prisoners under the present

circumstances of that Settlement. From the return of their present employment, it will appear that a very small proportion of the Number is engaged in those Steady and laborious occupations, which is in our view of the case essential to fulfil the intentions of the Government in making it a place of punishment. Previous to the regulations founded on the order of 16th March, 1827, the principles now to be acted upon were two little understood, or too extensively misapplied, to afford a reasonable chance of the evils, which have so long existed, being effectually removed at this late period, while the Stations at present occupied could not be altogether abandoned by the Govt. without a considerable sacrifice.

The Men, employed in their occupation and in keeping up the Communication between them, leaves under present circumstances a very inconsiderable Number of the Convicts to be engaged in Stated and permanent labour. Much might however still be done in reducing the Number of ineffective Men at all the several farms or stations, and Lieut. Meyrick had in view some arrangements for this purpose; but we feel a difficulty in pointing out any profitable or permanently useful Work, on which they could be employed. The Road at present forming from Port Macquarie to the Bank of the River, opposite to Blackman's point, is the only work of a permanent character at present in progress; and there is some room for doubt, whether a better knowledge of the Country may not prove it to be less eligible than some other Line of Communication with the Settlements up the River.

Other undertakings of a similar nature are liable to the same objection; and we are far from considering it desirable that they should be commenced till the Country is Surveyed by a Competent person, and the best means of effecting the proposed end ascertained. Mr. Wilson has estimated that thirty Men would be required for four Months to secure the Mill dam at Rolland's Plains from leakage by piling it across, and, as this seems almost the only Work of Unequivocal advantage being necessary to render effectual what is already done, perhaps the labour of that Number of Prisoners could not be better employed than upon it.

In the absence therefore of any Public Work of Unquestionable advantage, we do not see that the Majority of the Prisoners could be better employed than in Continuing the Cultivation of Rolland's Plains. The period of Wheat Harvest is speedily approaching, and the Men, who are retained to secure it, may as well be employed in planting Corn, as in any other description of Labour, as, at whatever period your Excellency may determine to throw open the Settlement to a free population, there will be no difficulty in disposing of any Standing or harvested Crop to great advantage for the public. When the Men, whose Colonial Sentences have already expired, shall have been removed from the Settlement, the Number remaining will be reduced to about three hundred and fifty, nearly as great a number of whom must necessarily be employed as Police and in Situations in which they are not required to labour, as if the Settlement were thrice as Numerous; And two thirds of the ineffective Men now necessary might have been saved, even when it was most populous, had the establishment been concentrated and confined to some stated and permanent occupation.

The same dispersion of the Convicts over the Settlement, which makes it necessary that so many of them should be ineffective, allows them also opportunities of evading labour and of procuring

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Difficulty in
providing
employment
for convicts.

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Indulgences
for convicts.

indulgences, which it will always be impossible entirely to prevent. With all the changes which have followed the publication of the late orders for the discipline of the Settlement, most of the individuals upon it are still in possession of indulgences, which are quite inconsistent with a State of punishment and coercion. And the Commandants have felt great difficulty's in literally enforcing some of the regulations, as Prisoners, who have been allowed, if not encouraged, to keep Pigs and Poultry all along, could not at once be dispossessed of them without some degree of hardship; and, while they are allowed to possess them, it seems a hopeless task to endeavour to prevent their trafficking with them.

Proposed
abolition
of penal
settlement.

From these considerations, We are of opinion that it is most desirable Port Macquarie should as soon as possible cease to be in name, what in our view of the case it will be now found impossible to make it in reality, a Penal Settlement.

Origin of abuses
and failure as
penal
settlement.

No. 6. Having thus endeavoured to comply with Your Excellency's instructions in Instituting a full and minute Inquiry into, and reporting at some length upon the points therein detailed, We consider it will not be considered a superfluous addition to our report, if we endeavour to trace and bring into view the sources in which that laxity of discipline and those abuses originated, which so long counteracted the intentions of His Majesty's Government in forming at Port Macquarie a Penal Settlement, where offenders should atone, for a second violation of the laws of their Country, by a removal from all the sources of enjoyment, which in their first exile were still within their reach; And where unremitted labour and the absence of every indulgence should at once mortify the idle and vicious propensities of the individuals subjected to its discipline, and deter others from Crime by the dread of the consequences of a second Conviction.

A careful examination of the records and correspondence of the Settlement from its first formation has given us ample means of coming to a satisfactory conclusion on this subject; and many of the details, into which we have entered in the foregoing report, as well as the evidence which is stated in the appendix, will illustrate the positions we are about to submit, and will in this point of view, we trust, be considered as worth the space they have been allowed to occupy when the particular cases to which they refer may seem in themselves of little moment; although it may be observed that the importance or unimportance of the results could not always be anticipated from the circumstances, which originated our investigations.

In the first place then, we could observe that, as it is not easy to conceive an Institution in which greater or more unremitting endeavours will be exerted to counteract and evade the Regulations established for its Government than in a penal Settlement, it seems of greater importance in this than perhaps in any other Institution, that these regulations should be founded upon certain general principles, to which all particular cases could be referred. And that these principles when once established should be steadily kept in view and literally adhered to, even in cases where a greater contingent advantage would seem to accrue by departing from them.

Necessity for
strict discipline
and control
of convicts.

The first grand point to be aimed at we conceive to be *the proper discipline and control of the Convicts*, and this ought not to be sacrificed in any degree to views of profiting by their labour, or

economising in the expenditure necessary for their support. There is nothing, which it seems to us of so much importance to impress upon the minds of those to whom the conduct of a Penal Settlement is entrusted, than that no pecuniary advantage however considerable or no saving of labour however great can compensate for the introduction of a system, which will weaken the control over the Convicts in their hours of labour, and afford them access to indulgences inconsistent with a state of punishment and coercion.

To Men of the dispositions of those whose Crimes have subjected them to a second transportation, no punishment is more obnoxious than that discipline, which presents a regular and systematic return of labour, which it is impossible for them to avoid, and a separation from indulgences which no ingenuity nor contrivance can bring within their reach; and, while this discipline is more dreaded than the severest punishment which yet affords a hope of future excess and indulgence, it is the only chance remaining for the reformation of those who, from being subjected under it to compulsory labour, may thereby acquire habits of industry and exertion.

If then a system of regularity and labour which cannot be eluded, and of discipline, which is never remitted, is the first object to be attained in a penal settlement, it seems obvious that other objects should be pursued in subservience to this, and that every separate pursuit should have a primary reference to it.

In the variety of details which will come under the cognizance of the Commandant, he will be too ready to look to advantages which a slight compromise of such a system will procure, and circumstances will daily be represented to him in such a light, both in the discipline of the Convicts and in the pursuits in which they are engaged, that, in the contemplation of individual cases, the contingent advantage to be obtained will appear far to outweigh the partial sacrifice which is made for it; and these are precisely the points, in which confusion and mismanagement commence. A Slight sacrifice of the principle must be followed by a greater, to secure the advantages which the first was expected to produce; and, when the line of demarcation is once passed, it is impossible to assign a limit to the encroachments upon it till the principle, which should be held paramount to every other consideration, is invaded on every other occasion, and made at last secondary to objects of a different nature, if not altogether lost sight of, till the means come to be regarded as the end, and the Commandant is led to consider that, if he can shew a pecuniary profit by the labour of the Convicts, their punishment or reformation is a matter of secondary importance.

When Messieurs Parker and Scott were appointed to commence Agricultural operations at Port Macquarie, and to pursue them without reference to the Commandant and beyond his immediate control, the discipline of the Convicts was sacrificed to an anticipated pecuniary profit, which the want of this very discipline in no small degree prevented from being realized. But, when their Establishments were branched out in different directions, and the Convicts were not only scattered and left to the control of an inferior overseer but had access to the means of indulgence which were produced on the plantations within their reach, the penal character of the Settlement was altogether lost. The labour of the Convicts could not be enforced in the absence of an effective control, nor could their propensities to speculation and vice be repressed

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Necessity for
strict discipline
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of convicts.

Effect of
agricultural
employments
on discipline.

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Evil results
of separate
establishments.

with the means to excite and the power to gratify them within their reach.

The maintenance of these separate Establishments also made it necessary altogether to exempt from labour a large proportion of those individuals, whom it was most important to subject to it. By the necessary employment of Watchmen and Hut Keepers and Constables and a whole host of ineffective Men at these separate stations, the very idea of punishment by labour was abandoned in the case of a large proportion of the convicts, and their habits of idleness and sloth instead of being removed were confirmed; while the power, which it was necessary to delegate to Petty Overseers, exposed a large proportion of the men to their Tyranny and injustice; and so great was this evil that we feel persuaded a great proportion of those, who absconded from the Settlement, were driven to do so by the ill treatment of their fellow Convicts, who were placed over them in situations where their conduct could not be controlled.

The system, which introduced these arrangements, was therefore fundamentally faulty, nor, under the same circumstances, could the most energetic and vigilant management have prevented, though it might have lessened, the confusion and relaxation which followed.

But in fact, with the exception of the late Captain Rolland, whose short administration evinces a vigour and intelligence which, had his life been spared, would doubtless have placed matters on a different footing, none of the Commandants appear to have understood the true character which the Settlement ought to have supported. Instead of the means of indulgence and opportunities of escape from Labour being removed from the Convicts, they appear to have been purposely placed in their way, and, by the whole tenor of the order book of the Settlement, they seem to have been called upon, by the hope of increased indulgence, to conduct themselves in an orderly and quiet manner.

The natural tendency of a System, which enabled a man, whatever his Character or criminality had been, to enjoy respites from Labor, and means of gratification, if he only exercised a sufficient control over himself to escape the penalties of open violence or misconduct, might relieve the Commandant from much trouble and exertion in the management of the Settlement; but it could not be supposed to operate very powerfully on the minds of those who had no other prevention from Crime than the dread of being sent to a penal Settlement and subjected to such discipline. And thus the first great object of all human punishments, which is not vengeance for the outrages committed but their future prevention, was altogether kept out of view; neither was the system favorable to the individuals themselves, inasmuch as their habits of inertia were but partially overcome, and they were not forced by coercive labour to acquire the habitual disposition and power to apply themselves to industrious and stated employment; they were induced to look at the enjoyments afforded by the periodical exemption from labour for relief from their stated employments, instead of being deprived of all immediate hope of gratification or indulgence, and thereby forced to apply to labour, as the only means of overcoming the restlessness of their own dispositions and escaping the weariness of their own thoughts. It was found accordingly that, though some even of the worst Characters among them had self command enough to compromise for the advantages quiet behaviour would

Incorrect
principles
adopted by
commandants.

procure them, by suppressing for a time their vicious propensities; but, in very few instances, were any lasting habits of industry obtained or vicious propensities permanently overcome.

In fact, we conceive the whole history of the Settlement proves that all indulgences granted to such men, however much they might indicate a humane disposition in these to whose Government they were committed, were in reality injurious to the Convicts themselves, and that the highest and most comprehensive humanity was that which should consider them as unfortunate beings, to whom severe and unremitted labour was requisite to enable them to overcome their deeply rooted dispositions to idleness and inertion, and who could not be trusted with any indulgence without danger of perverting it to their own hurt.

These principles however appear to be but little understood, and still less acted upon at Port Macquarie; and, had it been otherwise, the measures, which were pursued with a view to profit by the labours of the Convicts, would have rendered it impossible to apply them.

With every circumstance best calculated for enforcing the best regulations which could be established for the discipline and management of a penal Settlement, it will always be found a most difficult and laborious task, and will require the unremitting attention of an active and energetic mind, and the more so, the more it is conducted on the principles of its Institution. The minds of the convicts being always on the alert to take advantage of any weakness or laxity of discipline, it is idle to expect that their watchfulness and cunning can be overcome by any management that will leave them a hope of exerting these qualities to their advantage. It is clearly impossible, then, that such discipline could have been maintained over parties of convicts dispersed in a dozen different and distant situations, all affording more or less opportunities to escape from labour and means of indulgence. Even on the supposition that the convicts at each Station were under the Superintendance of a person qualified to enforce the Regulations for their management, the very means necessary for keeping up the communications of these Stations with each other would afford opportunities for misconduct which it would be most difficult to obviate or remove.

But, in the conduct of the Settlement of Port Macquarie, nothing appears to have been kept less in view than such a discipline as we have described. The object aimed at in these out Stations was not the discipline or punishment of the Convicts, but the raising of Agricultural produce by the Cultivation of the Soil. Provided this object were attained, it seldom appears to have been considered that other objects were worth attention. And the system was rendered still more vicious by allowing private interest, as well as what was considered the pecuniary interest of the public, to come into competition with those principles which should ever have maintained the ascendancy in the management of a penal settlement.

The laxity and disorder, which was the natural consequence of such circumstances, do not appear to have been at all modified or repressed by the personal conduct and exertions of those individuals to whom the management of the Convicts at the Agricultural Stations was committed; but, on the contrary, it is evident that the Commandants have had much to contend with in supporting the discipline of the Settlement, when it interfered with the private

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regulations.

Causes of laxity
of discipline.

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of discipline.

interests of these individuals, and even when a spirit of opposition arising from personal pique manifested itself to their general measures.

But, if the pecuniary interest of the Government, when allowed to come into competition with the maintenance of discipline on the settlement, was productive, as we believe it to have been, of infinite mischief, much more was the individual interest of those whose duty it was to uphold that discipline. The moral influence on the minds of the Convicts of proceedings on the part of their superiors, which compromised the discipline of the Settlement for their private advantage, is injurious beyond all calculation. In the former case it is not always easy to persuade them that their labour is compelled by other than interested motives. But in the latter case, if discipline is at all maintained, they will find no difficulty in persuading themselves that they are sacrificed for the interest of a few individuals, rather than coerced for the benefit of the Community and their own reformation. But, in fact, the result under such circumstances will be elsewhere, what it appears to have been at Port Macquarie, that a compromise will take place between the Prisoners and their employers, in which not only the interest of the Government will be sacrificed to that of Individuals, but the discipline of the Settlement and the authority of those in power altogether weakened or destroyed.

Next to the grand end of considering the profit to be derived from the labour of the Convicts as paramount to their proper discipline, which led to the extension of the settlement and the dividing the control over the convicts, we consider that of permitting the free individuals employed at Port Macquarie to benefit by their labour; the former made it impossible to maintain the necessary discipline, the latter made it the interest of those whose duty it was to enforce it, that it should not be maintained.

This, however, under the system pursued, was an abuse in practice more than an error in principle, for if it were once admitted that indulgences should be allowed to the well conducted prisoners, when they should earn them by additional exertion, there seems at first sight no reason why they should not earn these indulgences by contributing to the comfort of the officers on the Settlement.

The former parts of this report will, however, as we conceive, demonstrate that, if it is left to the discretion of most individuals to avail themselves of a privilege so far as to compensate for the unavoidable discomfort of their situation, by allowing them to obtain advantages which are otherwise beyond their reach, it will seldom be limited by this rule, and it will soon as at Port Macquarie be productive of mischiefs, which might not be at first sight anticipated.

If we impute the bad management of the Convicts and the laxity of discipline, which for a long time distinguished the Settlement of Port Macquarie, to the error of considering the discipline of the Convicts as secondary to other objects, we impute the faults of those among the individuals employed there, who have encouraged or connived at this laxity of discipline, to their being allowed to avail themselves of privileges to which they were not legitimately entitled. Those, who permitted and employed Government Mechanics to work for their own advantage during the night, could not be expected to be severe in exacting their full share of labour

during the day. Those, who employed the servants placed under them for public duty for their private accomodation, could not rigidly enforce their labours for the Public. Had Messrs. Smith and Bell possessed no farms on which to employ the Government Men, they would not have been led to the insubordinate conduct, which the withdrawing or denying these Men occasioned: and the latter individual would probably never have been led to allege his private interest as a justification of his breach of Public Duty.

Your Excellency is aware that the greatest abuses, which existed at Port Macquarie had their origin in cases, which, in the view taken of them, were probably altogether harmless. In the employment of mechanics by private individuals, the property of the Crown in their labour was abne considered, and, as this was understood to be provided for, no great harm appeared to result from a Mechanic being employed to add to the comfort of an Officer of the Settlement in the time which was left at his own disposal. Had the necessity of maintaining the discipline of the Convicts been held as the first principle for the Government of the Settlement and paramount to all other considerations, it would probably at the outset have occurred to the Commandant that the Mechanic ought to have no working time, which was not employed for the Government, and that the profit he would derive from his labour would procure him indulgences inconsistent with a state of punishment and coercion.

No one probably foresaw, when he obtained permission to cultivate a patch of land for the purpose of raising a few vegetables and a small quantity of Corn to feed a few fowls for the consumption of his Family, that this patch would be allowed to be extended, till it should be of sufficient importance to divide his care with his public duty, and even to come into competition with it.

It appears however that means will always be found to reconcile inconsistencies of this kind, when the parties are interested in doing so; and it accordingly seems imperative to lay it down as a general rule to be literally and strictly adhered to, that no person employed at a penal Settlement should directly or indirectly receive any advantage from his situation beyond his fixed Salary and allowances.

We conceive that most, of what has been wrong in principle and improper in practice in the administration of the Settlement of Port Macquarie, would have been avoided, had these two principles been kept in view and the standing orders of the Settlement founded upon them. The one would have prevented the discipline of the Convicts from being sacrificed to a supposed pecuniary advantage to the Public, the other would have prevented it from being compromised for the private interest of those, whose duty it was to enforce it.

But, however well the best principles should be understood, and the best rules for practice established upon them, it appears to us that to be effective they should be administered by a Man qualified by capacity and temper for the office of Commandant, and with the prospect of remaining permanently in that situation.

It is not easy to convey an adequate idea of the disadvantages, to which a Commandant is subjected on his first arrival at such a place as Port Macquarie, from the want of information on which he can depend, and the misrepresentations of individuals who are interested in misleading him.

1830.
24 May.

Report of
commissioners
of inquiry at
Port Macquarie.
Causes of laxity
of discipline.

Necessity
for efficient
commandant.

1830.
24 May.

Report of
commissioners
of inquiry at
Port Macquarie.

Necessity
for efficient
commandant.

It seems to us necessary for the proper administration of the Settlement that he should know the characters of all the individuals, and be himself better informed even in the minutest matters upon it than any other individual on the Settlement.

A Commandant, who aims at maintaining a proper degree of discipline, will soon discover that he will be continually required to enforce regulations, which the whole ingenuity of the Settlement is prompted by the strongest motives to counteract or to evade; and that, to all the experience he can procure, he will require to add all the watchfulness of which he is capable for the attainment of his object.

We are of opinion that the frequent change of Commandants has always been a very fruitful source of mismanagement and mischief at Port Macquarie; and, in fact, we consider that it would have required almost as much time even for a Man of application to make himself acquainted with all he ought to know for the effective administration of the Settlement, as some of the Commandants were allowed to occupy that office before they were removed to make way for a successor.

But, while we are persuaded that it is necessary for the proper management of a Penal Settlement that all other objects should be secondary and subservient to the discipline of the Convicts, we are so far from conceiving that other objects may not be pursued with advantage, in subservience to this, that we consider it to be only under such circumstances that there is any chance of their being advantageous. And we have not the least doubt that the failure of a profitable return from the Agricultural operations, hitherto pursued at Port Macquarie, has been mainly attributable to that very want of discipline which the system pursued in their management occasioned.

Cause of
failure of
agriculture.

System of
agriculture.

Advantage of
cultivation
by spade.

If then we were called upon to give an opinion upon the most beneficial method of employing Convicts at a penal Settlement, we should decide upon Agriculture as the basis and ground work of the whole. But as the employment not the saving of manual labour is the object to be aimed at in such an Institution, we conceive that the system of spade husbandry should be exclusively pursued, and that, at no operation which manual labour could effect, should other means be employed. If the Crops under this System were less extensive, a greater return would be procured from a smaller space, as it has always been admitted that, in a field properly laboured with the spade, the return will be much greater, than when the plough is employed. And what is of more importance, it would afford a regular and stated employment for the men in a small space and under immediate inspection on labour, which they could not evade, and which few casualties would interrupt.

The nature of the produce raised would of course be determined by the Climate in which the Settlement should be placed, but that would seem preferable in which the greatest portion of manual labour could be most beneficially employed, and where fewest casualties could intervene to interrupt it.

For a Settlement founded on this principle, a site might be chosen, which would bring a plantation capable of employing a very large number of Men under the immediate eye of the Commandant. And we are persuaded that any calculation of profit,

which might induce the formation of a Settlement for agriculture beyond his immediate control, would prove fallacious, let the natural circumstances be ever so favourable.

In every point of view, it is desirable that the strength of the Settlement should be concentrated, as it is the only means of confining the Men to that stated and permanent labour, which we have already said we consider most effective at once for their punishment and reformation.

As we consider it desirable altogether to do away with the Plough, we consider also that the portion of work, performed by means of horses and oxen, should be as limited as possible. In no sort of employment can a designing Man find more pretences for idleness and mischief than in the Management of Teams of Oxen or horses; in fact, so much is this the case that it is extremely questionable whether the profit of the spade husbandry might not exceed that of the plough at a penal Settlement on this very account.

If the Commandant is well chosen, he will find nothing in the direction of such an Establishment, which should require the assistance of a Salaried Superintendent, and, judging from what we have observed, we conceive he is likely to find some men among the prisoners, as capable of conducting the details as any Free Supdt. of Agriculture, who is likely to be found for such a Situation. As we have already had occasion to remark, few of the free overseers at Port Macquarie fulfilled the expectations formed of them in controlling the prisoners: and the most of them were directly or indirectly the means of introducing disorder and peculation amongst them.

With the assistance of an active Subaltern Officer, and a Superintendent of Convicts capable of conducting the duties of his office in an efficient manner, it seems to us the Commandant would manage better without a free individual as a Superintendent or Overseer on the Settlement: the mere advantage of being exempted from labour would prove a sufficient stimulus for the active discharge of the duties entrusted to any Convict overseer in a penal Settlement, which is managed on the principles recommended, as no means of profiting by an abuse of the trust reposed in them would be within their reach, and as the immediate control of the Commandant would prevent their injustice to the men. To such men the prospect of being employed as an overseer would be an inducement to good conduct and an object of ambition. To a free Man, it would be a hardship to submit to the deprivations, which the discipline of the Settlement would require of him.

As it would be one of the primary objects on such a settlement to prevent the acquisition by the prisoners of any luxury, it would be necessary to make it the condition of the wife and family of a prisoner being allowed to join him, that they should submit to the same fare as the convicts of the Settlement. There does not seem any reason to do away altogether with the system of allowing individuals, who distinguish themselves by their good conduct, to reside in separate huts, or even to raise a few vegetables in a patch of Ground attached to it. On the contrary, this seems one of the most desirable means of distinguishing and rewarding good conduct; but nothing should be allowed to be raised in these gardens which the Public plantations of the Settlement produced, and no pigs nor fowls should under any circumstances be allowed to be kept by prisoners.

1830.
24 May.

Report of
commissioners
of inquiry at
Port Macquarie.

Necessity for
concentration
of convicts.

System for
control.

Limitation of
indulgences
for convicts.

1830.
24 May.

Report of
commissioners
of inquiry at
Port Macquarie.
Indulgences
for officers.

It would be desirable to extend the same prohibition to the Gardens of the Officers, and, all grain being delivered to the Commissariat Store, they might be allowed to purchase thence such quantities of it as their live stock might require on paying for the same the average price of the Colony, or a regulated allowance, such as might be sufficient to feed stock for their consumption, might be issued to them; while this would allow the officers to avail themselves of all the means of comfort within their reach, it would altogether do away with the temptation to abuse the indulgence allowed them.

Furniture
for officers'
quarters.

It would also remove all ground of complaint on the Score of Furniture for their Quarters, if they were supplied by the Government Mechanics with every necessary article of furniture, which comfort or convenience would require, and which the labour of the Convicts could produce. These articles being delivered over by Survey to and received from each successive occupant of the quarters, and considered a portion of the Public property under his charge, a list of the furniture of each quarter being kept at Sydney for the information of the officer who was about to proceed to occupy the quarters. Much of the space, which is occupied in the Government Vessels by articles of this nature, and which can generally be so ill spared, would by this arrangement be saved; and it would remove the well grounded complaints of the losses occasioned by the breakage and injury of the furniture of the officers in their Voyages to and from penal Settlements.

Religious
worship.

On the minute points connected with the discipline of the Settlement, we think it unnecessary to go into any detail; but we beg to observe we think it of great importance that more attention should be paid to the observance of the Sabbath than till of late there has been at Port Macquarie. It is not enough that all labour should be disallowed; but it seems necessary to prevent the evil effects of idleness that a great portion of the day should be spent at a place of Public Worship. We are of opinion too that no time should be lost in idleness on Saturday's under the pretence of washing their Clothes; but that a proportion of the prisoners should be constantly employed as a washing gang for the remainder. It would be necessary under this arrangement that each Convict should have a spare suit of Slops allotted to him, and that all the articles of Clothing should be consigned to the care of an Overseer, whose duty it would be to deliver over the Clothes to the washing Gang, and receive them to issue to the Men according to their numbers.

Washing of
convicts' clothes.

Custody of
convicts' clothes.

For the sake of systematic arrangement, it would also be necessary that each individual on his arrival should deliver over all the Clothes, he might be possessed of, which, after being cleansed and baked in an oven, should be laid up for him till his removal from the Settlement.

With these observations, we beg leave to conclude our report, as well upon the various points to which our attention was specifically directed in our instructions as upon some other matters which appeared to us to come within their general scope and meaning or to be illustrative of the more general questions connected with the management of a penal Settlement.

All which is very respectfully submitted to Your Excellency.

J. T. MORISSET.
JAMES BUSBY.

[Enclosure No. 3.]

1830.
24 May.

[1] COLONIAL SECRETARY MACLEAY TO LIEUT.-COLONEL MORISSET.

Sir, Colonial Secretary's Office, 3rd June, 1828.

With reference to the Communication made to you personally by the Governor, I am directed by His Excellency to request that you will proceed to Port Macquarie by the Lucy Ann, on board which Vessel a passage has been provided for you, for the purpose of enquiring, in conjunction with the Collector of Internal Revenue, into the following matters and reporting on them for His Excellency's Information, Vizt. :—

Instructions to
J. T. Morisset
re inquiry at
Port Macquarie.

1st. The cause and particulars of the "over estimation," as it is termed, on two several occasions, in the Grain at the Agricultural Establishment under the management of Mr. Parker, which appear to have amounted to 2,769 Bushels in December, and 1,372 Bushels in April last, exclusive of above 6,500 Bushels of Maize.

2. The cause and particulars of the deficiencies which have taken place in the Commissariat Stores, as enumerated in the Accompanying Return furnished by the Deputy Commissary General, for the period between the 25th June, and 24th December, 1827; and whether the Losses, which are therein stated to have arisen from waste, Leakage, evaporation, Absorption, Destruction by Vermin and issuing in Detail, would not have been less, had more attention been paid to the Security and preservation of the Stores.

3. The cause and extent of the extra issues of Flour and other Articles to Individuals, which appear by the Accompanying Return for the Month of March to have Amounted in the instance of Assistant Surgeon McIntyre to no less than 350 pounds of Flour during that period, independently of what he received as his Ration. It was always intended and understood that these Issues were to be allowed only to a small extent, in aid of Rations to Families, and not for any other purpose.

4. The Conduct of Mr. Bell, Commissariat Clerk, who appears to have betrayed a total ignorance of the nature of his Situation in resisting an order, that was issued and ought to have been enforced by the Commandant for his proceeding to the Station at Rolland's Plains.

5. The General Management of the Commissariat Department, as mentioned in the 1st, 3, 5, and 7th paragraphs of the enclosed Memorandum from the Deputy Commissary General, on the state of the Stores, the purchase of fresh Pork and other minor points connected with the foregoing.

6. The nature and extent of Indulgences enjoyed by Individuals, such as the Ground and Live Stock possessed by those in the employment of Government or others, the number and description of their assigned Servants, whether under Sentence of Transportation or otherwise, etc.

7. The degree of strictness with which the Instructions regarding Mechanics not being allowed to Work for private persons has been attended to. Transmitting a Return shewing, from as early a date as possible, the Boats, Furniture, and other articles which have been Manufactured at the Settlement, with the Names of the parties for whom intended, by whom made, of what Materials, and how obtained.

1830.
24 May.

Instructions to
J. T. Morisset
re inquiry at
Port Macquarie.

8th. The general Conduct of the Settlement in every Department, and the proceedings of Individuals holding employments or otherwise, so as to be enabled to report whether the Duty is performed in an honest and conscientious manner.

9. Any other matters which, though not specifically enumerated here, may appear to you, when on the spot, to require Investigation and to come within the general Scope of these Instructions.

The Collector of Internal Revenue has been furnished with a Counterpart of this Letter, but not with the Enclosures which are mentioned in the Accompanying List, and which you will be pleased therefore to communicate to him on his making application to that effect.

In carrying these Instructions into effect, it is His Excellency's wish that you should call for all orders and other Documents which have been given to the Commandant and other persons (and which they will be directed to produce), and institute the *strictest enquiry*, so as to be able to report *fully* and *satisfactorily* on every point, submitting Separate Reports on any matter in which your Opinions materially differ.

He also requests that you will, at the same time, suggest whatever may appear to you likely to correct and improve any part of the present system.

I have, &c.,

ALEXANDER MCLEAY.

[2] COLONIAL SECRETARY MACLEAY TO LIEUT.-COLONEL MORISSET.

Sir,

Colonial Secretary's Office, 5th June, 1828.

Additional
instructions to
J. T. Morisset.

With reference to my Letter of the 3rd inst., instructing you to proceed to Port Macquarie for the purpose of investigating and Reporting on certain points therein specified. In conjunction with the Collector of Internal Revenue, I am now directed by His Excellency The Governor to mention a few additional matters, which were omitted when these Instructions were written, and to which he wishes your attention to be equally drawn, while you remain at that Settlement, Vizt. :—

1st. The Conduct and Management of the Agricultural Establishment generally, having reference not only to the past, but also to the most eligible method of employing the Prisoners in future, with a view both to the advantage to be derived from their Labor, and to their proper discipline while Port Macquarie continues a Penal Settlement.

2. The Circumstances attending a deficiency of 2,783 pounds of Tobacco reported some time ago by the Commandant.

3. The present State of the Sugar Establishment, and the Course which it will be best to pursue with regard to it hereafter, the object being merely under present circumstances to preserve the Cane in the Colony.

4th. The Commissariat Clerk Mr. Gilbert Smith has stated in a Letter to the Deputy Commissary General that the Beef supplied by Contract last Year is of a bad Quality, and has rendered necessary the Purchase of a large Quantity of Pork. His Excellency wishes you therefore to inspect the Beef, and also to ascertain to whom the Pork, so purchased, really belonged. This is adverted to in the Concluding paragraph of the Deputy Commissary General's

Memorandum, which is entered as No. 14 in the List of Enclosures which accompanied my former Letter.

1830.
24 May.

A Copy of these Additional Instructions has been furnished to the Collector of Internal Revenue, and, in reporting on the matters here mentioned, you will be pleased to consider them in every respect as though they had been included in the original Letter of the 3rd inst.

Additional
instructions to
J. T. Morisset.

I have, &c.,

ALEXANDER MCLEAY.

[Sub-enclosure.]

POINTS connected with the Administration of the Commissariat duties at Port Macquarie which require investigation.

Subjects for
inquiry re
commissariat.

1stly. The State of the Magazines as to their Security and the means adopted for the preservation of the Provisions and other Stores deposited in them.

2dly. Whether the losses on Provisions, brought to account in the accompanying Voucher No. 1, and which are stated by Affidavits to have arisen by Waste, Leakage, Evaporation, Absorption, Destruction by Vermin and issuing in detail between the 25th June and 24th December last, would not have been less, had more attention been paid to the Security and preservation of the Stores, which according to the enclosure No. 2 appear to have been subject to depredations.

3rdly. Whether John Wyatt and Thomas Carpenter, Prisoners of the Crown, who it would appear have been employed about and had access at all times to the Stores, are proper persons to have such confidence reposed in them, and whether both these persons have not been punished on a former occasion for stealing Rum out of the Stores.

4thly. To regulate the quantity of Flour sold to Individuals, so as to meet their actual wants, without drawing from the Stores a larger quantity than is necessary, as it will be observed by the accompanying Copy of a Return for the Month of March that Dr. Mac Intire has purchased within that period 350 lbs. of Flour independently of what he has received as his ration.

5. To enquire into the necessity of having a Commissariat Clerk stationed at Rolland's Plains to conduct the issue of Provisions at that Station, as well as the charge of the Produce delivered over to the Department from the Agricultural Establishment and the Superintendence of the Grinding of the Wheat; and, in the event of such being necessary, what accommodation the place affords as a residence for a Clerk, that would enable him to have a constant control and vigilance over the security of the Stores.

6. Mr. Bell, Commissariat Clerk, latterly appointed to the Station of Port Macquarie, and placed under the orders of Mr. Smith for the purpose of taking charge of the Commissariat Duties at Rolland's Plains, has a large Family, and, in consideration of its being reported that there was no accommodation for them at that Station, a letter was written desiring Mr. Smith to apply to the Commandant to allow an Overseer named Cheyne to perform that duty until some arrangements could be made for their accommodation. The Commandant thought it necessary on Mr. Scott's leaving the Establishment to order Mr. Smith or Mr. Bell to proceed to and be stationed at Rolland's Plains, which order Mr. Bell resisted; it would further appear by a subsequent Letter that Mr. Bell offer'd to

1830.
24 May.

Subjects for
inquiry *re*
commissariat.

proceed, but the Commandant would not permit it in consequence of which Mr. Smith employed a Non-Commissioned Officer at 1s. P. diem to perform the duty.

The Conduct of Mr. Bell in resisting the orders of the Commandant when ordered to proceed appears reprehensible; it is therefore desirable that the merits of the whole case should be investigated.

7. Fresh Pork is purchased at that Station from time to time for the use of the Troops from Mr. Neave, the Pilot attached to that Port, at the rate of 7d. P. lb.; could it not be procured on more reasonable terms or by tender? JAMES LAIDLAY, D.C.G.

Commissariat Office, Sydney, 2nd June, 1828.

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

Sir, Government House, 24th May, 1830.

Reply by
E. S. Hall
to censure by
Sir G. Murray.

Having communicated to Mr. E. S. Hall, through the medium of the Colonial Secretary, a Copy of the Secretary of State's Despatch, dated 6th November, 1829, No. 161, I take the opportunity of transmitting to you the "Sydney Monitor" of the 15th inst., containing Mr. Hall's reply* to that communication.

Charges against
R. Darling.

Mr. Hall has just now forwarded to me a Copy of this document, with other Papers in the form of a Pamphlet, accompanied by a Letter addressed to the Secretary of State, containing accusations against me, which I shall forward, as soon as I can find time to look into the matters alleged and to make the necessary remarks thereon. In the mean time, I have thought it right to put you in possession of the accompanying Paper.

The device of the Coffin† was adopted by Mr. Hall, on the passing of the Act for suppressing the publication of libellous matter in the month of January last, a Copy of which I had the honor to transmit with my Despatch of the 4th February last, Marked "Separate."

Refusal of
E. S. Hall to
comply with
provisions of
newspaper act.

The Act provides, as will be seen on reference to the 5th Section, that the Editors shall enter into a recognisance for the payment of all Penalties that may be incurred. Though the Act has now been in force for four months, Mr. Hall has not thought proper to comply with what is required, but has continued to publish his Paper without entering into security; and the Attorney General, notwithstanding he has been frequently applied to, has permitted Mr. Hall to proceed, not knowing, I really believe, what could be done or how to act in the matter.

Proposed
injunction
against
publication of
Monitor.

It was lately suggested that, if the Supreme Court were applied to, an Injunction to restrain the publication of the "Monitor" would probably be issued by the Court, and a Letter was written

* Note 129.

† Note 130.

in consequence to the Attorney General. He has not yet replied to it; but he has told me personally that the Court could not interfere as proposed, and there the matter rests. You are able to judge, Sir, whether the Attorney General has taken a correct view of the case, as you must be of the situation of a Government, which is without a competent legal adviser.

1830.
24 May.

Proposed
injunction
against
publication of
Monitor.

I have, &c.,
R.A. DARLING.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

Sir, Downing Street, 25 May, 1830. 25 May.

I am directed by Secretary Sir George Murray to transmit to you, the copy of a letter from Catherine Murphy, relative to some property belonging to her at New South Wales, about which enquiry appears to have been already made to you through the Colonial Agent; and I am to request that you will cause such measures to be taken for the recovery and transmission to the applicant of her property, as you may deem advisable.

Claim of
C. Murphy
to property
in N.S.W.

I am also directed to call your attention to the heavy Postage, which has been charged upon a letter which Catherine Murphy has received from the Colonial Secretary's Office of your Government, and to request that, in future, whenever any papers are required either by the Secretary of State or by the Colonial Agent for the information of poor people residing in this Country, they may be sent through this Office in order to save them the serious expence to which they are subjected if the papers are forwarded to them directly.

Instructions *re*
postage on
official letters
to poor persons.

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

[Enclosure.]

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

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 36, per ship Catherine Stewart Forbes.)

Sir, Government House, 25th May, 1830.

I have the honor, in acknowledging the receipt of your Despatch, dated 9th of November last, No. 163, to request you will be pleased to refer to mine of the 15th of April, 1828, No. 69, and to yours of the 26th of November of the same year, No. 59, in reply, approving the arrangement by which a Grant of 17,813 Acres of Land had been made to Mr. Simeon Lord.

Despatches *re*
land grant to
S. Lord.

I have, &c.,
R.A. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.

1830.
25 May.

(Despatch per ship Catherine Stewart Forbes; acknowledged by under secretary Hay, 15th October, 1830.)

Sir, Government House, 25th May, 1830.

I have the honor to acknowledge the receipt of your Letter of the 15th of December last, informing me that it had been stated to Sir George Murray that Mr. Thomas Raine was indebted to this Government in a large sum, in consequence of the defalcation of another Person for whom he was Security, and that I had relieved him from any further liability on that account by cancelling his Bonds; and desiring I would state whether there was any truth in the representation, and, if so, to explain the grounds on which I had adopted that measure.

I do myself the honor, in compliance with the desire expressed in your Letter, to state that there is no truth in the representation that Mr. Thos. Raine was indebted to this Government in a large sum, in consequence of the defalcation of another Person for whom he was Security, and that I did not relieve him from any liability on that account by cancelling his Bond.

The following Statement will perhaps explain the circumstances alluded to in your Letter, and I trust it will serve at the same time to shew the degree of credit, which is due to the Individual who made the representation.

Mr. Thomas Raine was the Contractor in the Year 1828 for supplying the public Establishments at Parramatta with Bread and Milk. The draught, which had prevailed since the Year 1826, and which was felt with more than ordinary severity in 1828, obliged Mr. Raine to relinquish his Contract in the month of July of that year, having previously intimated that his continuing to fulfil it would involve him in utter ruin; the result verified this. He soon after became Bankrupt, and, though a Merchant of consideration, was obliged to surrender his property to his Creditors.

So far from evincing any extraordinary lenity towards Mr. Raine, I directed he should be prosecuted, when, relying on the more indulgent consideration of his Case by His Majesty's Treasury, he requested it might be referred to their Lordships, which, by some mistake, does not appear to have been done. Being then a Bankrupt, and having only his personal security to offer, I desired, as will be seen by the Colonial Secretary's Letters of the 6th of March and 12th of June, 1829, that the proceedings against Mr. Raine should be *suspended*, and there the matter rests. *The Bonds have not been cancelled.*

Denial of
report re
indebtedness
of T. Raine.Statement
re T. Raine.Contract for
bread and milk
at Parramatta.Bankruptcy
of T. Raine.Proposed
prosecution
of T. Raine.

It appeared to me that to have proceeded on Mr. Raine's Bond would have been nugatory. He was a Bankrupt at the time, and was without the means of making payment. His personal security for the amount would, in his situation, have been equally unavailing, and I therefore considered that every purpose, which could be desired in the circumstances of the case, would be obtained by retaining the original Bond, which is and will be kept in possession of the Government.

1830.
25 May.
Inutility of
prosecution.

It will be seen by this Statement that Mr. Raine was not, as represented to the Secretary of State, according to the general acceptation of the term "indebted to the Government." He had received no money from the Government, and the Sum, which it cost over and above his Contract for the remainder of the period, is, with his Bankruptcy, the best proof that the Government had not suffered by him.

Misrepresenta-
tion to secretary
of state.

It might be stated here that, in the case of another principal Contractor, the Government was obliged, in consequence of the severity of the Season and the distress which generally prevailed, to assist him with Grain from its own Store, or he would have failed as Mr. Raine had done.

Assistance given
to contractor.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO SOLICITOR-GENERAL SAMPSON.

Sir, Colonial Secretary's Office, 6th March, 1829.

I have the honor to acknowledge the receipt of your Letter of the 4th instant, enclosing a communication from Mr. Thomas Raine in answer to one addressed to him by you on the 23d Ultimo relative to the nonfulfilment of his Contracts with Government; and, in reply, I am directed by His Excellency the Governor to inform you that the Personal Security of Mr. Raine for the payment to Government of such a sum of money as may be adjudged by the Lords Commissioners of His Majesty's Treasury to be owing by him to the Crown cannot be accepted.

Refusal to
accept personal
security from
T. Raine.

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

[Enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO SOLICITOR-GENERAL SAMPSON.

Sir, Colonial Secretary's Office, 12th June, 1829.

With reference to your Letter of the 13th of March respecting the non-performance of the Contracts of Mr. T. Raine, and the Security required by him for the payment of such a sum of money as may be adjudged by the Lords Commissioners of His Majesty's Treasury to be owing by him, I am directed by His Excellency the Governor to request that you will not proceed in the actions against Mr. Raine till further orders.

Proceedings
against
T. Raine to be
suspended.

I have, &c.,
ALEXR. MCLEAY.

1830.
30 May.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(A circular despatch per ship Royal Admiral.)

Sir, Downing Street, 30 May, 1830.

Transmission
of imperial
statute.

I have the honor to enclose, for your information, a copy of an Act of Parliament, which has recently been passed, "to enable His Majesty to appoint certain Persons to affix His Majesty's Royal Signature to Instruments requiring such Signature."

I am, &c.,

G. MURRAY.

[Enclosure.]

[*This was a copy of the statute, 11 Geo. IV, c. xxiii.*]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 37. per ship Australia: acknowledged by
Viscount Goderich, 22nd December, 1830.)

1 June.

Sir, Government House, 1st June, 1830.

Request from
J. Abbott for
transfer to
Tasmania.

I do myself the honor to transmit the accompanying Memorial from Mr. Abbott, Assistant Surveyor, requesting to be transferred to the Surveyor General's Department at Van Diemen's Land, and I beg to recommend his application on the grounds Stated in his Memorial.

I have, &c.,

RA. DARLING.

[Enclosure.]

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

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 42, per ship Royal Admiral.)

5 June.

Sir, Downing Street, 5 June, 1830.

Appointment
of G. Innes as
commissioner
for lands
abolished.

I have the honor to acknowledge the receipt of your despatch No. 82 of the 4th of July, 1829, in which you state that you have appointed Mr. George Innes, a Settler, to act in the room of Mr. John Stephen as one of the Commissioners for apportioning the Territory upon a salary of one pound sterling per diem; but as, before this reaches you, my despatch of the 6th Ultimo will have apprized you that it has been deemed expedient to dispense altogether with the services of those Persons to whom Commissions may have been issued for the survey and value of the waste and ungranted lands of New South Wales, you will of course have ceased to issue any portion of the salary hitherto attached to that Office to Mr. Innes, after the receipt of the despatch above alluded to.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 38, per ship Australia; acknowledged by
Viscount Goderich, 20th January, 1831.)

1830.
5 June.

Sir, Government House, 5th June, 1830.

I have the honor to forward a Memorial from Mr. George Busby, an Assistant Surgeon on the Colonial Establishment, requesting to be allowed a Grant of Land. Mr. Busby is attentive and diligent in the performance of his professional duties and possesses a just claim to the indulgence he solicits.

Request by
G. Busby for
land grant.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of the memorial is not available.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 43, per ship Royal Admiral; acknowledged by
Governor Darling, 6th December, 1830.)

Sir, Downing Street, 6 June, 1830.

6 June.

I have to acknowledge the receipt of your dispatch of the 7th of August last, No. 94, reporting the circumstances under which you had considered it necessary to revive the Office of Crown Solicitor, and to assign to it a Salary of £500 per annum.

Revival of office
of crown
solicitor.

I have also received a letter, of which the enclosed is a copy, from Mr. Moore, claiming salary during the period which elapsed between his suspension from and return to that situation.

With respect to the revival of the Office of Crown Solicitor, I am by no means satisfied (although I am aware that you have not adopted this measure without the advice and recommendation of your Council) that the Public business requires the services of such an Officer, however desirable the appointment may be as a matter of personal convenience to the Attorney and Solicitor General. I am the more strengthened in this opinion by the statement of Mr. Moore, contained in a letter which he has addressed to me, offering himself as a Candidate for the vacant Office of Solicitor General, that he considered himself fully competent to the performance of the duties of Solicitor General and Crown Solicitor (with such assistance as he may find it necessary to procure at his own Individual expence) without any further aid from the Government. There are circumstances, however, connected with the case of Mr. Moore, which render his return to the Office of Crown Solicitor desirable; and I am therefore willing to give my consent to the proposed arrangement; but I do not consider that he has any claim, under the instructions conveyed to you in my dispatch of the 30th August, 1828, to any part of the salary of the Office prior to the 1st of August last.

Objections to
revival of office.

Approval of
appointment of
W. H. Moore.

1830.
6 June.

Refusal of
request for
retrospective
salary.

when it is stated by Mr. Moore that his re-appointment took place. In directing you to employ Mr. Moore in the Public service in any situation to which he might be competent, I certainly did not contemplate the revival and consequent return of that Gentleman to his original office; and I should have as much expected that he would have urged his claim, for the period in question, to the salary of any other class of appointment to which he might have succeeded, as to the arrears of that to which he has been thus unexpectedly restored; for, although the circumstances attending his suspension* did not in my opinion justify the strong measure which you adopted of depriving him of his situation, yet I did not feel warranted in restoring him to it, after I had considered that the situation itself could be dispensed with, nor consequently allow him to enjoy any part of the salary, whilst he might continue without any other employment. The loss of Income too, which he has suffered, as compared with the emoluments he originally enjoyed, cannot I fear be remedied; and you will therefore acquaint Mr. Moore that I am unable to hold out to him any pecuniary advantages beyond those which are now assigned to his situation upon the understanding that he devotes the whole of his time to the service of the Crown.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. W. H. MOORE TO SIR GEORGE MURRAY.

Sir. George Street, Sydney, 13th October, 1829.

Letter
acknowledged.

I have the honour of acknowledging the receipt of a letter from Horace Twiss, Esquire, under your direction, conveying to me the information that you had despatched instructions to His Excellency the Governor to employ me again in the Public Service in any situation for which I might be qualified.

Reappointment
of W. H. Moore
as crown
solicitor.

I beg to express my sincere thanks for the prompt attention you have been pleased to pay to my case, and have to inform you that, in consequence of your despatch, His Excellency The Governor has since reappointed me to the situation of Crown Solicitor with a Salary of £500 per annum.

This reappointment took place on 1st of August last, although His Excellency The Governor acknowledged to me the receipt of your instructions on the 17th April, nearly four months previously, which, in addition to the time that had elapsed between my suspension and the receipt of your letter, forms a period of twenty months during which I was deprived of all Salary whatever.

Claim to
salary during
suspension.

I am unwilling to trouble you, Sir, with a Copy of the Correspondence which has passed between His Excellency The Governor and me on the subject of my reappointment and my claim of Salary during the period of my suspension, but I must take the liberty of stating to you the reasons given by His Excellency for withholding it from me, and referring me to you upon that subject.

My suspension from Office (as it has been, I conceive, erroneously termed, as far as it respects one of the situations I held, for the

* Note 131.

reasons I shall presently state) was expressed by a General Order to be, until the pleasure of His Majesty's Secretary of State should be made known; and, on the receipt of your despatch, I considered myself entitled to be immediately placed in as good a situation, at least, as I had previously held, which was the Crown Solicitorship as it has been called and the Mastership of the Crown Office, for which I was receiving together £600 per annum, with the liberty of practising as an Attorney privately.

His Excellency's reason for not thus reinstating me is that one or both of those situations had been done away with by instructions from you, although he admits that such instructions were conveyed to him in the same letter,* which ordered my being again employed in the public service, notwithstanding which he has held them, as far as they relate to those situations being done away with, not to apply either to the date or receipt of your despatch, but to refer back to the date of my first suspension; and, as to my being again employed in the public Service after a further delay of four months, His Excellency has reappointed me to one of the same situations namely the Crown Solicitorship, until only your pleasure be known, at £100 per annum less than I formerly received; and in which situation he expressly says, I am to devote my whole time and attention, thereby precluding me from keeping together any connection by private practice, which, in the event of the Office not being approved of or confirmed, or its being at a future time again done away with, would leave me entirely without the means of support.

I will now take the liberty of stating my reasons for believing that the nature of my first appointment has, during these transactions, been entirely mistaken. In consequence of the great inconveniences, which were found to exist in the administration of Justice in these Colonies from a want of legally qualified Attornies to carry on the business of the Suitors, Earl Bathurst found it necessary to appoint two such persons with a Salary of £300 per annum each, as a remuneration for giving up their practice in England and proceeding to the Colony with their families for that express purpose only. I do myself the honour of enclosing you a Copy* of Earl Bathurst's instructions to Governor Macquarie on that subject.

That this was the sole object of these appointments is obvious, because, if the Salaries had been given as retaining fees on the part of the Government, the Suitors in the Law Courts here would have been still left without professional attendance, which was the origin of their creation:

On the arrival of myself and Mr. Garling the other Gentleman appointed to these situations, we were termed the stipendiary Solicitors, and I am at a loss to know the occasion which first gave rise to the designation of Crown or Government Solicitors, which were never thought of until a very considerable time after our being here. Several correspondences took place between Governor Macquarie and the Secretary of State, with respect to the nature of these situations and our being called upon to perform some duties for them, wherein, I believe, it had been fully established that the objects of these appointments were solely as I have stated; but I conceived all question on that subject had been fully set at rest by the late Commissioner of Enquiry, John Thomas Bigge, Esquire, who recommended to His Majesty's Ministers that, as the first

1820.
6 June.

Delay in
reinstatement
to office.

Conditions of
reappointment.

Cause of first
appointment.

1830.
6 June.

Proposal by
J. T. Bigge for
abolition of
subsidised
solicitors.

motives of these appointments were not then in existence, in consequence of the immigration here of other professional men, who were adequate to the demands of the suitors for legal assistance in the Courts, the two stipendiary Solicitors should be appointed to Government situations, with salaries sufficient to maintain themselves and families respectably, without their being engaged in private practice; and, should they not accept the Offices proposed to them, but prefer continuing their private practice, the Salaries were to cease on the expiration of one year from the time of their being called upon to make their election.

Under these circumstances, I most respectfully submit that the instructions, contained in your letter* to His Excellency the Governor of 31st August, 1828, for the discontinuance of the situations I had filled, should not at any rate be held to apply to that termed the Crown Solicitorship, whatever you may be pleased to direct as to the application of them to the Mastership of the Crown Office; and that I am therefore entitled to the twenty months' Salary at least of the former situation; and I beg also to request your favorable consideration as to the reduction that has taken place in the amount of my annual income, viz., £100, accompanied, as it is, with the impossibility of keeping up any private practice to provide against the discontinuance of a situation, which is expressly temporary.

I have, &c.

W. H. MOORE.

Claim to
retrospective
salary.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 44, per ship Royal Admiral; acknowledged by Governor Darling, 27th April, 1831.)

7 June.

Sir,

Downing Street, 7 June, 1830.

Despatch
acknowledged.

I have received your dispatch, No. 97 of the 17th of August last, transmitting the copy of a letter addressed to you by Archdeacon Scott respecting the establishment of Officers, whom he considers to be necessary to enable the Trustees of the Church and School Lands to carry on the business of the Corporation. Your dispatch is also accompanied by a copy of the answer, which you sent to the Archdeacon's letter, and by an Extract from the Report addressed to the General Court by the Committee of the Trustees of Clergy and School Lands, relating to the same subject.

Approval of
decision by
R. Darling
re church
corporation.

The decision to which you came, as explained in your letter to the Archdeacon, of advancing only such monies for purposes connected with the Corporation, over and above the amount of the funds at the disposal of the Trustees, as might be approved of by yourself, and of discontinuing the salary which had been assigned to the Treasurer, meets the full approbation of His Majesty's Government. The latter measure, indeed, appears to have anticipated the Instructions, conveyed to you in my dispatch of the 20th January last, when I discovered, from a perusal of the proceedings of the Corporation, that the Treasurer had received a remuneration to that extent.

* Note 132.

I agree, generally, in the opinion which you have expressed in regard to the Officers, whom it has become necessary to appoint with a view to the management of the Lands of the Corporation and to the performance of the various duties arising out of this extensive concern. Until the functions of the Corporation (which you were informed by my dispatch of the 25th of May, 1829, would soon be abolished) shall entirely cease, it will be necessary to carry on it's affairs in the manner directed by the Charter; And, in the meantime, I am disposed to agree to the scale of Salaries fixed by you for the remuneration of the Officers at present employed in the service of the Corporation, in lieu of that recommended by the Committee, which were much higher than the necessity of the case demanded. It is, however, the wish of His Majesty's Government, as stated in my dispatch above referred to, that all business connected with the Revenue and Survey of the Lands of the Church should be vested in the Colonial Treasurer and the Surveyor General, assisted by the Officers of their respective Departments. And you will of course make the necessary arrangements, with the advice of your Council, for carrying these wishes into effect, as soon as the letters patent, establishing the Corporation, shall have been duly revoked by the arrival in the Colony of the proper authority for that purpose. Under these circumstances, the persons, who are now discharging the duties of Chief Clerk and Accomptant, as well as those of Surveyor, will understand that they hold their appointments only provisionally, and that, whenever the arrangements to which I have above adverted shall be carried into effect, those Officers will be liable to lose their present Employments. I am, &c.,

G. MURRAY.

1830.
7 June.

Approval of officers for management of clergy and school estates.

Management to be vested in treasurer and surveyor-general.

Appointments to be abolished.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Royal Admiral.)

Sir,

Downing Street, 8 June, 1830.

8 June.

I am directed by Secretary Sir George Murray to acknowledge the receipt of your dispatch No. 37 of the 8th April, 1829, reporting that the Surgeons Superintendent of the Convict Ships "Governor Ready" and "Ferguson" were not furnished with any information respecting the crimes, characters, etc., of the Prisoners embarked in those Vessels; and also, of your letter to Mr. Twiss of the 4th Septr., 1829, transmitting a List of Six Prisoners from Ireland, whom, upon their assertion that their sentences had expired, you had released from restraint, until the necessary information could be obtained from this Country. These dispatches having been referred for the consideration of

Want of details re Irish convicts.

1830.
8 June.

Mr. Secretary Peel, I am directed by Sir George Murray to transmit to you, for your information, the accompanying copy of a letter from Mr. Under Secretary Phillips, with its Enclosures, in explanation of the points adverted to in your abovementioned dispatches.

I am, &c.,

R. W. HAY.

[Enclosure.]

UNDER SECRETARY PHILLIPPS TO UNDER SECRETARY HAY.

Sir,

Whitehall, 3 June, 1830.

Your letter of the 15 April, transmitting the Copy of a letter from the Governor of New South Wales, containing the Copy of a List of Six individuals transported from Ireland, who had been lately exempted from further Government Labour and restraint upon the plea that the period of their Sentence had expired, having been referred to the Lord Lieutenant of Ireland, I am directed by Secretary Sir Robert Peel to transmit to you the accompanying Copy of a Communication with its Enclosures, received from Mr. Gregory, in explanation of the points adverted to by the Governor of New South Wales; and I am to desire that you will lay the same before Secretary Sir George Murray for his information.

I am, &c..

S. M. PHILLIPPS.

[Sub-enclosure No. 1.]

MR. W. GREGORY TO MR. W. PEEL.

Sir,

Dublin Castle, 25th May, 1830.

I am directed by the Lord Lieutenant to acknowledge the Receipt of Sir Robert Peel's Letter of the 21st Ultimo, transmitting a Copy of one from the Colonial Department, stating that Six Convicts transported from Ireland to New South Wales have been exempted from Labour on their own allegation that their Sentences had expired, and observing that it is impossible to ascertain the truth of that Allegation from any Official Documents transmitted from Ireland respecting the Sentences of these Prisoners.

On reference to the Return of Convicts, I find the Sentences, as given in the Warrants of the Lord Lieutenant, transferring the Services of the Convicts alluded to, to be correct, and that they were tried at the respective periods as stated under the Head of "General Remarks," and which will also appear in the Certificates of the Clerks of the Crown herewith sent.

With regard to the "Indents" being "imperfect," His Grace desires me to observe that every possible care is taken to prepare them with accuracy; they are made out from the Reports of the Inspector General of Prisoners, with which they are carefully compared, and the Reports of the Judges on each case, and the decisions of the Lord Lieutenant thereon minutely examined.

With respect to the insertion in the Warrants of the Period "when the Convicts were tried," it appears to have been omitted in the instances alluded to, but has been latterly added in consequence of a Representation from the Governor of New South Wales.

If the Governor means by "imperfect nature of the Indent" that the Information given is not as full as it ought to be, I beg to observe that they have hitherto been considered sufficiently so, and

Letter
acknowledged.

Report re
claims of
convicts from
freedom.

Indents of
convicts from
Ireland.

would therefore suggest that, if it is thought necessary, Copies of the Forms used in the Home Department should be furnished, in Order that they may be followed in future on the transportation of Convicts from Ireland.

1830.
3 June.

As to General Darling's observation, in the latter part of his Letter referring to his dispatch of the 5th April, 1828, in which he states that the Surgeons on board the Transports had not, in the Cases then adverted to, received any information respecting the Convicts embarked, it would appear that Dr. Trevor the Superintendent of Convicts' communication, explaining the Circumstances and of which I enclose a Copy, had not reached the Colony.

Want of reports by surgeons-superintendent.

The Lord Lieutenant has directed that a Copy of the Warrant, transferring the Services of the Convicts, shall in future be forwarded to the Surgeon Superintendent of the Transports.

I have, &c.,

W. GREGORY.

[Sub-enclosure No. 2.]

DR. E. TREVOR TO MR. W. GREGORY.

Sir,

Dublin, 18th September, 1829.

In compliance with your desire that I should explain the cause why a List of the Names of Prisoners was not given to the Surgeon Superintendent of the Ships Governor Ready and Ferguson, as stated in their Letters addressed to the Governor of New South Wales, as well as in that of Mr. Twiss, I have the honor to acquaint you that many Years ago a communication was made by the Governor of New South Wales to the Home Department, stating that the Lord Lieutenant's Warrant (which at that time was handed to the Masters of the Convict Ships unsealed) with Lists of Names of Prisoners, Crimes, when and where Tried, Sentence and Countries (as well as the Lists of Prisoners Names sent from England) were found on delivery to the Governor in so dirty a state, and with erasures, as almost to render them unintelligible. On that representation, the Lord Lieutenant's Warrant, with List of Names of Prisoners describing their Crimes, Sentence, when Tried, Countries, and description of each, was engrossed on Parchment, put into a Tin Case, sealed, and directed to His Excellency the Governor of New South Wales: another List of Names of Prisoners, specifying the Countries, where tried, has been uniformly given to the Masters of Ships, but no List was given to the Surgeon.

Report re indents of convicts from Ireland.

This Regulation was made by Order of Government, not only on account of the representation above alluded to, but to prevent unfavourable impressions being made on the minds of those persons in charge of the Prisoners by a knowledge of their Crimes, thereby likely to cause harsh treatment.

The enclosed Receipts signed by the Masters of the Ships "Governor Ready" and "Fergusson" will prove that two Lists were given to each of those Ships, and similar Receipts to the enclosed were put into Tin Cases for the information of the Governor of New South Wales.

The Lists and Warrants are prepared at the Civil Office and sent to me to be delivered to the Masters of the Convict Ships.

I have, &c.,

EDWD. TREVOR.

1830.

9 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 45, per ship Royal Admiral.)

Sir, Downing Street, 9 June, 1830.

I have the honor to transmit to you the enclosed copy of a letter from Messrs. Fleming and Hope, Merchants of Glasgow, preferring a claim on behalf of Messrs. Reibey and Atkinson, Settlers in New South Wales, to compensation from Government for the loss of the Schooner "Eclipse" (the property of the latter Gentlemen) which was piratically carried away from the Port of New-Castle by some Crown Convicts. I also enclose a copy of the answer, which by my direction has been returned to Messrs. Fleming and Hope, by which you will perceive that I have not considered the precedent,* which they have brought forward in the case of the "Harrington," as any ground for admitting the present claim, inasmuch as the Land and Cattle, which were granted to Mr. Campbell, were given to him rather out of compassion for his misfortunes than as remuneration for the loss which he actually sustained. If however Messrs. Reibey and Atkinson's conduct, in reference to this matter and their general character, shall prove upon enquiry to be such as to give them a claim to the indulgent consideration of Government, and, provided it can be done without establishing an inconvenient precedent, I should not be unwilling to sanction their receiving a small grant of Land with a few Cattle. You will, therefore, report to me the circumstances of their case, and the extent of the relief, if any, which you may deem it advisable to afford to the parties.

I am, &c.,

G. MURRAY.

P.S.—I also enclose a copy of a further communication, which has been received from Messrs. Fleming and Hope upon this subject.

G.M.

[Enclosure No. 1.]

MESSRS. FLEMING AND HOPE TO SIR GEORGE MURRAY.

Sir, Glasgow, 17th April, 1830.

We beg leave most respectfully to call the attention of Sir George Murray to a circumstance which took place in New South Wales, when Lieut. General Sir Thomas Brisbane was Governor thereof, and which we believe has already been officially communicated by Sir Thomas Brisbane shortly after his arrival in this Country.

The substance of the matter we allude to is this: Two enterprising and industrious young men, natives of that country, Mr. J. H. Reibey and Mr. John Atkinson, having by a great deal of exertion, perseverance and economy succeeded so far in business as to enable them to purchase a new schooner called the Eclipse, very shortly after which, we believe, on her second or third voyage, she was pirated away from the Port of Newcastle by the Government Convicts, the whole transaction being accomplished in the course of

Claim for loss
of schooner
Eclipse by
piracy.Proposed
compensation.Report to be
submitted.Piratical
seizure of
schooner
Eclipse.

* Note 133.

a few minutes; for, the wind blowing strong at the time from the land, the vessel was almost instantly out of sight and never more heard of. We are quite aware it is not sufficient for us to state these facts without some other official documents on the subject, consequently we have the authority of Sir Thomas Brisbane, who informed us some time ago that, immediately on his arrival in this Country, he transmitted* full documents concerning this piratical seizure to Downing Street, and, shortly after, the reply from thence was that a precedent was wanted before any remuneration could be entertained. Accordingly, we wrote out to New South Wales and obtained a certificate of a case in point in the seizure of the Brig Harrington,† Capt. Campbell, during General Macquarie's government, and we believe certified by Major Goulburn; but the document itself was transmitted a good while ago by Sir Thomas Brisbane, along with other papers connected with the business to Downing Street; and we believe the remuneration granted in that case was Land and Cattle belonging to Government.

1830.
9 June.

Report transmitted by Sir T. Brisbane.

Compensation for loss of brig *Harrington*.

We may likewise state that, in the correspondence which we had the honor of having both with Sir Thomas Brisbane and Major Goulburn, these Gentlemen have most kindly and frankly allowed us to make any reference to them, we may deem necessary, in our application to Government; and, on this point, we take the liberty to give an extract from Sir Thomas Brisbane's last letter to us of date the 4th February last: "Mr. Reibey's claim I consider a strong one and borne out by precedent, and shall be very happy if you are successful in your applications, and any reference made to me I shall be glad to furnish; and I beg to add that all the official documents connected with the transaction are at Downing Street. I have farther to state that, as Major Goulburn, who was then Colonial Secretary, resides in London, I would recommend your applying to that Gentleman on the subject, who, I dare say, can materially assist you in promoting this claim."

Support of claim by Sir T. Brisbane and F. Goulburn.

We likewise give an extract from Major Goulburn's letter of the 11th March last, dated Muswell Hill, Middlesex: "I have been favored with your letter of the 15th Ulto. acquainting me that you wish to be guided by my advice with respect to your addressing Sir George Murray on the subject of a claim against Government for the piratical seizure of the Schooner Eclipse at Newcastle, during the time that I held the appointment of Colonial Secretary in New South Wales."

"The circumstances of the case are fresh in my recollection; and Mr. Reibey applied to me before my return to England for any precedent which might exist in my office in favor of his claim. I remember to have been at considerable pains in conducting the search, and I believe the result to have been that no other instance could be found except the case, which you mention of the Harrington. Her history is a curious one. More than one application had, I think, been made to the Colonial Office for indemnification for her loss, and more than one refusal returned, on the ground that, the peculiar social state of New South Wales being generally known, individuals embark in commercial speculations in that colony entirely at their own risk; when, after the lapse of ten years, the subject being almost dead in the memory of every one, and all hope of recovery having long subsided in the breast of Mr. Campbell, an order for his remuneration was received from the Treasury."

1830.
9 June.

“The industry and respectability of Messrs. Reibey and Atkinson are well known to me; their severe and unmerited loss I cannot sufficiently deplore; and the case of the *Harrington* I consider to establish a precedent in their favor. It is therefore my opinion that you will be perfectly justified in urging their claim upon the favorable consideration of the Colonial Office.”

Reasons
for pressing
claim to
compensation.

Having thus given the substance of the letters alluded to, we beg to state that the original ones shall be transmitted, if Sir George Murray thinks it necessary. We are most anxious to do all in our power for the behoof of these industrious and enterprising young men, on whom such a serious loss has been so severe; and, they having very few friends in this country to support their case, we are the more anxious on that account to render them our gratuitous and humble services in any manner that lays in our power, and, from a conviction of the excellence of the parties, for whom we are interested, and whose characters are so highly spoken of, both by Sir Thos. Brisbane and Major Goulburn, in the preceding extracts, and from there being a precedent for a favorable consideration of their case, we humbly and earnestly implore that His Majesty's Government, aided by the kind assistance of Sir George Murray, may be induced to give remuneration in a case of such hardship. We believe the vessel cost about £1,200 or £1,300, but documents of valuation, etc., were also transmitted along with the other papers.

Value of
schooner
Eclipse.
Proposed
compensation in
land or cattle.

If money cannot be granted, we suppose that Land or Cattle, as in the case of the *Harrington*, would be very acceptable. We have not the honor of being known to Sir George Murray; but, among our correspondents in London we may mention the Houses of J. W. Lubbock, Bart, and Co., Messrs. Morlands and Co. and others.

We have, &c.,

FLEMING and HOPE, Merchants.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MESSRS. FLEMING AND HOPE.

Gentlemen,

Downing Street, 2nd June, 1830.

Letter
acknowledged.

I am directed by Secretary Sir George Murray to acknowledge the receipt of your letter of the 17th *Ulto.*, wherein you bring under his notice the case of Messrs. Reibey and Atkinson, Settlers at New South Wales, for the purpose of obtaining for them some compensation from Government on account of the loss of their vessel (the *Eclipse*), which was piratically carried away from the Port of Newcastle by some Crown Convicts. In support of this claim, you cite the case of the Brig *Harrington* as furnishing a precedent for such compensation, and quote passages from various letters which you have received from the late Governor and Colonial Secretary of New South Wales, bearing testimony to the merits of Messrs. Reibey and Atkinson.

Denial of
claim.

Case of brig
Harrington.

I am directed by Sir George Murray to acquaint you in answer that he does not consider that Messrs. Reibey and Atkinson have any claim upon the Government for compensation for their losses. It is true that, in the case of the Brig *Harrington*, the owner received an Allotment of land and some cattle, an indulgence however which was granted to him not as a compensation for his loss, but out of compassion for the distresses of a well conducted Settler, who, from his intelligence and industry, was likely to prove

an acquisition to the Colony. Indeed when applications of that nature were subsequently preferred, the Government expressly declared that they were not bound to indemnify the Colonists for the depredations of the Convicts; such a course would have tended to diminish those exertions for the security of their property, which the Public have a right to expect from the Settlers. Although Messrs. Reibey and Atkinson's claim therefore is inadmissible, Sir George Murray will have no objection to direct General Darling to enquire into the circumstances of their case, and to afford them such moderate assistance, in land and cattle, as he may conceive them to merit, and as may not be inconsistent with the public Interests, by rendering the Government responsible for any future losses, which the Settlers may sustain under similar circumstances.

I am, &c.,

R. W. HAY.

[Enclosure No. 3.]

MESSRS. FLEMING AND HOPE TO SIR GEORGE MURRAY.

Sir,

Glasgow, 7th June, 1830.

We beg leave to acknowledge receipt of Sir George Murray's letter of the 2d Inst. in reply to ours of the 17th April, in which we called his attention to the circumstance of the seizure of the Eclipse Schooner in New South Wales by the Convicts during the government of Sir Thomas Brisbane, and of our anxious wish therein expressed that the Owners of said vessel might receive some compensation for so serious a loss. In making this application, we have respectfully to state that it was not done, either by our friends in New South Wales or ourselves, under the impression that it was as a matter of *right*, but merely intended as a statement of the whole hardship of the case; that, on a consideration of all its circumstances, his Majesty's Government might be induced to afford the sufferers some little compensation for their heavy loss; and we feel much gratification in perceiving that Sir George Murray has no objections to direct General Darling to enquire into the circumstances of their case and to afford them such moderate assistance in land and Cattle as he may conceive them to merit.

We may here state, as expressing the sentiments of our friends in New South Wales, that, if this misfortune had come upon them by Convicts breaking into their dwelling Houses and robbing them of considerable property, they would not, we believe, for a moment have entertained the idea of applying to Government for any remuneration; but, as the case stands, we humbly conceive it presents rather a different aspect, and one, which they have repeatedly informed us with all their vigilance they could not have prevented the vessel being carried off; for the vessel was taken away from the Port (Newcastle) in the open day, moored close to the wharf, by the very men (Convicts) employed by Government to load her with Coals, which cargo was purchased from Government, they putting them free on board, as was the usual Custom, and at the moment when a number of these Convicts had assembled on the deck, by Contrivance no doubt, they instantly overpowered the Crew, throwing them out into the long boat and, immediately cutting the Cables, were out of sight in a few minutes with a strong wind in their favour. All which circumstances were certainly unprecedented, and far more summary than the case of the "Harrington."

1830.
9 June.

Instructions
to be sent to
R. Darling.

Reasons for
application.

Details re
seizure of
schooner
Eclipse.

1830.
9 June.

Request for
immediate
reference to
R. Darling.

We have now done with the subject, and hope that Sir George Murray will pardon us for entering a little more fully into the details of this matter, which we trust will receive more and more favorable consideration, the farther that it is investigated into.

In conclusion, may we request the favor that Sir George Murray will call the attention of General Darling to this business, as kindly proposed in his *first* dispatches to New South Wales.

We have, &c.,

FLEMING and HOPE.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Royal Admiral.)

10 June.
Transmission
of memorial.

Sir,

Downing Street, 10 June, 1830.

I am directed by Secretary Sir George Murray to transmit to you the accompanying copy of a letter from Dr. Rutherford, applying for a Grant of Land or Town Allotment in Sydney in consideration of the repeated Voyages, which he has undertaken to New South Wales in charge of Convicts; and I am to request that you will afford to this Gentleman such advantages in Land as may be consistent with established Regulations, and as the claims set forth in his application shall in your opinion merit.

I am, &c.,

R. W. HAY.

[Enclosure.]

Memorial of
G. S. Rutherford
soliciting land
grant or civil
appointment.

THE humble Memorial of Dr. Rutherford, a Surgeon in the Royal Navy.

To the Right Honble. Sir George Murray, G.C.B. and G.C.H., His Majesty's Secretary of State for the Colonies, etc., etc., etc.

Your humble Memorialist Respectfully sheweth.

THAT he has completed his sixth voyage to New South Wales in charge of Convicts to that Colony; that out of 1,021 Prisoners embarked under his superintendence, 1,019 were landed in perfect health in the Colony; that only 5 deaths occurred in the six Voyages, an unusually small proportion out of the number embarked, as the official Document herewith sets forth; That your Memorialist has always given that utmost satisfaction to the Governors of the Colony and the Honble. the Commissioners of His Majesty's Navy; and that your Memorialist's health has materially suffered from the vicissitudes of Climates to which he has been exposed, and the arduous duties which he had to perform. Your humble Memorialist respectfully solicits that you may be pleased to manifest your approbation of his conduct in remuneration for the services, he has rendered, and the great injury, which his health has sustained, by granting him some Civil Appointment in the Colony, or ordering him a grant of land or Town allotment in Sydney or other remuneration as you may think most proper, and your Memorialist shall ever pray as in duty bound.

G. S. RUTHERFORD.

5th June, 1830, 15th Frith Street, Soho.

[Sub-enclosure.]

LIST of Prisoners embarked in Europe for New South Wales under the Superintendence of G. S. Rutherford, Esqr., Surgeon, R.N. Shewing also the Nos. disembarked in New South Wales and Van Dieman's Land.

Sydney, New South Wales,
Principal Supt. of Convicts Office, 14th Oct., 1829.

1830.
10 June.

Return of
convicts
transported
under G. S.
Rutherford.

Name of Ship.	Date of arrival.	No. Prisoners Embarked.	No. Landed.	Remarks.
Prince of Orange ...	12th Feby., 1821	136	135	
Shiplely (4)	11th March, 1822	150	149	
Commodore Hayes	16 Augt., 1823 ...	221	221	
Marquis of Hastings	3 Jan., 1826	152	152	Landed at Hobart Town, can give no account of the actual number landed.
Eliza (3)	8th Nov., 1827..	192	192	
Lord Melville (3) ...	6th May, 1829...	170	170	
	Total.....	1,021	1,019	

FREDK. A. HELY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate." per ship Australia.)

Sir,

Government House, 10th June, 1830.

I have the honor to acknowledge the receipt of your Despatch of the 14th of December last, Marked "Separate," respecting the Proceedings of Mr. John Stephen; and I can only express my regret that the circumstances of the moment should have rendered it necessary to call your attention to so unworthy a subject. I never doubted that the Letters, which he stated he had received from his Wife and his Cousin, Mr. James Stephen, were both fabricated by himself, the clumsiness of the latter being in part necessarily occasioned by his desire to screen himself from the consequences of Forgery.

Letters
circulated by
J. Stephen, jr.

Concluding that the subject of my Despatch of the 29th of June, No. 81/1829, will have satisfied you of the character of Mr. John Stephen, I have not thought it necessary to collect or trouble you with the information called for in your letter of December last. It is some satisfaction to me, under the difficulties I have had to contend with, that Mr. John Stephen and his Brother in Law, Captain Robison, have at length accomplished their own disgrace and been obliged to leave the Colony.

Satisfaction at
departure of
J. Stephen, jr.,
and R. Robison.

I have, &c.,

RA. DARLING.

1830.
12 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 46, per ship Royal Admiral.)

Sir, Downing Street, 12 June, 1830.

Despatch
acknowledged.

I have received your despatch No. 113, of the 18th of October last, enclosing Archdeacon Scott's Report on the Church and School Establishments of New South Wales, completed up to the period of his delivering over the charge of the Archdeaconry to his Successor.

Refusal to
increase church
and school
establishment.

The Archdeacon in this Report continues to press on the consideration of His Majesty's Government the necessity of a further number of Chaplains, and the erection of additional Chapels, School Houses, etc., to meet the demands of an increasing Population; but (as I have already had occasion to state in my despatch of the 25th of May, 1829), I cannot agree to such an augmentation until the Church Funds shall be able to defray the expence of a larger portion of the Ecclesiastical Establishment than those funds are at present capable of supporting.

Chaplain for
Norfolk island;

I fully concur in the opinion, expressed by Archdeacon Scott in his report, that so large an Assemblage of Convicts as that existing at Norfolk Island requires the residence of a Chaplain amongst them; and I have therefore to desire that you will consult with Archdeacon Broughton as to the best mode of providing for this service, if no greater inconvenience, as compared with that now experienced at Norfolk Island, will be felt in other parts of the Colony by such an arrangement.

and for
Port Stephens.

The propriety of employing a Clergyman at Port Stephens to watch over the Spiritual Interests of the Persons composing the Establishment of the Australian Company, which Archdeacon Scott has also recommended in his Report, has not escaped the attention of His Majesty's Government as you will find, by my despatch of the 21st of April last, wherein I have detailed the arrangement agreed to between this Department and the Directors of the Company for effecting this very desirable object. Although the preliminaries have been settled, it has been necessary to delay for the present sending out to the Colony the Clergyman whom it is intended to attach to the Company's Establishment. The appointment, however, will be made as soon as possible, and I hope by an early opportunity to be able to forward to you the Deeds, by which it is proposed to make over to the Company a Lease of the Church Lands adjoining the Location of their Grant, upon the completion of which Deeds this appointment will immediately take place.

In Paragraph 6 of his Report, Archdeacon Scott suggests the propriety of great caution being used in the selection of Chaplains for the Australian Colonies, and then proceeds to state-

that, by "the conduct of some portion of the body (and the exceptions he laments are very few), Religion and especially the Church have been brought into disrepute; and any real feeling on that subject or attachment to the Church has diminished rather than increased." The account thus given by Archdeacon Scott of his Clergy is the more painful to me to receive, because every exertion has been made to select properly qualified Persons for Clerical situations in those Colonies; as no instance of a nomination to a Benefice in New South Wales has taken place without Testimonials having previously been obtained as to the respectability and fitness of the persons for such duties, I must believe, if those Persons have proved undeserving of the Trust reposed in them, that this unfavorable change in their habits and characters has taken place since their arrival in the Colony, rather than that this Department has been deceived by the Parties to whose recommendation the Candidates were indebted for their appointments.

1830.
12 June.

Selection of
chaplains.

Deterioration
in character.

The communication, which you were directed to make by my dispatch of the 1st of Jany. last to Messrs. Wilkinson and Wilton, will, I trust, have produced the desired effect by exciting them to more zealous discharge of their duties, and a more guarded and respectful line of conduct towards their Ecclesiastical Superior. Should, however, this expectation unfortunately fail of being realized, there will be no other alternative than that pointed out in my dispatch above adverted to, vizt., of removing them from their Chaplaincies in New South Wales, and replacing them by Persons, whose respectability and steadiness of character will confer greater credit upon the Clerical Office. An example in these two cases would doubtless prevent the recurrence of the same improper conduct and irregularity (of which those to whom I have adverted appear to have been guilty) on the part of the remaining Clergy.

Cases of Revds.
F. Wilkinson
and
C. P. N. Wilton.

The conduct of the Revd. Mr. Reddall, which is now for the first time brought under the notice of His Majesty's Government, although the circumstances alluded to in his case would not seem to be of very recent occurrence, appears to require strict investigation; and you will therefore be pleased to enquire into the following allegations, which Archdeacon Scott in his report has brought against him:—

Inquiry ordered
re Revd.
T. Reddall.

Specific charges.

1st. He is charged with attending political meetings and to secular pursuits to the neglect of his Ministerial duties.

2ndly. With entering upon commercial and farming speculations upon a scale beyond his means so as to be unable to meet his pecuniary engagements.

1830.
12 June.

Evils of
commercial
pursuits
amongst clergy.

I concur in the opinion expressed by Archdeacon Scott that it would be unreasonable towards any class of persons in the Colony, on the ground of their being in the Employment of Government, to prevent them from reaping benefits from their Capital, "when the Country does not admit of any other provision." But, at the same time, I cannot consent, particularly in the case of the Chaplains, to allow them to engage in transactions which may interfere with their Public duties, or bring them into too great intimacy with classes of persons with whom it would not be creditable to them to associate, or to have any dealings excepting in so far as their public or spiritual duty may bring them together. If, in the case of Mr. Reddall, the fact be, as is stated by Archdeacon Scott, that "he rents a tract of 5,000 acres of Government," and "is largely indebted to the Crown for money advanced to him under your Predecessor," I have no hesitation in saying that it was highly improper to grant him this indulgence, and that, if the permission can now be withdrawn without any breach of the promise made to him on the part of Sir Thomas Brisbane, or too serious an injury to Mr. Reddall on account of the Capital which he may have laid out upon it, he should be called upon to give up the land, which he is reported to rent from the Crown, receiving in lieu thereof the stipulated Grant, to which, in the spirit of the Instructions conveyed to you in my dispatch of the 25 of May, 1829, every Clergyman, who is not already in the receipt of a compensation for his Glebe from the Corporation, will be entitled.

Proposed
superannuation
allowance for
senior chaplains.

The Archdeacon next proceeds to bring under the consideration of His Majesty's Government the state of some of the Senior Chaplains, "whose age and infirmities cannot but be a source of great anxiety to them, when, from the length of service they might reasonably hope for more peace and comfort than they have hitherto enjoyed"; and he recommends that The Revd. Samuel Marsden, The Revd. Wm. Cowper, and The Revd. Rt. Cartwright should be permitted to look forward to a superannuation allowance whenever obliged by their age or infirmities to relinquish their duties.

I am ready to give full credit to every part of the statement, which Archdeacon Scott has made relative to the difficulties and privations, which these Clergymen have been compelled to undergo in the course of their public services; nor am I disposed to deny that they have discharged their respective functions, amidst all these privations and difficulties, in a manner highly creditable to themselves; but, at the same time that I admit everything which has been said in their favor, I regret that I do not feel at liberty to hold out to them any promise of a provision

for themselves or their families. Whenever the proper time may arrive for considering this point, I have no doubt that His Majesty's Government will act with the same liberality towards the Individuals above mentioned, as they have always shewn under similar circumstances; but, as it is impossible to calculate upon the means which may be at the disposal of Government, when the occasion calls for the exercise of this liberality in the particular cases in question, it would be inconsistent with my duty to convey to you, now, any assurance upon that subject.

I regret that I cannot sanction the allowance of £100 per annum, chargeable on the Church and School Lands, for the support of the Son of Mr. Cowper, whilst he remains at the University of Oxford and until he takes his Master's degree; for an allowance, in this instance, would be made the ground for a similar request on the part of other Clergymen on the Establishment of the Colony; and I do not perceive any public reason for granting the indulgence in the case of Mr. Cowper, which might not equally apply to the Sons, who may be born in the Colony, of all other Clergymen desirous of having extended to them the same favor.

Nor can I acquiesce in the Endowment of the Exhibition so earnestly recommended by Archdeacon Scott at each of the Universities for the purpose of giving a College Education to some of the youth, born in the Colony, of Parents, whose past services may appear deserving of this encouragement. I have no doubt that the measure would be a gratifying one to the Colonists, so far as the Endowments themselves are concerned; but the difficulty, which would attend the selection from among the Candidates, and the jealousy and disappointment which would result to the friends of those who might be unsuccessful, whenever the election took place (there being no public Institution as yet established in the Colony connected with Education at which this honor could be contested and the choice openly made), I do not deem it expedient, for the present at least, to recommend to His Majesty to authorize this measure. I should not, however, be averse to the Establishment of a Grammar School for the benefit of the Children of the Upper Classes of Society in the Colony, if such an Establishment could be formed without any expence to the public beyond a moderate salary to the Master and the appropriation of a Building for the accommodation of the Scholars, the Parents of whom I do not suppose would be disinclined to contribute a small sum annually for the benefits, which their Children would derive from their admission into an Institution of this nature.

I am, &c.,

G. MURRAY.

1830.
12 June.

Inability to
promise
allowance.

Disapproval of
exhibition for
son of Revd.
W. Cowper;

and of
permanent
exhibitions at
Oxford and
Cambridge
universities.

Approval of
proposed
grammar
school.

1830.
13 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 47, per ship Royal Admiral.)

Appointment
of Revd.
C. Dickinson
as assistant
chaplain.

Sir,

Downing Street, 13 June, 1830.

I have the honor to acquaint you that I have appointed the Revd. Charles Dickinson to be an Assistant Chaplain on the Establishment at New South Wales in the room of the Revd. Elijah Smith resigned.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 48, per ship Royal Admiral.)

14 June.

Commutation
of sentence on
J. Kelly.

Sir,

Downing Street, 14 June, 1830.

With reference to the case of James Kelly, reported in your dispatches of the 25 of March, 1828, and the 31 of May, 1829, who was capitally convicted of Murder in the month of February, 1828, I transmit to you the accompanying pardon, which His Majesty has been graciously pleased to grant to James Kelly, commuting the sentence of death, which was passed upon him, to transportation to Moreton Bay and hard labour in chains for seven years; and I am to desire that the commuted sentence may be carried into effect.

Criticism of
sentence
proposed by
council.

Although, under all the circumstances of the case, it has not been deemed advisable to recommend to the Crown to commute the capital punishment for a severer sentence than that suggested by you on the recommendation of the Council, yet I cannot omit this opportunity of informing you that the case is considered by His Majesty's Government to have been one of very unnecessary and wanton Homicide, and of bringing to your notice the fact of there being no allusion made in the Report of the Judge to the recommendation of the Prisoner to mercy by the Jury, though such recommendation is referred to in the Report of the Council as a ground for mitigation.

I am, &c.,

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Royal Admiral; acknowledged by
Governor Darling, 19th January, 1831.)

15 June.

Charter of ship
Waterloo to
Moreton bay.

Sir,

Downing Street, 15 June, 1830.

I am directed by Secretary Sir George Murray to transmit to you the accompanying copy of a communication from the Treasury relative to the Vessel, which it appears, by your dispatch of the 5th of August, 1829, you had hired for the conveyance to Moreton Bay of certain Prisoners under sentence of

Transportation for that Settlement. Sir George Murray's dispatch No. 10, of the 6th of April last, conveyed to you the authority of His Majesty's Government for charging the hire of this Vessel in the public accounts; but, in consequence of the observations of the Lords Commissioners of the Treasury as to the number of Vessels kept up at the expence of the Colonial Government, Sir George Murray deems it necessary to call your attention to the subject, although he trusts that the circumstances, alluded to in Mr. Huskisson's dispatch, No. 1 of the 31 of May, 1828, will already have enabled you to carry into effect a considerable reduction of the expence originally incurred under this head.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 14 June, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit herewith, with reference to your letter of the 26th July, 1828, the enclosed Copies of a letter and its enclosures from Deputy Commissary General Laidley stating that he has engaged the Ship "Waterloo" to convey Troops, Prisoners, and Stores from Sydney, New South Wales, to the penal Settlement of Moreton Bay; and I am to request that you will bring this matter again under the notice of Secretary Sir George Murray, and move him to inform my Lords whether the Governor of New South Wales has reported to him the circumstances under which he has deemed it proper to charter a Vessel for the Service in question, notwithstanding that there are Eight Vessels employed by the Government in keeping up the communication between the different Settlements, and whether Sir George Murray is satisfied of the necessity of having incurred this Expence.

I am, &c.,

J. STEWART.

[Sub-enclosure No. 1.]

DEP. COMMISSARY-GENL. LAIDLEY TO MR. J. STEWART.

Commissariat Office,

Sir, Sydney, N. S. Wales, 19 August, 1829.

I have the honor to report to you, for the information of the Rt. Honble. the Lords Commrs. of H.M. Treasury, that, in obedience to the Instructions of His Excellency the Govr. communicated by the Colonial Secretary in his Letter of which the enclosed is a Copy, the Ship "Waterloo" has been engaged to convey Troops, Prisoners and Stores to the Penal Settlement of Moreton Bay, whither she proceeded on the 16th August Inst. having on Board Troops and their families 71 persons at 12s. 6d. ea.; Prisoners under sentence 250 persons at 12s. 6d. ea.; Stores about 120 tons at 17s. 6d. per Ton, amounting in the whole to about £310 Sterling.

Of this disbursement I have the Honor to solicit your Lordships' approval.

I have, &c.,

JAMES LAIDLEY, D.C.G.

1830.
15 June.

Charter of ship
Waterloo to
Moreton bay.

Query by
treasury re
charter.

Request for
approval of
charter.

1830.
15 June.

[Sub-enclosure No. 2.]

MESSRS. LAMB, BUCHANAN AND CO. TO DEP. COMMISSARY-GENL.
LAIDLEY.

Sir, Sydney, 29 July, 1829.

Rates for
passengers
and cargo.

Having considered your communication respecting the proposed change of destination of the prisoners and provisions about to be embarked in the Waterloo, we are willing that the Ship shall proceed to Moreton Bay instead of Port McQuarie, on an increase to the sum originally fixed of 2s. 6d. for each person embarked and the same for each Ton of Provisions, thus making the rate 12s. 6d. for each person and 17s. 6d. per Ton.

We are, &c.,

LAMB, BUCHANAN and Co.

[Sub-enclosure No. 3.]

MR. JOHN NICHOLSON TO DEP. COMMISSARY-GENL. LAIDLEY.

Sir, Master Attendant's Office, Sydney, 30 July, 1829.

Opinion
re rates
demanded.

In reply to your letter of yesterday's date, giving cover to a communication from the Agents of the Ship Waterloo, which I now do myself the honor to return to you requesting my opinion as to the reasonableness of the offer made to convey Prisoners and Stores to Moreton Bay, having considered the same, I beg to say that I am of opinion the sum demanded for that service is very moderate.

I have, &c.,

JNO. NICHOLSON, Master Attendant.

[Sub-enclosure No. 4.]

COLONIAL SECRETARY MACLEAY TO DEP. COMMISSARY-GENL.
LAIDLEY.

Sir, Colonial Secretary's Office, Sydney, 3rd August, 1829.

Approval of
rates tendered.

In reply to your letter of 30th ultimo, submitting for the Governor's consideration a letter from Messrs. Lamb, Buchanan and Co., tendering the Ship Waterloo for the conveyance of prisoners and Stores to Moreton Bay at the rate of 12s. 6d. twelve shillings and sixpence for each person embarked, and 17s. 6d., seventeen shillings and sixpence, for each Ton of Provisions, being an increased rate of 2s. 6d., two shillings and sixpence, for each person and ton to the terms on which that vessel had been engaged to proceed to Port Macquarie, as also a letter from the Master Attendant with his opinion of the reasonableness of the charge.

I have the honor to convey to you His Excellency's approval of the engagement of that Vessel accordingly. I have, &c.,

ALEX. MCLEAY.

(A true copy) :—JAMES WILSON, D.A.C.G., Acct. Dept.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Royal Admiral; acknowledged by
Governor Darling, 1st February, 1831.)

16 June.

Sir, Downing Street, 16 June, 1830.

I am directed by Secretary Sir George Murray to transmit to you the accompanying copies of a letter with it's Enclosure

from the Secretary to the Treasury on the subject of certain advances by and repayments to Deputy Commissary General Wemyss on account of the Colonial Revenue (as stated in the account rendered by him for the year 1826), which do not correspond with the statement furnished by the Colonial Treasurer of the receipts and issues under that head of service for the same year; and, as it does not appear that there exists in this Department any information from which this discrepancy in the two statements can be explained, I am directed by Secretary Sir George Murray to request that you will cause an account of the nature of that alluded to in the report of the Commissioners of Audit to be sent home with as little delay as possible.

1830.
16 June.

Discrepancy in
commissariat
and treasurer's
accounts.

I am, &c.,

R. W. HAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir,

Treasury Chambers, 14 June, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed Copy of a Report from the Commissioners of Audit, dated 24th Ultimo, representing that, in the course of the Examination of the Account of Deputy Commissary General Wemyss for the Service of New South Wales for the year 1826, it has been found that the Sums debited and credited as advances and repayments on account of the Colonial Revenue do not correspond with the Statements received by them, purporting to contain the amount of issues and receipts under the head of Service in the same year; and I am to request that you will move Secretary Sir George Murray to inform my Lords whether the final Statements of the Accounts therein referred to have been received by him, and, if so, I am to request that you will move him to cause the same to be communicated to this Board.

Transmission
of query *re*
accounts of
W. Wemyss.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

THE AUDIT COMMISSIONERS TO THE COMMISSIONERS OF THE
TREASURY.

My Lords,

Audit Office, Somerset Place, 24 May, 1830.

We have the Honor to represent to your Lordships that, in the Course of the Examination in this office of the Account of Dy. Commry. Genl. Wm. Wemyss for the Service in N. S. Wales for 1826, it has been found that the sums debited and credited as advances and Repayments on Account of the Colonial Revenue do not correspond with the Statements received by us from the Colonial Audit Office, purporting to contain the Amount of Issues and Receipts under that head of Service in the same year.

Query by audit
commissioners
re accounts of
W. Wemyss.

In the Account for 1826, as rendered by Mr. Wemyss, he charges himself with drafts drawn by him on the Colonial Treasurer (stated to be in part payment of previous advances made to the Colonial Treasury by the Commissariat) to the amount of £15,834 9s. 0½d., whereas, by a statement of such drafts received from the Colonial

1830.
16 June.

Query by audit
commissioners
re accounts of
W. Wemyss.

Audit Office dated 16th April, 1830, this amount is stated to be £17,834 9s. 0½d., shewing an apparent under-credit on these drafts of £2,000 on the part of Mr. Wemyss.

Having called upon that Officer to explain this difference, it appears, by His reply and the documents which he has furnished with reference thereto, that Dy. At. Cy. Gl. Ryrie, who was employed in his office and by whom the Accounts were made up, has erroneously introduced in the List of Checques drawn by Mr. Wemyss on the Colonial Treasury a *Receipt* of the latter officer, dated Sydney, 16 August, 1826, for £2,000, paid to him by Mr. Balcombe the Colonial Treasurer at N. S. Wales under an order from Genl. Darling, dated 15th of same Month (a Copy of which Receipt is herewith enclosed); and we find that the sum in question formed a part of the general Account of Receipts and disbursements between the Commissariat and Colonial Treasury; and that under such circumstances it was improperly charged against Mr. Wemyss in the shape of a cheque drawn by him, or indeed in any other manner than as forming a part of the general money transactions by way of Loans and Repayments between the Colonial Treasury and the Commissariat, and therefore not necessarily included in the account of his Cash transactions for Commissariat Services in that Colony.

It further appears, by the Documents furnished to us by Mr. Wemyss, that he was called upon, in the Month of October, 1826, by a Letter from the Colonial Auditor Mr. Lithgow (in pursuance of directions received by him from Genl. Darling) to prepare and submit for the Govr.'s information a statement of all loans, which had been made by the Commissariat to the Colony up to that period, with a view (as stated in Mr. Lithgow's Letter) to the adjustment of Accounts between the two Departments; and, in the Statement made out at the time by Mr. Wemyss in compliance with this requisition, two sums are included as advanced by the Commissariat by way of Loan in the Months of July and August, 1826, amounting together to the sum of £5,000; if therefore this statement is correct (and we see no reason to doubt its accuracy), it would not be proper to charge Mr. Wemyss upon this receipt for £2,000 in his Commissariat Accounts, without giving him credit on the other hand upon the production of proper Receipts for the advance by him of this sum of £5,000, which would then shew an apparent Balance in favor of Mr. Wemyss of £3,000 as arising out of these transactions, to which sum Mr. Wemyss does not make any claim.

We do not find that, during the period of Mr. Wemyss's responsibility in N. S. Wales, or upon the occasion of his relinquishing his charge in that Colony, any final Settlement of accounts took place between the Commissariat Department and the Colonial Treasury, such as would enable us to ascertain the correctness of the Receipts and issues, and how far they may have been connected with the Military Chest under the control of the Commissariat in N. S. Wales.

The Documents received by us from the Colonial Audit Office do not furnish the required information in this respect, and Mr. Wemyss is not in possession of the Cash Book of Dy. At. Cy. Genl. Ryrie, who appears to have had the management chiefly of these transactions.

It appears, however, to be very probable, as stated by Mr. Wemyss and confirmed by the papers which he has produced, that such a

Settlement has taken place. Under these circumstances and in order not to delay the Settlement of Mr. Wemyss's Commissariat Accounts, until he could obtain satisfactory Explanations from N. S. Wales, we propose to exclude both the sum of £2,000 and £5,000 from Mr. Wemyss's Commissariat Accounts, leaving their final Settlement open to Investigation hereafter if necessary, unless, upon reference made by your Lordship's directions to the Office of H. M.'s Secy. of State for the Colonies, it should appear that a final Settlement of these Accounts has already been received there, approved by the proper Authorities, and that we could be put in possession of the details of such account.

In case such accounts with the particulars should not have been received, we Beg to submit whether it may not be advisable that your Lordships should direct a Letter to be written to Genl. Darling upon this subject, directing him to call upon the proper officers to cause an account to be made up and transmitted home, including the whole of the cash-transactions between the Colonial Treasury and the Commissariat in N. S. Wales during the period of Mr. Wemyss's responsibility, and shewing how the Balance of that Account has been settled, so that, if it should ultimately appear that any sum is due by Mr. Wemyss arising out of these transactions, independently of what he included in his Commissariat Accounts, the proper steps may be taken for the recovery of the same.

We have, &c.,

F. S. LARPENT.
H. F. LUTTRELL.
JAMES CHAPMAN.

1830.
16 June.

Query by audit
commissioners
re accounts of
W. Wemyss.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Royal Admiral.)

My dear Sir, Downing Street, 17 June, 1830.

17 June.

I have to acknowledge the receipt of your letter of the 31st of December last, reporting the necessity which you had been under of removing Mr. Docker from the situation of Draftsman in consequence of his misconduct.

Dismissal of
R. M. Docker.

I am sorry to find that the step which you have taken was necessary, and I hope that you will adopt the same course in every case of a similar kind which may occur.

I remain, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Royal Admiral.)

My dear Sir, Downing Street, 18 June, 1830.

18 June.

I beg to thank you for your private letter to me of the 6th of January last respecting Mr. Knapp, whose removal from the Surveyor General's Department, under the circumstances reported by Major Mitchell, seems to have been unavoidable.

Dismissal of
E. J. H. Knapp.

I am, &c.,

R. W. HAY.

1830.
19 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 49, per ship Royal Admiral.)

Sir, Downing Street, 19th June, 1830.

Transmission
of instructions.

In my dispatch of the 25th of May, 1829, No. 113, I intimated to you my intention of recommending to His Majesty the revocation of the letters Patent for establishing the Clergy and School Corporation in New South Wales. I have now the honor of transmitting to you Instructions under the Royal Sign Manual for carrying that measure into effect, and for establishing other Regulations in lieu of those, under which the affairs connected with the Church and School Property have been administered. These Regulations, you will proceed to promulgate in the Colony immediately on the receipt of this dispatch, adopting such arrangements in respect to the further details, as you shall conceive to be most conducive to the permanent welfare of the Church and School Establishments.

I am, &c.,

G. MURRAY.

[Enclosure.]

GEORGE R.

(Stamped.) Affixed in His Majesty's Presence and by His Majesty's Command—FARNBOROUGH.

Witness—WELLINGTON.

Instructions
re revocation
of letters
patent for
corporation of
clergy and school
estates and
appointment of
commissioners.

ADDITIONAL Instructions to Our Trusty and Wellbeloved Ralph Darling, Esq., Lieutt. General of Our Forces, Our Captain General, and Governor in Chief of Our Territory of New South Wales and it's Dependencies, or to the Lieutt. Governor or Commander in Chief of the said Territory for the time being. Given at Our Court at Windsor, the Nineteenth day of June, 1830, In the Eleventh Year of Our Reign.

WHEREAS, by Our Commission*—under Our Great Seal, constituting and appointing you to be Our Captain General and Governor in Chief of Our Territory of New South Wales, and by certain Additional Instructions under Our Signet and Sign Manual, bearing date the seventeenth day of July in the sixth year of Our Reign, We did require and command you, with all convenient speed after your arrival in Our said Colony, to affix the Public Seal thereof to certain Letters Patent for establishing within Our said Colony a corporation by the name of the Trustees of the Clergy and School Lands in the Colony of New South Wales for such several purposes as therein mentioned. And whereas, in pursuance of the said Instructions, Letters Patent, bearing date the ninth day of March, 1826, were accordingly issued by you in Our Name under the Seal of Our said Colony. And Whereas (in pursuance of the said Instructions) it is by the said Letters Patent among other things ordained that it shall be lawful for Us, Our Heirs and Successors, from time to time as occasion may require to revoke, alter or vary

* Note 135.

any of the Provisions, Declarations and Conditions or Regulations therein contained and in their place and stead to establish, institute and ordain such other further rules, orders and Provisions for the better conduct of the Affairs of the said Corporation, or for the better regulating the constitution thereof, or otherwise in respect to the matters in the said Letters Patent mentioned, or any of them, as to Us. Our Heirs and Successors, may seem meet; and it is thereby provided that no such revocation, alteration or variation, as aforesaid, and that no such new Rules, Orders or Provisions, as aforesaid, shall be made or established except by Letters Patent to be issued under the Public Seal of Our said Colony by the Governor or Acting Governor thereof for the time being in pursuance of an Instrument to be to him for that purpose issued by Us. Our Heirs and Successors, under Our or their Royal Sign Manual. And Whereas We have thought fit to revoke the several Provisions, Declarations, Conditions and Regulations in the said Letters Patent contained. Now therefore We do by these Our Additional Instructions, under Our Royal Sign Manual, and in pursuance and exercise of the Powers to Us reserved in and by the said Additional Instructions of the seventeenth day of July in the year aforesaid, require and command you that you do affix the Public Seal of Our said Colony to Letters Patent to be issued in Our Name, revoking the several Provisions, Declarations, Conditions and Regulations in the first mentioned Letters Patent contained. And We do hereby further authorize and require you, in and by the said Letters Patent, so to be issued as aforesaid, to establish, institute and ordain the following rules, orders and provisions in the place and stead of the provisions, declarations, conditions and regulations, so to be revoked as aforesaid, that is to say: We do require you to appoint Five Persons to be Commissioners to manage the affairs of the said Corporation, and to perform the several duties vested in the said Corporation in and by the said Letters Patent committed to them. And We do further direct that the Archdeacon for the time being shall by virtue of his Office be the Chairman and first Member of the said Commission. And We do authorize and empower you from time to time to appoint New Commissioners for the purposes aforesaid to supply any vacancies, which may from time to time occur in the said Commission by the death, resignation, suspension, removal, incapacity or absence from the Colony of any of the Members thereof. And Our Pleasure is and We do hereby require that, until further orders shall be made by Us in that behalf, the said Commissioners do observe and obey all such general or special rules and orders, as may from time to time be issued for their guidance in the performance of the duties, so to be committed to them by you or by the Officer for the time being administering the Government of Our said Colony, with the advice of the Executive Council thereof. And We do hereby reserve to Ourselves, Our Heirs and Successors, full power and authority from time to time, as occasion may require, to make, ordain and establish all such new rules, orders and provisions, in respect to the matters aforesaid or any of them, as to Us, Our Heirs and Successors, may seem meet.

BATHURST.
ROSSLYN.
ROBT. PEEL.

1830.
19 June.

Instructions
re revocation
of letters
patent for
corporation of
clergy and school
estates and
appointment of
commissioners.

1830.
20 June.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 50, per ship Royal Admiral; acknowledged by Governor Darling, 15th July, 1831.)

Sir, Downing St., 20 June, 1830.

Expenditure
on staff corps.

With reference to Lord Viscount Goderich's dispatch of the 19th of May, 1827, No. 5, relative to a claim against the Government of New South Wales for the sum of Two Thousand, Six Hundred and ninety four Pounds 16s. 3d., on account of the Staff Corps stationed there for the year 1826, I transmit to you herewith a copy of a letter from the Secretary to the Treasury, not only relating to that sum, which it would appear has never yet been paid into the Military Chest as directed, but also to a like sum of Two Thousand, six hundred and ninety four pounds 16s. 3d. due on the same account for the year 1827. If, before the receipt of this dispatch, you shall not have adopted measures for repaying the two sums abovementioned, amounting together to five thousand, three hundred and Eighty nine pounds, 12s. 6d., you will be pleased to take immediate steps for that purpose, apprising me as soon as such repayment shall have been completed, in order that the Lords Commissioners of the Treasury may be duly informed of the circumstance. I am, &c.,

Instructions
for payment
into military
chest.

G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 5th May, 1830.

Expenditure
on staff corps.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you for the information of Secretary Sir George Murray the enclosed Extract from a letter from the Secretary at War, relative to the payment from the Revenues of New South Wales into the Military Chest there of the Sum of £2,694 16s. 3d., on account of the Staff Corps stationed there for the year 1826; and I am to request, with reference to the letter of this Board of the 12th of May, 1827, that you will move Sir George Murray to give such further directions, as he may deem proper to the Governor of New South Wales for the payment into the Military Chest of the said Sum of £2,694 16s. 3d. on account of the year 1826, and of a like Sum for the year 1827. I am, &c.,

J. STEWART.

[Sub-enclosure.]

EXTRACT OF A LETTER FROM THE SECRETARY AT WAR.

Necessity for
instructions
re payment.

" WITH respect to the sum due from the Colony of New South Wales on this account for the year 1826, amounting to £2,694 16s. 3d., which their Lordships, in their Minute dated 24th April, 1827, directed to be in like manner paid out of the Revenue of that Colony, I have the honor to observe that it appears by the Report of the Commissioners of Audit, dated 5th Inst., that their Lordships will be pleased to issue such further instructions, both as regards

the said sum of £2,694 16s. 3d. due for 1826 and also a like sum of £2,694 16s. 3d. due for 1827, as to their Lordships may seem proper."

1830.
20 June.

I have, &c.,

H. HARDINGE.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 51, per ship Royal Admiral.)

Sir, Downing Street, 21 June, 1830.

21 June.

I duly received your dispatch No. 100 of the 25 of August last, reporting the circumstances under which you had allowed the sum of Two hundred and twenty seven Pounds, nine shillings to be advanced to the family of the late Mr. Panton on account of a seizure made by that Gentleman in 1824, whilst holding the situation of Wharfinger in the Naval Officer's Department at Sydney.

Payment for seizure of spirits *ex brig Ann* to family of G. Panton.

I now transmit to you the copy of a letter from the Secretary to the Treasury upon this subject, together with a copy of the report therein referred to from the Commissioners of the Customs; and, as it appears to be the opinion of the Lords Commissioners of the Treasury that the sum of Two hundred and twenty seven Pounds nine shillings, granted by you to the Widow of Mr. Panton in consideration of the seizure made by him in 1824, I have to authorize your charging that sum in the accounts of the Colony. You will perceive that the Commissioners of Customs advert to your not having imposed any forfeiture or penalties, as you were empowered to do by the 4th Section of the Act of the 3 Geo. 4, cap. 96, for the more effectual collection of the duties authorized to be levied by the 2d Section of the said Act. With a view therefore to prevent Persons in future, who may attempt the commission of the same fraud upon the Revenue, as that which forms the subject of the papers now under consideration, from escaping the forfeitures and penalties, to which a transaction of that nature would expose the parties in all others of the British Colonies, in which the Act of the 6th Geo. 4, cap. 114, has come into operation, I am to desire that you will proceed to establish such Rules and Regulations, as may, in your opinion and that of your Council, be fit and proper to enforce the due and punctual payment of all such duties, as may be established in the Colony under your Government.

Approval of payment.

Penalties to be established for non-payment of duties.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY HAY.

Sir, Treasury Chambers, 15 June, 1830.

The Lords Commissioners of His Majesty's Treasury having had under their consideration your letter of the 8th Ultimo, and its

1830.
21 June.

Approval of
payment to
widow of
G. Panton.

Enclosures representing the circumstances under which the Governor of New South Wales has allowed the Sum of £227 9s. to be advanced to the Family of the late Mr. Panton, in consideration of a Seizure made by him in the year 1824 whilst holding the Situation of Wharfinger in the Naval Officer's Department at Sydney, and their Lordships having thought fit to refer your said Letter and its Enclosures for such observations as the Commissioners of the Customs might have to offer thereon, I am commanded to transmit to you for the information of Secretary Sir George Murray the enclosed Copy of their Report thereon, from which it appears that the Commissioners of the Customs infer from the fact of no Fine or Penalty having been imposed upon the Parties, who were concerned in the fraudulent Entry of the Brandy seized by Mr. Panton, that no Rules or Regulations for the purposes contemplated by the Act 3d George 4th, Cap. 96, had been made at the time the transaction in question took place, and that, as no forfeiture or Penalty had been imposed by Law, it would appear that Mr. Panton had no legal Claim to remuneration; but that, had this transaction occurred in any of the British Colonies in which the Act of the 6th Geo. 4th, Cap. 114, came into operation, the Brandy would have been liable to Forfeiture, the Master of the Vessel to the Penalty of £100 for having made a false Report, and the Parties who were concerned in the unshipping of the Goods to the Penalty of treble the value thereof; and the officer, at whose instance proceedings were instituted, would have been legally entitled to one third of the Net Proceeds of the amount recovered; and I am to request that you will acquaint Sir George Murray that it is my Lords' opinion the grant of Two hundred and twenty Seven Pounds nine Shillings to Mr. Panton's Widow may properly be sanctioned; at the same time, my Lords desire to draw Sir George Murray's attention to the Governor not having, as it would appear, established the necessary Rules and Regulations under the Powers vested in him by the 4th Section of the Act 3rd George 4, Cap. 96.

I am, &c.,
J. STEWART.

[Sub-enclosure.]

REPORT BY THE COMMISSIONERS OF CUSTOMS.

May it please Your Lordships,

Report by
commissioners
of customs.

Your Lordships having referred to us the annexed Letter from Mr. Hay, dated the 8 Ulto., transmitting the Copy of a Dispatch and Enclosures from Lieutt. Genl. Darling, Govr. of N. S. Wales, representing the circumstances under which his Excellency had allowed the sum of £227 9s. to be advanced to the family of the late Mr. Panton, on account of a seizure made by that Gentleman in 1824, whilst holding the situation of Wharfinger in the Naval Officer's Department at Sydney, and requesting to receive authority from Secrety. Sir Geo. Murray for charging the said sum in the public Accounts of the Colony,

We Report,

Authority for
levy of duties.

That, By the Act of the 59 Geo. 3, C. 114, it was enacted that it should be lawful for the Govr. or other Person administering the Govt. of N. S. Wales to order or direct the Levy of any rate or duty, which might have been imposed in the said Colony previously to the passing of that Act.

That, by the 2 Sec. of the Act of 3 Geo. 4, C. 96, it was enacted that the duty chargeable upon all spirits imported in New South Wales (except Spirits the produce or manufacture of the United Kingdom, and Rum the produce of His Majesty's Plantations in the West Indies imported directly from the United Kingdom) should not exceed 15s. per Gallon; and, by the 4 Sec. of the said Act, it was provided that it should be lawful for the Govr. of N. S. Wales to make such Rules and Regulations as might appear fit and proper for the effectual collection of the Duties authorized by that Act to be levied, and for that purpose to impose such reasonable Fines and Penalties as might be necessary to enforce the due and punctual payment of such Duties.

That it appears that, in the Month of Decr., 1824, Mr. Panton, whilst employed as Wharfinger under the Naval Officer at N. S. Wales, an office analogous to that of Landing Waiter in the Service of this Department, seized a Quantity of Brandy consisting of 182 Cases, which contained 643 Gallons, for having been entered under the denomination of Wines, together with the Vessel in which the same was imported from the Mauritius and the remainder of her Cargo; but which vessel and Goods were subsequently restored upon payment of the duty then due upon the Brandy in question, there being no Law in force in the Colony forfeiting the same for having been incorrectly described in the Entry; whereupon Mr. Panton claimed some remuneration for having made the seizure in question, which was not granted during his life time; but, since his decease the Govr. has paid to his Widow the sum of £227 9s., being the amount of the difference of duty which accrued to the Colony, between the lower duty, which would have been paid on the Brandy as Wine, and that which was actually received through the discovery made by Mr. Panton.

From the fact of no fine or penalty having been imposed upon the Parties, who were concerned in the fraudulent entry of the Brandy alluded to, it is to be inferred that no Rules or Regulations for the purposes, contemplated by the before mentioned Act of the 3rd Geo. 4, C. 96, had been made at the time the transaction in question took place, and, as no forfeiture or Penalty had been imposed by Law, it would appear that Mr. Panton had no legal claim to remuneration.

We would here, however, take leave to observe that, had this transaction occurred in any of the British Colonies, in which the Act of the 6 Geo. 4, C. 114, came into operation, the Brandy would have been liable to forfeiture, the Master of the Vessel to the Penalty of £100 for having made a false Report, and the Parties who were concerned in the unshipping of the goods to the penalty of treble the value thereof, and the Officer, at whose instance Proceedings might have been instituted, would have been legally entitled to one third of the net Proceeds of the amount recovered; and, in that case, Mr. Panton would have received about £500 as his share of the Produce of the seizure in question.

Under these circumstances, We would submit, whether your Lordships may not be pleased to approve of the sum paid in this case to the family of Mr. Panton by the Govr. of N. S. Wales being charged to the Accounts of that Colony.

G. STEWART.

G. W. F. VILLIERS.

S. G. LUSHINGTON.

H. LEGGE.

Custom House, 5 June, 1830.

1830.
21 June.

Statutory provisions re duties and penalties to enforce collection.

Payment to widow of G. Panton for seizure of brandy *ex brig Ann.*

Penalties imposed in other colonies.

Approval of payment to widow of G. Panton.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 39, per ship Australia; acknowledged by
Viscount Goderich, 20th January, 1831.)

Sir, Government House, 21st June, 1830.

I have the honor to forward the accompanying Copy of a Letter addressed to me by Mr. Cotton, the Collector of Customs, requesting to be allowed an Allotment in the Neighbourhood of Sydney for the purpose of erecting a House for his residence and a Grant of Land similar to that given to the other Civil Officers of his Class.

In transmitting this application, I beg to observe that Mr. Cotton's Conduct and services give him every claim to the indulgence he solicits. I have declined directing the Ground, he has applied for, being reserved pending your decision on his application, it being contrary to the present practice.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. M. C. COTTON TO GOVERNOR DARLING.

Sir, Sydney, 18th June, 1830.

I have the honor to request that Your Excellency will be pleased to accord me the Indulgence of a Grant of Land to such extent as you may consider me entitled, and a Town Allotment for the purpose of erecting a Residence; or, if Your Excellency cannot consistently with existing Regulations comply with my request, that you will have the goodness to bring my application under the favorable notice of The Right Honble. The Secretary of State for the Colonies, and in the mean time to grant me a Reserve of the Land and Allotment which, in the event of Your Excellency entertaining my application, I shall have the honor to submit for approval.

I have, &c.,
M. C. COTTON.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

My dear Sir, Downing Street, 25th June, 1830.

In consequence of the accompanying letter from Mr. Dawson, Secretary to the Treasury, I am induced to recommend to your protection the bearer, Mr. Joseph Wright, with the request that you will afford to him any facilities which may not be inconsistent with the Regulations to grant. I am, &c.,

R. W. HAY.

[Enclosure.]

[A copy of this letter is not available.]

* Note 7.

1830.
21 June.

Transmission
of application
from
M. C. Cotton.

Testimony
in favour of
M. C. Cotton.

Request by
M. C. Cotton
for building
allotment.

25 June.

Recommend-
ation of
J. Wright.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Royal Admiral.)

1830.
26 June.

Sir, Downing Street, 26th June, 1830.

Mr. John Wood (Member of Parliament for Preston) has applied to this Office for information as to the fate of Convict "John Gamble," who was convicted of Forgery at the York Assizes about 9 years ago, and was transported to New South Wales. A report has reached the friends of John Gamble that he has been executed in the Colony, and that his two children have been sent back to this Country. I am directed by Secretary Sir George Murray to request that you will cause every enquiry to be made respecting this person, and report to Sir George Murray what may have become of him and his children.

Report required
re J. Gamble.

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

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 52, per ship Royal Admiral.)

Sir, Dowling Street, 27th June, 1830.

27 June.

I have delayed sending any reply to your Dispatch No. 14 of the 9th of February, 1828, conceiving that the decision, to which you had come in the case of Mr. Icely, would not be satisfactory to him, and that I should very possibly have to make a further communication to you upon the claims of that Gentleman, whenever he should arrive in England. Mr. Icely has not as yet brought forward any fresh application, although I have reason to apprehend that it is his intention to do so. In the mean time however, I think it right to convey to you my sanction of the issue to him of the sum of £1,698 10s. on account of the Claims in question, in order that no difficulty may arise in admitting this charge in the Public Accounts for the year 1828, whenever they shall come under examination.

Delay in
decision re
claims of
T. Icely.

Approval for
payment.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 53, per ship Royal Admiral.)

Sir, Downing Street, 28th June, 1830.

28 June.

Having referred for the consideration of the Lords Commissioners of His Majesty's Treasury your Dispatches dated 31st Decr., 1828, No. 146, and 6th April, 1829, No. 35, wherein you represent the necessity of building a new Custom House, and of increasing the strength of the Customs Department, I have the honor to transmit to you, for your information; copies

Proposed
custom
house and
establishment
for customs.

1830.
28 June.

Temporary
prohibition
of new
appointments.

of a letter from the Secretary of the Lords Commissioners, and of a Report which the Board of Customs have made to their Lordships upon those subjects. You will learn from these Papers that the Treasury defer taking any measures for adding to the numbers of the Customs Department at New South Wales, until a Report, which has been required from the Chief Revenue Officers there, shall have been received, and that their Lordships prefer that a building, more conveniently situated than the present Custom House, be rented (as from the Report of the Commissioners of Customs you appear to have proposed), instead of incurring the expense of erecting a new one.

Custom house
to be rented.

I have, &c.,
G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 24 June, 1830.

Transmission of
and concurrence
with report.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you the enclosed Copy of a Report from the Commissioners of Customs, dated the 10th Instant; and I am to request that you will lay the same before Secretary Sir George Murray, with reference to your letter of the 7th of September last, and acquaint him that my Lords concur in the opinion therein expressed with regard to the proposed new Custom House at Sydney, New South Wales.

I am, &c.,
J. STEWART.

[Sub-enclosure.]

REPORT BY THE COMMISSIONERS OF CUSTOMS.

MAY it please Your Lordships,

Report by
commissioners
of customs.

Your Lordships having referred to us two Letters from Mr. H. Twiss, one dated 16 July, 1829, transmitting an extract of a dispatch from Lieutt. Genl. Darling, Govr. of N. S. Wales, dated 31 Decr., 1828, and its enclosures, submitting the necessity of the appointment of an assistant Warehousekeeper at Sydney and the erection of a New Custom House and Warehouse at that Port; The other, dated 7 Sept., 1829, enclosing the Copy of a further dispatch from His Excellency, transmitting Copy of a Letter from the Collector and Controller of this Revenue at Sydney, suggesting that certain officers and clerks might be added to the establishment,

We report,

Delay in reply.

That We delayed making a return to the above mentioned orders of reference from your Lordships, until We had received from the Collec. and Controllr. at Sydney, who had been recently appointed by your Lordships a Report upon the General state of that Port, which we had directed them to make so soon as they might be enabled to do after their arrival in N. S. Wales.

That, by a Report from those officers, dated 12 May, 1829, it appeared that they had considered it necessary under the sanction of the Govr. to continue as a temporary measure the following

officers, in addition to those provided for in the Establishment approved of by your Lordships' warrant of 19th July, 1828, vizt., at Sydney:—

1830.
28 June.

A Wharfinger occasionally to assist at landing goods at a Salary of £250 per An.; 2 Landing Waiters and guagers, £250 p.a.; 1 Locker, £200; 1st Clerk, £250; 2nd Do, £200; 2 Tide-waiters, £150; 2 Do, £100; And a Landing Waiter at the Port of Newcastle, £200.

Temporary officers employed in customs.

That We approved of the arrangement, which had been provisionally made by the Collr. and Contr. for conducting the Business of the department, and directed them to report further and fully at the expiration of twelve Months from the date of their former Report, in order that We might be the better enabled to submit to your Lordships the precise Establishment of Officers, which might appear to be required for the due discharge of business and the security of the Revenue, and, so soon as their further report shall be received, We will not fail to submit to your Lordships our opinion on the subject.

Conditional approval of appointments.

With respect to the proposal that a new Custom House should be erected at Sydney, we have to state that it has been represented to us, by the Collec. and Controllr. at that Port, that the Building, at present occupied as a Custom House there, is situated nearly a Mile from the usual place of Landing, and that, upon conferring with the Govr., His Excellency had informed them that, so soon as he could dispose of the present Building which is the property of the Crown, he would sanction their renting some other more conveniently situated. And we are of opinion that in the event of that measure being effected, there would be no occasion for incurring the Expence of Erecting a New Custom House, at Sydney.

Recommendation for renting custom house.

R. B. DEAN. W. T. ROE.
S. G. LUSHINGTON. M. BINNING.

Custom House, 10 June, 1830.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch per ship Kains; acknowledged by Governor Darling, 14th March, 1831.)

Sir, Downing Street, 29 June, 1830.

29 June.

It is with the deepest concern that I have to communicate to you the melancholy Intelligence of the death of His late Most Gracious and Excellent Majesty King George the Fourth.

Death of George IV.

His Majesty expired at His Castle at Windsor on the morning of Saturday the 26th Instant, at a quarter past three o'clock, to the great affliction of the Royal Family and all classes of His Majesty's Subjects.

His present Majesty was proclaimed King yesterday with all the solemnities used on the like occasions.

Accession of William IV.

His Majesty's Gracious Declaration, contained in the enclosed Gazette, will best inform you of His Resolution to direct His anxious endeavours, under the Blessing of Divine Providence, to

1830.
29 June.

Form for
proclaiming
accession.

Continuance
of persons in
office.

maintain the Reformed Religion established by Law, to protect the Rights and Liberties, and to promote the prosperity and happiness of all classes of His People.

The form, to be observed in proclaiming within Your Government His Most Sacred Majesty King William the Fourth, is stated for your guidance in the accompanying communication from the Lords of His Majesty's Most Honorable Privy Council, which also transmits, in order that the same may be made public within your Government, His Majesty's Proclamation "requiring all Persons, being in office of authority or Government at the decease of the late King, to proceed in the execution of their respective offices."

I enclose to you copies of the Extraordinary Gazettes, which have been published on this occasion.

I am, &c.,

G. MURRAY.

[Enclosure No. 1.]

INSTRUCTIONS TO GOVERNOR DARLING.

Instructions
re accession of
William IV.

AFTER our hearty commendations. It having pleased Almighty God to take to His Mercy out of this troublesome Life our late Sovereign Lord King George the Fourth of Blessed and Glorious Memory, And thereupon His Royal Majesty King William the Fourth being here proclaimed, We have thought fit to signify the same unto You with directions that You do with the assistance of the Council and Numbers of the principal Inhabitants of the Colony of New South Wales forthwith Proclaim His Most Sacred Majesty King William the Fourth according to the Form here inclosed, with the Solemnities and Ceremonies requisite on the like Occasions. And You are likewise to publish and proclaim a Proclamation requiring all persons, being in Office of Authority or Government at the decease of the late King, to proceed in the Execution of their respective Offices till His Majesty's Pleasure shall be further signified according to the printed Copy of the Proclamation herewith transmitted to You for that purpose. And so not doubting of Your ready Compliance herein, We bid You heartily farewell. From the Council Chamber at Saint James's, this twenty eighth day of June, 1830.

ROSSLYN.	HILL.
ELLENBOROUGH.	G. MURRAY.
MELVILLE.	J. C. HERRIES.

[Enclosure No. 2.]

FORM.

Form for
proclamation
of accession.

WHEREAS it hath pleased Almighty God to call to His Mercy our late Sovereign Lord King George the Fourth of Blessed and Glorious Memory, by whose Decease the Imperial Crown of the United Kingdom of Great Britain and Ireland and all other His late Majesty's Dominions is solely and rightfully come to the High and Mighty Prince William Henry, Duke of Clarence and St. Andrews, and Earl of Munster; We therefore do now hereby with one full voice and consent of Tongue and Heart publish and proclaim, That the High and Mighty Prince William Henry, Duke of Clarence and

St. Andrews and Earl of Munster, is now by the death of Our late Sovereign of happy and glorious Memory become Our only lawful and rightful Liege Lord, William the Fourth, by the Grace of God, King of the United Kingdom of Great Britain and Ireland, Defender of the Faith, and Supreme Lord, &c. To whom We do acknowledge all Faith and Constant Obedience with all hearty and humble affection, beseeching God, by whom Kings and Queens do Reign, to bless the Royal Prince William the Fourth with long and happy Years to reign over Us.

1830.
29 June.
Form for
proclamation
of accession.

Given &c.

[Copies of the "London Gazette Extraordinary" bearing dates 26th, 27th and 28th June, 1830, were also enclosed.]

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Royal Admiral.)

Sir, Downing Street, 29th June, 1830.

I am directed by Secretary Sir George Murray to transmit to you a List, which has been forwarded to this Department by desire of Sir Robert Peel, of several convicts concerned in certain mutinous proceedings on board the "Coromandel" Hulk at Bermuda, of whom it has been deemed expedient to make a strong example. With that view, these Prisoners have been embarked on board the Ship "Royal Admiral," which is about to proceed to New South Wales; and I am to convey to you the directions of Sir George Murray that none of the Prisoners therein named be permitted to partake of any indulgence during the remaining period of their respective sentences.

Prohibition of
indulgence for
mutineers
on hulk
Coromandel.

I am, &c.,

R. W. HAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch marked "Private," per ship Kains; acknowledged by Governor Darling, 14th March, 1831.)

Sir, Downing Street, 30 June, 1830.

30 June.

You will receive by this opportunity an order from the Lords of His Majesty's Privy Council together with a Proclamation therein referred to, requiring all Persons, being in office of Authority or Government at the Decease of the late King, to proceed in the execution of their respective offices.

Proclamation
re officers
continuing in
office.

In carrying their Lordships' Commands into execution, it will not escape your notice that the Proclamation, which has been issued, is avowedly framed with reference to the Statute 57 Geo. 3, c. 45, An act which, however, applied only to the demise of His Majesty King George the Third, and which is therefore obsolete and inapplicable on the present occasion. I should attach little or no importance to this error, if the Proclamation had not adopted the words of the Statute 57 Geo. 3 and required all Public Officers to continue in their Employments "during His

Technical
defects in
proclamation.

1830.
30 June.
Technical
defects in
proclamation.

Majesty's Pleasure." But the Law, which ascertains the duration of such offices on the demise of each successive Sovereign of this Kingdom, is the statute 6 Anne, C. 7, which requires all Public Officers, holding at the Pleasure of the Crown, to continue in office for six months only after the decease of the Sovereign, unless sooner removed. It is possible that some misapprehension may be occasioned in the Colony of New South Wales by the Terms of this Proclamation. In that case, you will take the necessary measures to obviate and correct any such misapprehension. But, if the question should not be raised by others, you will of course abstain from adverting to it.

I have, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Royal Admiral.)

Sir, Downing Street, 30th June, 1830.

Transmission
of letter.

I have received a Letter from the Under Secretary of State for the Home Department, with which Sir George Murray thinks it necessary that you should be furnished with a Copy, although he does not conceive that any difficulty would have been experienced by the person, therein referred to, in respect to his Landing, had no communication of the nature of that desired by Sir Robert Peel been made to you.

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

[Enclosure.]

UNDER SECRETARY PHILLIPS TO UNDER SECRETARY HAY.

Sir, Whitehall, 28th June, 1830.

Permission for
J. Wild to land
in colony.

Secretary Sir Robert Peel having thought fit to grant John Wild a Free Passage to New South Wales on board the Ship "Royal Admiral," I am to desire that you will move Secretary Sir George Murray to be pleased to notify the same to the Governor of that Colony, in order that the man may be permitted to land on the arrival of the Ship.

I am, &c.,
S. M. PHILLIPS.

GOVERNOR DARLING TO UNDER SECRETARY TWISS.
(Despatch per ship Australia.)

Sir, Government House, 1st July, 1830.

1 July.
Transmission
of report from
J. Nicholson.

I have the honor to transmit agreeably to the desire expressed in your Letter of the 30th of September last, the accompanying Copy of a Letter from the Master Attendant and Harbour Master and of a Government Order dated the 1st of February, 1819, specifying the rates of Pilotage charged in this Government.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

1830.
1 July.

MR. JOHN NICHOLSON TO COLONIAL SECRETARY MACLEAY.

Sir, Master Attendant's Office, Sydney, 19th March, 1830.

I have had the honor to receive your Letter of yesterday's date No. 47, calling on me for a Statement of the Rates, which are charged for the Pilotage of His Majesty's Ships and Vessels into the Harbours of this Colony. In attention thereto, I now do myself the honor of forwarding to you, for the information of His Excellency the Governor, an Extract of a Government and General Order, in which Pilotage is charged for Vessels visiting this Port. I beg to add that I am not aware of any authorised Rates of Pilotage for any other Harbour on the Coast.

Report *re* rates
for pilotage.

I have, &c.,

JOHN NICHOLSON, Master Attendant.

[Enclosure No. 2.]

[*This was the first part of section 50 of the port regulations; see page 80, volume X.*]

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 54, per ship Kains.)

Sir, Downing Street, 6 July, 1830.

6 July.

The House of Commons having presented to the King various Addresses, praying that there may be laid before that House certain Returns, therein specified, connected with the superintendance, maintenance and employment of the Convicts under sentence at New South Wales, and His Majesty having been pleased to command a compliance with the said Addresses, such portions of the Returns required, as are contained in your correspondence with this Office, have been laid before the House of Commons. I have the honor to transmit to you a copy of the Addresses in question (in the margin* of which are specified the papers which have been presented), and I have to signify to you the Royal Pleasure that the additional information required to complete the Returns, called for by the House of Commons, be collected and transmitted to this Office with the least possible delay.

Returns
required by
house of
commons *re*
convicts.

I am, &c.,

G. MURRAY.

[Enclosure.]

RESOLUTIONS BY HOUSE OF COMMONS.

Resolved.

Veneris, 11^o die Junii, 1830.

That an humble Address be presented to His Majesty that He will be graciously pleased to give directions that there be laid before this House, a Return of the number of Convicts in the Colony of New South Wales, on 1st January and 1st July (or any other two periods) in each year from 1826 to 1828 both inclusive; stating the number assigned as servants, and the number not

Resolutions
by house of
commons for
general returns
of convicts.

1830.
6 July.

Resolutions
by house of
commons for
return of
expenditure and
establishment of
superintendent
of convicts ;

assigned, distinguishing those kept at work as a punishment from those waiting for masters, distinguishing also the males from the females.

Resolved,

That an humble address be presented to His Majesty that He will be graciously pleased to give directions that there be laid before this House an Account of the expense of the department of the Superintendent of the Convicts in New South Wales in 1829, including the expense for building, and stating the number of persons employed in that establishment, the office each holds, and the Salaries and emoluments they receive; also, the total expense for maintaining the Convicts in each of the years 1826 to 1828, both inclusive and the charge per head for each Convict for 365 days, on the average of each of the years.

Resolved,

That an humble Address be presented to His Majesty, that He will be graciously pleased to give directions that there be laid before this House a Return of the number of applications made to the Land Board in New South Wales in each year from 1826 to 1828, inclusive, for Convicts as Servants; stating the number of applications made, the number complied with, and the number of applications rejected, and how many Convicts were assigned in each year; also, a Return of the expense of the Land Board and its establishment in that year, stating the names, office, and amount of Salary, and allowances of each officer.

applications
for assigned
servants ;

expense and
establishment
of land board ;

Resolved,

That an humble Address be presented to His Majesty that He will be graciously pleased to give directions that there be laid before this House a Statement of the number of Convicts employed by the Government of New South Wales in the garden gang, the lumber-yard gang, and the public works in the year 1828; stating the number kept at each place, and distinguishing the number of mechanics from labourers, as far as the same can be complied with.

convicts
employed by
government ;

Resolved,

That an humble Address be presented to His Majesty that He will be graciously pleased to give directions that there be laid before this House a Return of the average number of female Convicts confined in the factory at Paramatta, in each month, in the years 1827 and 1828; distinguishing the number under punishment, and the number assignable as servants; stating the total expense of that establishment, and the average charge or rate per head in each year.

female convicts
in factory ;

Resolved,

That an humble Address be presented to His Majesty that He will be graciously pleased to give directions that there be laid before this House a Return of the number of applications from Settlers, and others, for female Convicts as servants, in each of those years; stating the number of applications complied with, and how many Convicts were assigned; also, the number of applications rejected in each year.

and applications
for assignment
of female
convicts.

Ordered,

That the said Addresses be presented to His Majesty by such Members of this House as are of His Majesty's Most honorable

J. H. LEY.

Cl. Dom. Com.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(A circular despatch per ship Burrell.)

1830.
6 July.

Sir, Downing Street, 6th July, 1830.

I transmit to you herewith His Majesty's Warrant authorising you to make use of the public Seal* now in use at New South Wales until another shall be prepared and transmitted to you, together with additional Instructions for the alterations in the Form of Prayer, which have become necessary by the Demise of the Crown.

Authority to use public seal.

Alterations in form of prayer.

I am, &c.,
G. MURRAY.

[Enclosure.]

[Copies of the warrant and instructions are not available.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 55. per ship Florentia.)

Sir, Downing Street, 8 July, 1830.

8 July.

I have received your despatch No. 124 of the 16th of December last, enclosing a letter from Mr. Macquoid on the subject of his name not having been included in the Warrant appointing a Legislative Council for New South Wales, and further with respect to the omission of the Sheriff in the table of Precedence established according to the Instructions contained in the letter, which my Under Secretary addressed to you by my desire on the 30 of Novr., 1828.

Letter from T. Macquoid acknowledged.

You are aware that the object in the contemplation of His Majesty's Government, when they submitted to Parliament the propriety of augmenting the number of the Legislative Councillors, was to afford to the Inhabitants a more direct participation in the administration of the affairs of the Colony than they before enjoyed; and I need not observe that it would have been wholly inconsistent with such an object, if, in the selection of the Persons of whom that Body was to be composed, a greater proportion of Public Officers were included than circumstances required.

Object of increase in number of legislative council.

The Persons fixed upon by me to compose the Government Members of that Body were selected according to their Rank in the Service, with reference to the situations they filled; and I do not perceive that I could, consistently with the principle of selection above stated, have made a different one, if the opportunity now offered. However desirable therefore it would be to have in the Council a Gentleman of Mr. Macquoid's Character and experience for business, I regret that I am unable to hold out to him at present any expectation of his wishes being gratified.

Selection of government members.

Inability to appoint T. Macquoid.

1830.
8 July.

Precedence
proposed
for sheriff.

With respect to the question of Precedence, which has been again raised by the name of the Sheriff having been omitted in the Table of Precedence, which accompanied Mr. Twiss's letter of the 30th of Novr., 1828, I must repeat that it is a subject upon which I do not conceive there existed any necessity for a reference to England. As however the rank of a large proportion of the Public Officers has been established by your Government Order of the 20th of July, 1829, it may not be unimportant that the relative station of the Sheriff should be also defined; and it will afford me much pleasure if, in assigning to Mr. Macquoid, as holding that Office, Precedence next to the Members of the Legislative Council, I shall have met his wishes without having given dissatisfaction to others.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 56, per ship Florentia.)

9 July.

Refusal of
applications
re salary of
sheriff.

Sir,

Downing Street, 9 July, 1830.

I have received your dispatches No. 125 of the 17, and No. 126 of the 18th of Decr. last; the one transmitting an application from Mr. Macquoid for an augmentation of salary on the ground of the encreased duties and responsibility of his Office of Sheriff, the other relating to a similar application from Mr. Carter, the Gentleman who discharged the duties of that situation prior to Mr. Macquoid's arrival; and it is with much regret that I now acquaint you that I do not feel at liberty to add to the Public Expenditure of the Colony under your Government by acceding to the applications of either of these Gentlemen.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 57, per ship Burrell.)

10 July.

Indemnification
of J. T. Morisset
for loss of
horses.

Sir,

Downing Street, 10 July, 1830.

I have received your dispatch No. 129 of the 26th of December last, reporting that you had authorized an allowance of £50 8s. to be issued to Colonel Morisset as an indemnification for the loss of two Horses sustained by him when proceeding to assume the duties of his appointment as Commandant of Norfolk Island.

In my dispatch No. 21 of the 12th of April last, I acquainted you that Colonel Morisset was not entitled to any Military Allowances whatever as Commandant of Norfolk Island, that

appointment having been conferred upon him with the distinct understanding that he was not to expect any Emoluments beyond the salary of £600 per annum. As therefore Colonel Morisset cannot claim any allowance for the support of two Horses, nor is expected to keep any for purposes connected with his situation, I regret that I do not feel at liberty to authorize, as a charge against the Public, the allowance which you have issued to him as an indemnification for those which died during their voyage with him to Norfolk Island.

1830.
10 July.

Disapproval
of payment to
J. T. Morisset.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Burrell.)

Sir, Downing Street, 11 July, 1830. 11 July.

I have the honor to acknowledge the receipt of your letter of the 30th of Decr. last, addressed to Mr. Twiss. Having laid the same before Secretary Sir George Murray, I am directed to acquaint you that, under the circumstances of the case, he approves of your having issued the sum of £75 to Mr. Rodd. As however this Gentleman appears to have subsequently relinquished his intention of proceeding to England, to defray the expence of which this pecuniary assistance was afforded to him, the Secretary of State is of opinion that Mr. Rodd should be called upon to refund the money; and you will therefore be pleased to take the necessary steps for that purpose, if Mr. Rodd should not have quitted the Colony before the receipt of this letter.

Approval of
advance to
J. T. Rodd.

Refund ordered.

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

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 58, per ship Burrell.)

Sir, Downing Street, 12th July, 1830. 12 July.

I have received your dispatch No. 1 of the 11 of Jan'y. last, accompanied by a Memorial from Mr. Thomson, Clerk of the Executive and Legislative Councils, praying that his salary may be increased to £800 per annum, the sum enjoyed by his Predecessor. It is gratifying to me to find, from your dispatch, that Mr. Thomson has discharged with so much satisfaction to yourself the duties of his situation; but I am sorry to add that I do not feel at liberty to hold out to him any expectation of his receiving the augmentation of salary for which he has applied.

Refusal of
increase of
salary for
E. D. Thomson.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 40, per ship Australia.)

Sir, Government House, 12th July, 1830.

Instructions
received for
further details
re plan by
G. T. Maddox.

I have been honored with the receipt of your Despatch, dated the 1st of September last No. 142, informing me that mine of the 7th of April preceding, No. 36, is not satisfactory; and desiring that I would acquaint you *in what particulars and for what reasons Mr. Maddox's Report may be defective or erroneous, and to furnish you with what I consider the necessary corrections of it.*

Plan
impracticable.

I had hoped that my stating, that Mr. Maddox's Plan was not founded on any correct data, would have been sufficient without troubling you to prove its impracticability.

Proposed
assignment of
all convicts.

The foundation of the scheme is to assign the Convicts, maintained at the Expense of Government, and to have the work, required by the Government, performed by Contract; by which, Mr. Maddox states, the settlers would receive an accession of at least three thousand Men, and the Government would of course be relieved from the Expense of their Maintenance.

Number
of convicts
unassignable.

Mr. Maddox does not appear to be aware that three fourths of the Prisoners Maintained by the Government are under punishment, having been delivered over by their Masters to the Civil Power, and that there are a Number of Invalids and other Individuals, who in fact, are not assignable. The Settlers would not receive them.

Objections
to system of
contract.

As to *Contracts*, you will, Sir, be much better informed with respect to the means of the Colony in this respect by the communication* lately made to you, than Mr. Maddox appears to have been. It has, I may say, been *invariably* found, when Contracts have been entered into, that no reliance could be placed on their being fulfilled. The Colony is not yet in a state for undertakings by Contract to any extent. Every Contractor, as in the cases of the Contractors for Bread, Girard and Raine for example, as lately reported to you, expects to be assisted by the Government in fulfilling his engagement, either with Materials or Money. A pretty strong instance of this occurred not long since. A Man engaged to erect a Building for which he was to receive £1,500. If the Government had possessed the means, the Director of Works assured me, it would not have cost more than £900. The Contractor, soon after he commenced, declared his inability to proceed unless he received an advance of £500. To avoid the inconvenience which would have been experienced by his failing in his Contract, he was required to find Security and the Money was

* Note 138.

issued. Shortly after this, both the Contractor and his surety became Bankrupt!

1830.
12 July.

You are pleased, Sir, to desire that I should point out the necessary Corrections for what I may consider erroneous in Mr. Maddox's Report. It will I think be seen from the facts, I have had the honor to state, that the Plan does not admit of Correction or adoption, unless *Convicts of good Character* could be sent out, who would not subject themselves to punishment; and that Master Builders and Persons, possessing the necessary means and competent in other respects to undertake Contracts, could be induced to emigrate. In short, the Plan is altogether speculative and Visionary, and appears to have been suggested without any local knowledge or information on the subject.

Visionary
nature of
plan by
G. T. Maddox.

I may now, Sir, acknowledge, it did appear to me, by Mr. Dawson's Letter to Mr. Hay of the 26th of April, 1828, that the Lords Commissioners of His Majesty's Treasury had very properly estimated the merits of Mr. Maddox's suggestions, when, as Mr. Dawson states, "My Lords apprehend that, if the arrangements recommended by Mr. Maddox were so obvious as he supposes them to be, the Governor would himself have adopted them or recommended them for adoption."

Criticism by
commissioners
of treasury.

You could hardly doubt, Sir, my anxious desire to get rid of the Convicts, and to have the Government Work performed by Contract, were you aware what a relief it would be to the local Government, which is now obliged to Superintend the Various Establishments maintained for their management. The fact is neither of the above suggestions is practicable. You will perceive, Sir, by my Despatch of the 16th February, 1829, No. 17, that, so long as Convicts are sent to the Colony, the Government must unavoidably bear the Expense of maintaining a proportion of them, which proportion will be in the ratio of the Convicts sent out. If, as of late, they greatly exceed the numbers of former years, the Numbers to be supported by the Government will be proportionably larger.

Desirable but
impracticable
principles of
plan.

Convicts
maintained by
government.

I may state here, in proof of my desire to adopt the System of Contracts, that I have been strongly and repeatedly urged by the Deputy Commissary General and the Commandant of the Garrison to take the Baking for the Troops and Convicts into our own Hands. I have resisted it, conceiving it better to put up with the difficulties which may be supposed likely to occur from the experience of the past, of which, Sir, you have already been informed, rather than add other Establishments to those which at present exist.

Unsatisfactory
contracts for
supply of bread.

I have, &c.,

RA. DARLING.

1830.
13 July.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 59, per ship Burrell; acknowledged by
Governor Darling, 21st January, 1831.)

Sir, Downing Street, 13 July, 1830.

Despatch *re*
control of roads
and bridges.

I have to acknowledge the receipt of your despatch No. 2 of the 11th of January last, in which you report the arrangements which you have made for carrying into effect the Instructions conveyed to you in my despatch of the 26th of May, 1829, for the future conduct of the Department of the Roads and Bridges.

Assistant
surveyors
appointed to
charge of roads
and bridges.

In consequence of the Representations contained in your despatch No. 98 of the 20th of August, 1829, I was induced to add one Assistant Surveyor to the number, which, at first, it was my intention to assign to the Department of Roads and Bridges, with which addition three Officers, instead of two, were entrusted with that duty, a number which I was in hopes would have been found sufficient. From your present despatch, however, as well as from the Report of the Surveyor General, it would appear that a number not less than four (exclusive of the Officer entrusted with the details of the Department at Parramatta) will be necessary to superintend the Parties employed upon the Roads at the Principal Stations. Notwithstanding the objection which I entertain to any further augmentation of Establishment, I feel that I cannot, consistently with the interests of the Public Service, refuse to sanction the encrease which you have recommended; and I have accordingly to confirm the appointments of Messrs. Simpson, Lambie, and Dalhenty as Assistant Surveyors, with a view to the continuance of two of those Gentlemen in charge of their respective duties at the Stations where they are now employed, and the succession of the third to the vacancy occasioned by the dismissal of Mr. Knapp, as reported in your letter to my Under Secretary of the 6th of January last.

Increase of
establishment.

Appointments
approved.

Establishment
authorised.

Vacancy
to be filled.

With the two Surveyors now added to the Department of Roads and Bridges, the Establishment for conducting this Branch of the business will consist of five, the number of Persons mentioned in your despatch as being necessary for that duty. The vacancy occasioned by the dismissal of Mr. Knapp will have been also filled up; and it will therefore only remain for me to send out a Draftsman, in the room of Mr. Docker, whom it appears, by your letter to my Under Secretary of the 31 of Decr., 1829, you have removed for misconduct, to complete the number of Surveyors disposable for the general Survey of the Colony to the strength fixed by my despatch No. 37 of the 8th of May last.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 41, per ship Australia; acknowledged by
Viscount Goderich, 14th March, 1831.)

1830.
13 July.

Sir, Government House, 13th July, 1830.

I have the honor to transmit for your information the accompanying Copy of a Letter from Sir Edward Parry, Commissioner for the Australian Agricultural Company, relative to the Church, Medical and Police Establishments of the Company; and, having submitted the same for the advice of the Executive Council, I beg leave to enclose the Copy of a Letter, which has been addressed to the Commissioner in Consequence; and further to state that one Constable has been added so that the Expense, paid by the Government, is the Salary of three Constables, being about £134 per Annum.

Establishments
for
A.A. company.

Constables
maintained by
government.

The point at issue appears to be, whether the Company as an associated Body has a Claim to the same protection and assistance from the Government with respect to Police, etc., as if the Persons composing it were individual Settlers. As Sir Edward Parry has been appointed a Justice of the Peace, and the officer in Command of the Military Detachment, stationed at Port Stevens for the better security of the Settlement, is also a Magistrate, it did not appear to me necessary to place a Stipendiary Magistrate at that place, nor should I conceive myself warranted, Sir Edward Parry being a Magistrate, in relieving the Company from the payment of the Allowance, which I understand they have granted to the Officer above Mentioned, without Instructions from You to that effect.

Problem *re*
police, etc.,
on grants of
A.A. company.

As the Case is of a Novel Nature and I have had nothing to guide me in determining it, I should be obliged by being furnished with directions how I am to proceed, my desire being to do justice between the Government and the Company, and to avoid giving the latter any ground to suppose that I am in any respect hostile to its interests.

Request for
instructions.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

SIR EDWARD PARRY TO COLONIAL SECRETARY MACLEAY.

Sir, Port Stephens, 13th April, 1830.

As Commissioner for Managing the affairs of the Australian Agricultural Company in New South Wales. I beg leave to submit for the consideration of His Excellency the Governor in Chief the following circumstances connected with the Establishment of the Company in this Colony.

2. In order to maintain the execution of the Laws in that portion of the Colony at present occupied by the Servants of the Company, a Police has been established, consisting of one Magistrate (besides myself), Six Constables, One Watch house Keeper, one Scourger, and one Police Clerk.

Police
establishment
on estates of
A.A. company.

1830.
13 July.

3. The Population over which this Control is exerted consists of 227 free Persons and 285 Assigned Servants, occupying at present a Tract of Country equal to about 300 Square Miles.

4. Of this Police Establishment, the Government pays the Salaries of two Constables, but not their Rations or any other Allowances. The whole of the rest of the Expence, including the Erection and maintaining of two Watch Houses and Residences for the Magistrates and Constables, amounting to not less than £400 per Annum, is entirely defrayed by the Company.

Expenditure
defrayed by
A.A. company.

5. Under these circumstances, I feel it my duty most earnestly to call the attention of His Excellency to the injustice, as I humbly conceive it to be, of this arrangement, by which the Company are deprived of a most important privilege to which every other Settler in the Colony justly considers himself entitled, Namely, the protection of the Laws at the Public Expence.

Protest against
expenditure
at cost of
company.

6. I am not aware of any just reason why, because the Proprietors of Shares in the Company have thought proper to associate together and to *unite* their Capital for the purposes set forth in their Charter, they should not be considered entitled to the same privileges in respect of Police as if they had employed that Capital individually by the taking out and Cultivating of *separate* Grants of Land. In the latter case, the Government would have been under the absolute necessity of Establishing and Maintaining a Competent Police among them, as in other parts of the Colony; and this too under circumstances of much greater difficulty and Expence than at present, inasmuch as the extent of Territory *actually occupied* would then have been greater, a large proportion of the Company's Servants being now Congregated in Villages, where a very small Police is sufficient in proportion to the Population.

7. Having thus stated what appears to me the injustice of the principle upon which the Police at Port Stephens is at present maintained as regards *the company's Servants only*, it would be easy for me to adduce cases (and these likely to increase in Number every Year) on which the unsoundness of the principle displays itself, in respect of *other* Private Settlers in this Neighbourhood. The Bench at Port Stephens, as "Magistrates of the Territory," dare not refuse to take Cognizance of Complaints, etc., brought before them by Private Settlers. Yet the Watch House in which such Offenders are confined, and the Rations by which they are fed during the time they are in Custody, the Clerk who takes the Depositions, and the Boat or Vessel which returns them to their Masters or to Government (generally the only mode of Conveyance), all these are the Property of the Company, though the Company have nothing whatever to do with the offence or the offender. It is true that I am at liberty to send in to Government accounts in Triplicate of such Expences, and the Government might possibly order them to be paid; but, in 9 cases out of ten, the Clerk's Labor would not be covered by it, and the Company would still be the Losers, and all this because strictly speaking the Government has here no police of its own.

8. The question, which I have now considered it incumbent on me to agitate, being (as regards the Company's Interests) wholly of a pecuniary nature, it would be superfluous as well as impertinent in me to extend my remarks on this subject to the political state of the question. But I trust His Excellency will not consider me presumptuous in suggesting whether the present arrangement

be not as unconstitutional and therefore as inexpedient, as it appears to me to be unjust, whether the maintenance by any set of private Individuals in this Colony of a considerable Civil Force including the Magistrate, who is to direct that force, do not constitute a sort of *Imperium in imperio*, a state of Things which, either in principle or in practice, it would be as impossible for the Government to admit, as it would be absurd for the Company to desire.

1830.
13 July.

9. Most of the foregoing observations apply as I conceive with equal force to the Expence (a very considerable and encreasing one) of a Medical Attendant, an Hospital, Medicines and Medical Stores for the Prisoners of the Crown, assigned as Servants to the Company, there being no Government Medical Establishment within a reasonable distance of Port Stephens. To this subject, I am therefore equally desirous of drawing the attention of His Excellency The Governor, feeling confident as I do that no just reason can be assigned why the Company should be reduced to the alternative of incurring a heavy Expence in the Cure of their Convict Servants, or of Leaving them without the Medical aid which they so constantly require. It is obvious that the Company, while thus situated, are, in this respect, denied another very material advantage which is enjoyed by the Settlers in every other part of the Colony.

Expense incurred on medical establishment.

10. I cannot entertain the smallest doubt that, in point of equity, the Community, formed by the Company's Servants in this District, certainly not the least respectable among the free Settlers of New South Wales, are also entitled to the same advantages of a Church Establishment at the Public Expence as any other Community of equal extent in the Colony. Anxious however, as I am, to procure for the Company's Establishment the privilege of a Clergyman's Services, which (incredible as it may appear in a Christian Colony) have been wholly wanting for more than four Years since the first Settlement at Port Stephens, I do not wish to press this important matter so immediately on His Excellency's attention, because I am aware that some communications have lately taken place on this subject between His Majesty's Secretary of State for the Colonies and the Directors of the Company, affording a hope that some specific and satisfactory arrangement may shortly be made to supply this deficiency.

Claim to church establishment at public expence.

11. In conclusion, I beg to assure His Excellency that nothing but a strong Conviction on my mind of the justness of the principle for which I here contend, and of its extreme importance to the future Rights and Interests of the Australian Agricultural Company, could have induced me to trouble His Excellency with this Communication. After studying with the most anxious attention the Charter of the Company, as well as the Act of Incorporation, and giving the subject my best consideration, I am at a loss to discover in those Documents, either in the Letter or the spirit of them, any thing which goes to deprive the Company of the essential privileges to which I have now alluded, privileges so essential that, without them, few Private Settlers would be rash enough to invest their Capital at all in the Agriculture of this Colony.

Claim to privileges as private settlers.

12. The Company, in common with all other Persons employing their Capital in New South Wales, are bound to contribute and do contribute their full proportion to the Colonial Treasury in the shape of Duties, etc., or otherwise, as required by Law; and I cannot conceive why they, who are the largest Contributors to the

1830.
13 July.

Request for
redress.

Public Purse, should be the only Settlers receiving no equivalent and deriving no advantage in return for those Contributions.

13. Under this impression, I have felt it a duty to make the foregoing representation; and I beg leave respectfully to request that His Excellency will be pleased to take these subjects into his consideration, and to adopt such measures as he may think fit for relieving the Company from the Expences of the Police and Medical Establishments.

I have, &c.,

E. W. PARRY,
Commissioner for Managing the Affairs of the
Australian Agricultural Company.

[Enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO SIR EDWARD PARRY.

Sir, Colonial Secy.'s Office, Sydney, 14th June, 1830.

Consideration
of request by
executive
council.

I am directed by the Governor to acknowledge the receipt of your letter requesting that the Australian Agricultural Company should be relieved from the Expences attendant on the Police and Medical Establishments at Port Stephens; And His Excellency has commanded me to acquaint you that, being desirous that the subject should receive the best consideration, he was induced to submit your Letter to the Executive Council, and that the Council, considering that the Military Party consisting of a Lieutenant, who Acts as a Magistrate, and fourteen Men, together with the two Constables who are now paid by Government at Port Stephens, are fully equal to the protection afforded to other parts of the Colony generally, could not recommend any addition to the Police at Port Stephens at the Government Expense, with the exception of one Constable at Stroud. His Excellency has however desired me to add that he will have no objection to encrease the Detachment of Military to Sixteen Men, so as to enable you to station a few at Stroud, which, with the Additional Constable, will His Excellency hopes be found to afford the Establishment every necessary protection.

Increase of
military on
estates of
A.A. company.

Principles in
treatment of
assigned
servants.

With respect to the Medical Establishment, I am commanded to inform you that the Council do not consider that the Government is bound to grant Medical assistance to the assigned Servants of Settlers; but that the Australian Agricultural Company are in the same manner, as other Settlers, at liberty to send their assigned Servants to any of the Colonial Hospitals.

I have, &c.,

ALEXANDER MCLEAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 60, per ship Burrell.)

14 July.

Sir,

Downing Street, 14 July, 1830.

Forage
allowance for
commandants at
Bathurst and
Parramatta.

I have to acknowledge the receipt of your despatch No. 5 of the 14th of January last, reporting that you had found it necessary to sanction an allowance of 2s. 6d. per day to the Commandants of Bathurst and Parramatta in lieu of Forage for a Horse.

As these Officers appear to receive no remuneration in addition to their Military Pay, whilst the distance, over which their Commands extend, expose them to considerable expence, I am not disposed to object to the Forage allowance which you have authorized these Officers respectively to receive.

I am, &c.,

G. MURRAY.

1830.
14 July.

Approval of
allowance.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 42, per ship Australia.)

Sir, Government House, 14th July, 1830.

I have the honor to acknowledge the receipt of your Despatch of the 6th of December last, No. 171, having reference to mine of the 18th of February preceding, with the Report of the Board of Management of the Female Factory.

Despatch
acknowledged.

I took the liberty of stating, in my Despatch of the 30th of December last year, that there appeared to be some objection to the measure proposed in that which I had the honor to receive from you under date of the 17th of July, No. 125; and I am glad to find that the measures, which have since been adopted here, have proved instrumental to the relief of that Establishment, in which there are at present only about 400 Women, though 324 have arrived during the last six months.

Convicts
confined in
female factory.

The Measures alluded to are first, the formation of a Ladies' Committee who have raised Funds for rewarding the Women Annually who continue in the same Service, and Secondly, granting Tickets of Leave to those who have conducted themselves well. Sixty two have received Tickets of leave since the 1st of January last for good Conduct in Service and in the Married State; and between forty and fifty have been rewarded by the Ladies' Committee, who allow every Woman 15s. for the first year's service in the same place, and 10s. for every subsequent year. In addition to these arrangements, part of the Hospital at Parramatta has been appropriated for the accommodation of the Sick Women hitherto treated in the Hospital of the Factory, which is now reserved exclusively for the Lying-in Women. This has been rendered practicable by the New Hospital at Liverpool having been brought into use; and the more Serious Cases of the Men are now sent to that Establishment from the Hospital at Parramatta. Thus I hope and believe the objects of His Majesty's and the Colonial Government, as well as the interests of the Individuals in question, have been accomplished and provided for. No addition has been made to the Factory, the only Expense incurred being for the erection of a small Verandah in front of the Lying-in Wards, while the Women, in consequence of the

System of
payment and
indulgences for
good service.

Rearrangement
of hospital
accommodation.

1830.
14 July.

Increase of marriages.

Evils of leniency.

System of Rewards provided by the Ladies' Committee and granting Tickets of Leave, are certainly better Conducted than heretofore, being anxious to obtain these indulgences. In addition to which it may be stated that Marriages are much more frequent than formerly, 163 Women, Prisoners, having been Married to free Men and Men holding Tickets of Leave within the last half Year. This improvement is I presume in some measure to be attributed to the System of Management which has been pursued. There may be some difference of opinion as to the best mode of disposing and Managing the Women; but I am quite satisfied that a lax System would not have the effect of relieving the Establishment, but on the contrary would ultimately crowd it with objects of Disease and prove in every point of view extremely injurious to the Colony.

The present System may not work quite so rapidly as might be wished; but that it is tolerably effectual is proved by the Numbers, of which the Government has, as it may now fairly be concluded, been permanently relieved. In considering this question, I must repeat and it should be kept in mind that the Women, sent out to this Country, are of the very worst description, not in general being transported until there is no longer any hope of their reformation at Home. The effect then of throwing such Characters loose at once on a Community like this is a Matter of Certainty rather than Speculation.

I am unwilling, Sir, to trespass on your time by any further observations on this subject. But, should you be desirous of ascertaining the particulars of the Women in the Factory, I would take the liberty of referring you to a Letter, which appeared in the Sydney Gazette* of the 5th of September last, written, as was supposed at the time, by one of the Committee of Management. It will be seen by that Letter that no Woman who is available is ever retained in the Factory.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 61, per ship Burrell.)

15 July.

Approval of charge to clergy by Revd. W. G. Broughton.

Sir,

Downing Street, 15 July, 1830.

I have to acknowledge the receipt of your dispatch No. 8, of the 26th of January last, enclosing a copy of Archdeacon Broughton's charge to the Clergy of New South Wales.

The Zeal, which he has manifested, and the truly Christian sentiments which appear throughout this exhortation, do infinite credit to him, and afford every reasonable promise of the success

* Note 139.

of his labours in maintaining Religion and Piety in the Colony. It has also afforded me much satisfaction to observe that Archdeacon Broughton did not allow the opportunity to pass without giving due praise to the Character and efficiency of his Predecessor.

I am, &c.,

G. MURRAY.

1830.
15 July.

Approval of charge to clergy by Revd. W. G. Broughton.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 62, per ship Burrell.)

Sir,

Downing Street, 16 July, 1830.

16 July.

I have received your dispatch No. 9 of the 1st of February last, reporting that you had authorized the Bench of Magistrates at Paramatta to be reimbursed the expences amounting to £57 17s. 8d., to which they had been subjected on account of the Costs and Damages awarded against them in the case of a prosecution against a Man of the name of Bardsley for the illicit vending of spirits.*

Approval of indemnification of magistrates at Parramatta.

Under the circumstances which are stated in the Minute of the Council which accompanies your dispatch, I will not object to allow the charge in question; but I think it necessary, in order to guard the public against similar losses and to render the Magistrates more cautious in their proceedings, that they should be held responsible for any Acts undertaken by them in their Magisterial capacity, which may not be in strict conformity with the Law; And you will therefore not consider yourself authorized to sanction any expenditure in future upon the same grounds, until you shall have reported the circumstances to His Majesty's Government and received their Instructions thereupon.

Legal responsibility of magistrates.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 63, per ship Burrell.)

Sir,

Downing Street, 17 July, 1830.

17 July.

With reference to my dispatch No. 18 of the 7th of April last, in which I acquainted you that, for the reasons therein set forth, it had been determined to issue an Order of His Majesty in Council, authorizing you, with the advice of the Legislative Council of New South Wales, to extend the Trial by Jury in that Colony, I have now the honor to transmit to you, for your information and guidance, the Order in Council above alluded to, dated at the Court at Saint James's, 28 June, 1830.

Transmission of order-in-council.

I am, &c.,

G. MURRAY.

* Note 97.

1830.
17 July.

Order-in-council
for extension of
trial by jury.

[Enclosure.]

ORDER-IN-COUNCIL.

At the Court at St. James's, the 28th of June, 1830.

Present :—

The King's most Excellent Majesty.

Lord Chancellor,	Lord Ellenborough,
Lord President,	Lord Hill,
Lord Privy Seal,	Lord Bexley,
Duke of Norfolk,	Mr. Pierrepont,
Duke of Leeds,	Mr. Yorke,
Duke of Bedford,	Sir Stratford Canning,
Duke of Wellington,	Mr. Chancellor of the Exchequer,
Marquis of Winchester,	Sir William Fremantle,
Earl of Aberdeen,	Mr. Herries,
Viscount Melville,	Sir James Mackintosh,
Lord Arden,	Sir George Murray.

WHEREAS, by an Act of Parliament passed in the ninth year of the Reign of His late Majesty, intituled, "An Act to provide for the administration of Justice in New South Wales and Van Dieman's Land, and for the more effectual Government thereof, and for other purposes relating thereto," it is amongst other things enacted that "it shall and may be lawful for His Majesty, His Heirs and Successors, by any Order to be by Him or them issued with the advice of His or their Privy Council at any time or times thereafter, to authorize the Governor of New South Wales and Van Dieman's Land respectively, or either of them, with the advice of the legislative Council of the said Colonies respectively or either of them, further to extend and apply the form and manner of proceeding by Grand and Petit Juries, or either of them, in the presentment and Trial of all Crimes, Misdemeanours, issues, Matters and things properly cognizable by Juries in such parts of the said Colonies and their Dependencies respectively, at such times and with, under and subject to such limitations, Modifications and rules in respect thereof, as to the said Governors and Council respectively shall seem meet, and as shall from time to time be specified in any Law or Ordinance to be by them made in such behalf; and, whenever and so far as such manner of proceedings by Juries shall from time to time be extended and applied as therein before mentioned, then the form and manner of proceeding thereinbefore directed as well in the prosecution of offences as in the trial of Issues shall cease and determine." His Majesty doth therefore, by and with the Advice of His Privy Council and in exercise of the Power and Authority so vested in Him as aforesaid by the said Act of Parliament, authorize the Governors of New South Wales and Van Dieman's Land respectively, with the advice of the legislative Council of the said Colonies respectively, further to extend and apply the form and manner of proceeding by Grand and Petit Juries or either of them in the presentment and Trial of all Crimes, Misdemeanours, issues, matters and things, properly cognizable by Juries in such parts of the said Colonies and their Dependencies respectively, at such times, and with, under and subject to such limitations, modifications and Rules in respect thereof, as to the said Governors and Councils respectively shall seem meet, and as shall from time to time be specified in any Law or Ordinance to be by them made in such behalf.

And the Right Honourable Sir George Murray, one of His Majesty's principle Secretaries of State, is to give the necessary directions herein accordingly.

1830.
17 July.

JOS. BULLER.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Burrell.)

Sir, Downing Street, 19 July, 1830. 19 July.

I am directed by Secretary Sir George Murray to transmit to you the enclosed application from Mr. Saxe Bannister, late Attorney General of New South Wales, claiming certain arrears of Pay, due to him from the 30 of September to the 14th of October, 1826. The Secretary of State does not think it probable that Mr. Bannister would have quitted the Colony without receiving the full amount of salary due to him up to the date of his being relieved from his duties, and has accordingly declined to issue any part of the sum, which he has claimed, until he shall receive a report from you on the subject. You are aware that no provision was made by Parliament for defraying any part of the Civil Establishment of your Government subsequently to the 30 of June, 1826. Should therefore the arrears claimed by Mr. Bannister be due to him, they will of course be payable from the Revenues of the Colony, and you will be good enough to state, in your answer to this letter, the exact sum to which he is entitled, in order that the Colonial Agent may be directed to liquidate the claim.

Transmission
of claim by
S. Bannister.

Instructions
for report.

I am, &c.,

[Enclosure.]

R. W. HAY.

MR. S. BANNISTER TO UNDER SECRETARY HAY.

Sir, 2 King's Road, Bedford Row, 8th July, 1830.

It having hitherto escaped me that arrears of Salary, payable out of Funds in England, are due to me without any question for the time between the period of my last drafts and the day on which His Excellency Governor Darling removed me from my office, I have applied to the Colonial Agent on the subject. The time appears to be from the 30th September to the 14th October, 1826.

Claim by
S. Bannister
to arrears of
salary.

That Gentleman suggests it may be necessary to send to New South Wales for a Certificate that the sum is due; and he will probably refer the case to the Secretary of State, to whom, therefore, I request you will, on my behalf, submit the following grounds against the delay.

The Certificate from Sydney can, I believe, be required only for two reasons: 1st to shew that I was in the actual enjoyment of the Office during the time for which this money is claimed; and 2dly to prove I have not already been paid any thing upon credit of the English Salary for that period.

The first point is, I submit, very clearly to be inferred from a variety of Documents now in the possession of His Majesty's Government, and some under Governor Darling's own hand, and is implied at the end of your letter to me of the 26th of September last.

1830.
19 July.

Claim by
S. Bannister
to arrears of
salary.

The second can readily be ascertained in the Office of the Auditor of Colonial Accounts, if not in the Colonial Department. I recollect receiving in Sydney the sum for the broken period, which was payable out of the Colonial Funds; but I believe I did not receive anything in respect of that money which I now claim.

I trust, therefore, that the Secretary of State will see cause to advise His Majesty to authorize the issue thereof to me without a reference to New South Wales upon these points of fact.

I am, &c.,
S. BANNISTER.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 64, per ship Burrell.)

20 July.

Sir,

Downing Street, 20th July, 1830.

Papers required
by house of
commons *re*
D. McHue.

The House of Commons having presented to the King various Addresses, praying that there be laid before that House copies of certain documents, therein specified, relating to the case of Dennis M'Hue, a Prisoner of the Crown, and His Majesty having been pleased to command a compliance with the said Addresses, I have the honor to transmit to you a copy of the Addresses in question; And I have to signify to you the Royal Pleasure that the Papers, called for by the House of Commons, be transmitted to this Office with the least possible delay.

I am, &c.,
G. MURRAY.

[Enclosure.]

RESOLUTIONS BY HOUSE OF COMMONS.

Resolved,

Veneris, 9^o die Julii, 1830.

Resolutions
by house of
commons *re*
papers in case
of D. McHue.

That an Humble address be presented to H.M., that He will be graciously pleased to give directions that there be laid before this House a copy of the Depositions taken before the Sydney Bench of Magistrates against Dennis McHue (a prisoner of the Crown per ship Providence) for perjury, his conviction and sentence.

Resolved,

That an Humble address be presented to H.M., that He will be graciously pleased to give directions that there be laid before this House a copy of the order of the Supreme Court of New South Wales to the Sheriff for his discharge from confinement on the motion made for Habeas Corpus.

Resolved,

That an Humble address be presented to H.M., that he will be graciously pleased to give directions that there be laid before this House a copy of a letter addressed to the Attorney General by the Colonial Secretary, under date 26th February, 1829, numbered 29/18 together with the Reply thereto and of the letters therein referred to.

Resolved,

That an humble address be presented to H.M. that He will be graciously pleased to give directions that there be laid before this

House copies of the orders for the transportation of Dennis McHue to Moreton Bay, and of his previous confinement in the cells of the Prisoners' Barracks.

1830.
20 July.

Resolutions
by house of
commons *re*
papers in case
of D. McHue.

Resolved,

That an humble address be presented to H.M. that He will be graciously pleased to give directions that there be laid before this House a copy of the Return made to Government of the particulars of his death, stating whether or not an inquest was held on his body.

Ordered,

That the said addresses be presented to His Majesty by such Members of this House as are of H.M. Most Honble. Privy Council.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Burrell.)

Sir, Downing Street, 20 July, 1830.

Having laid before Secretary Sir George Murray your letter of the 13th of January last, addressed to Mr. Twiss, I have his directions to express his satisfaction at the general feeling of abhorrence which has been excited in the Colony by the late daring attack made upon you by Mr. Shelly, and which is alike creditable to the Inhabitants as it must be gratifying to yourself.

Despatch *re*
attack by
J. D. Shelly.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

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

Sir, Government House, 20th July, 1830.

I do myself the honor to transmit herewith, conformably to the Instructions conveyed to me in your Despatch of the 21st of June, 1829, No. 121, Manuscript Copies of the Undermentioned Laws or Ordinances which have been passed by the Legislative Council of this Colony, "Vizt.":—

Transmission of
acts of council.

"An Act to amend an Act intituled, An Act for preventing the Mischiefs arising from the Printing and Publishing Newspapers of a like Nature, by persons not Known, and for regulating the printing and publication of such Papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious Libels; and for further restraining the Abuses arising from the Publication of Slanderous and libellous matter."

Titles of acts.

"An Act to amend An Act intituled, An Act for regulating the Constitution of Juries, for the trial of Civil issues in the Supreme Court of New South Wales."

"An Act for the further regulation of the Court of Requests in New South Wales."
"An Act for regulating the Slaughtering of Cattle, and for preventing the improper driving of the same through the Streets of Sydney and for other purposes."

"An Act for prolonging for a Certain period the term of all Licenses for Keeping Public Houses, which were granted in the Year 1829."

"An Act for the general regulation of the Customs of New South Wales and its Dependencies."

"An Act for the relief of Debtors, and for an equal distribution of their Estates and effects amongst Creditors."

1830.
20 July.
Titles of acts.
- “An Act for abating the Nuisance occasioned by the great Number of Dogs, which are loose in the Streets of the Towns of Sydney, Parramatta, Liverpool and Windsor, in the Colony of New South Wales.”
- “An Act for Confirming certain rates and duties heretofore levied and Collected in the Colony, and for Continuing the like rates and Duties, until further Provision shall be made.”
- “An Act to suppress Robbery and Housebreaking, and the Harboursing of Robbers and Housebreakers.”
- “An Act to amend and consolidate the Laws now in force, relative to the Licensing and regulating of Public Houses; and for the better regulating the granting of Licences for the Sale of Ale, Beer, Wine, Spirits and other Liquors in New South Wales.”
- “An Act for the Punishment and Transportation of offenders in New South Wales.”
- “An Act for the Governor and Council, intituled An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales, and for better regulating the Powers of Justices of the Peace therein.”

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 65, per ship Burrell.)

21 July.
Despatch acknowledged.

Sir, Downing Street, 21 July, 1830.

I have to acknowledge the receipt of your dispatch No. 128 of the 24 of Decr. last, transmitting, in compliance with the directions which you had received from me, a statement of the services and private circumstances of Mr. Nicholson, Master Attendant and Harbour Master, in support of his application, originally forwarded through Admiral Durham, for an additional Grant of Land in New South Wales.

Principle for land grants to civil servants.

I have already explained to you in my dispatch of the 11 of Decr., 1829, No. 177, the principle on which I wished the Civil Servants of your Government to understand that Grants of Land were to be given to them, an indulgence which, since the removal of former restrictions upon that head, they have been more in the habit of claiming in virtue of their Official Employment than in looking to in reference to Capital, or as matter of favor from the Officer administering the Government.

Refusal of additional land grant for J. Nicholson.

In the present instance, the applicant seems to be already in the possession of a Grant of 1,500 Acres, and, as only 38 acres of this are in actual cultivation, I cannot conceive to what legitimate use Mr. Nicholson could apply an additional Grant, if there were any circumstances in his case (which I cannot discover) to induce me to acquiesce in his receiving that Indulgence; and you will therefore take steps for acquainting Mr. Nicholson that I do not feel at liberty to comply with his request. I shall not however object to Mr. Nicholson's Sons receiving separate Grants according to the Regulations, whenever they shall be of an age to undertake the cultivation of such Grants and provided their Capital be at their own disposal.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING,
(Despatch per ship Burrell.)

1830.
21 July.

Sir, Downing Street, 21 July, 1830.

I have laid before Secretary Sir George Murray your letter to Mr. Twiss of the 16th of March, 1829, wherein you transmit an account of Furniture, which has been supplied for the use of the Government House at New South Wales, and request that the charge (amounting to Five hundred and Ninety Six Pounds, Seven Shillings and Eight Pence) may be admitted into the Public Accounts of the Colony.

Approval of
payment for
furniture at
government
house.

I am directed by Sir George Murray to acquaint you in reply that he has recommended to the Lords Commissioners of His Majesty's Treasury the allowance of this charge.

I take this opportunity of transmitting for your information the accompanying extract of a Minute of the Lords Commissioners of His Majesty's Treasury, dated the 31st of October, 1828, establishing a general rule in regard to providing Furniture for the Government Houses in the Colonies, and to inform you that Sir George Murray will not in future feel himself at liberty to sanction the purchase at the Public Expence of any Furniture, whether in addition, or to replace that which may be worne out, for the Government House at New South Wales, excepting for those Rooms only which are appropriated for the reception of Company on Public days; and that you will be held responsible for any deficiencies which may arise in the Furniture now in it; An Inventory of which you will have the goodness to send home for the information of the Lords Commissioners of H.M. Treasury.

Instructions
re furniture at
government
house.

I am, &c.,

R. W. HAY.

[Enclosure.]

EXTRACT from the Treasury Minute of 31 Octr., 1828, relative to the supply of Furniture for the Government Houses in the Colonies.

Treasury
minute re
furniture for
government
houses.

“It appears to my Lords, upon a consideration of the whole of this subject, that the expense of providing Furniture for the Government Houses in the respective Colonies ought to be defrayed from the Revenue of the Colony, subject, in those Colonies in which are Colonial Assemblies, to such Regulations as to the extent and value of such Furniture, as the Legislature or the Government may impose.

“It seems, however, necessary to lay down specific regulations with respect to those Colonies which are under the more especial protection and control of His Majesty; and my Lords are of opinion that a Government House in every such Colony should in the first instance be furnished at the Public Expence to the extent that may be necessary in a plain and substantial manner, when an Inventory

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should be taken of each article of Furniture provided, and the Governor for the time being made responsible for all deficiencies that may subsequently arise."

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Australia; acknowledged by Viscount Goderich, 23rd December, 1830.)

Sir, Government House, 21st July, 1830.

I have been honoured with the receipt of the Under Secretary of State's Despatch, dated the 7th of November last, referring to a Letter* in the "Sydney Monitor" of the 6th of June, 1829, in which Mr. E. S. Hall, the Editor asserts "that a Bush-ranger at Norfolk Island, named Patrick Clynch, after he had been Captured by the Constables and was in safe Custody, in lieu of being sent to Sydney for Trial, was ordered to be shot to death. He further states that the Officers of the Island concealed the circumstance ever since it occurred, vizt., October, 1827, and adds many other particulars connected with this case, with the endeavour to impeach the Administration of Justice in New South Wales"; and desiring I would transmit "information on all the points of accusation contained in his Letter against the Executive, against the Magistrates before whom the case was investigated, and against the Officer by whose Orders the Prisoner was shot."

Statement
in *Monitor*
newspaper
re case of
P. Clynch.

Reports
transmitted.

In obedience to the Commands Contained in Mr. Twiss's Letter, I do myself the honor, Sir, to transmit for Your information a Statement of Facts, drawn up by the Colonial Secretary, of the Case of Patrick Clynch from the time of his being tried in Ireland in the Year 1823 to the period of his death; together with a full Report of the Trial of Captain Wright, 39th Regt., by Mr. Justice Dowling, who presided on the occasion, as transmitted with my Letter to the General Commanding in Chief, which Documents I believe contain all the information, which I have been called on to furnish.

Trial of
T. E. Wright
due to
conspiracy.

I cannot, Sir, close this communication without repeating here, what I have stated elsewhere, that the Trial of Captain Wright was the result of as foul a conspiracy as was ever engendered.

Messrs. Wentworth, Hall and Robison (lately dismissed the Service) hoping by the means of Lieutt. Cox of the 39th Regt. (who had been brought to a General Court Martial by Captain Wright and was sentenced to be Cashiered, but pardoned) and some Convicts who were brought from Norfolk Island as Witnesses, that they would have been enabled to have effected their purpose.

Their hostility against Captain Wright was occasioned as follows:—When Lieut. Cox arrived from Norfolk Island to appear

* Note 65.

before a General Court Martial, he immediately associated himself with Captain Robison of the Veterans (then under Arrest), the Companion of Wentworth and Hall. After Lieut. Cox's Court Martial had closed, the Party turned round on Captain Wright, and, with the Assistance of Lieutt. Cox and the Convicts above alluded to, endeavoured to Convict him of the Murder of "Clynch," hoping to connect the Government in some measure with Captain Wright's proceedings, and thus impeach its Administration of Justice. Every advantage, they could desire, and more than they could possibly have expected, was afforded them; notwithstanding which, the Case, as Mr. Wentworth was obliged to admit, had "broken under him," though endeavoured to be supported by the most palpable perjury on the part of one Witness, and the most extraordinary Evidence, to say the least of it, on the part of Lieutt. Cox, that was ever given in a Court of Justice.

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Reasons for
hostility to
T. E. Wright.

Breakdown of
prosecution.

It is un-necessary here, after the manner I have expressed myself in the Letter which I have had the honor to address to the General Commanding in Chief, to state any further opinion respecting Lieutt. Cox. It would be charitable to suppose he is not of a sound state of mind, which would be borne out by his Evidence before the Supreme Court; but of this I am quite satisfied that an officer, who has lent himself to the views of a Faction and become the Tool of a Party Composed of such Men as Hall, Wentworth and Robison, is at least unfit to be continued on full Pay in His Majesty's Service.

Criticism of
C. Cox.

His situation, at present, shews that this is the opinion of the
Garrison.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

STATEMENT of Facts, as connected with the case of Patrick Clynch, in reference to a Letter addressed to the Rt. Honble. Sir George Murray, in the Sydney Monitor of the 6th June, 1829.

Statement re
P. Clynch by
A. Macleay.

PATRICK CLYNCH was tried in the County of Longford, in the Spring Assizes 1823, for presenting a Pistol with intent to rob, and was transported for life.

Trial and
transportation.

He arrived in this Colony in 1824, and, in December of the following Year, he was convicted of two most daring Burglaries, and sentenced by the Supreme Court to suffer death.

Convictions
in colony.

He and three other Criminals were ordered for Execution by Col. Stewart, the then Acting Governor; but, as Governor Darling arrived in the Colony the day previous to that appointed for their execution, they were respited, and subsequently the Governor commuted their Sentences to Transportation to Norfolk Island and hard Labor in Chains for Life.

Transportation
to Norfolk
island.

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Mutiny of
convicts at
Norfolk island.

On the 25th of September, 1826, the Prisoners on that Island mutinied, and attempted to surprize the Garrison. They murdered a Corporal and wounded two or three Soldiers, bound the Civil Officers, robbed the Stores, seized the boats, and escaped to Philip Island, ten miles distant. They were, however, soon pursued, and, after a desperate resistance and mutual fire, they were recaptured. In this Mutiny, *Clynch* was one of the Ringleaders, of whom two were tried and executed in Sydney, and the others, after a long Imprisonment, were returned to labor in Chains.

Attack by
P. Clynch on
T. E. Wright ;

About the time the Mutineers were released from Imprisonment, Captain Wright of the 39th Regt. assumed the Command of the Island ; and, in about two Months afterwards, he ascertained that the Prisoners contemplated a second Mutiny. On the evening of the 16th of October, 1827, after all the Gangs had returned to Camp from their day's work, Captain Wright, who was walking home quite defenceless from a Farm in the Interior of the Island, was furiously assaulted by Patrick Clynch, who rushed from his Concealment in some high Grass near the Road, armed with an immense Club. It appears that, with a hideous yell, he aimed a blow at Captn. Wright's head with this Club, but the Captain fortunately warded it off and it only disabled his hand for a time. Captain Wright then saved himself by flight, and Clynch escaped to the bush. This was subsequently ascertained to have been an organised attack for the purpose of killing Captain Wright, as the signal for a general Insurrection ; but the escape of Captain Wright defeated the objects of the Plot. Three days after the attack upon Captain Wright, the prisoner Clynch attacked the principal Overseer of the Settlement, and attempted to murder him with a pole, having a dagger fixed at its end. On Saturday, the 20th of October, about 10 o'clock at night, it being very dark the Garrison was alarmed and turned out, and Captain Wright proceeded with a Serjeant and twelve Men to reinforce the Guard, and attack the Prisoners' Camp. On reaching the Camp, he heard the cries of "It's Clynch," "Its Clynch," "there he goes," "stop him." Captain Wright immediately dispersed his Party at proper Intervals in order to intercept him, and despatched a Serjeant with two Men into a neighbouring Swamp, with these words, "You know your Duty, and do it." At this time and for some minutes after the departure of these Men, Shouts were raised in every direction that Clynch was making for the Bush. It appears, however, that he was intercepted and shot, while actually attacking a Constable and one of the Soldiers with a Spear formed as above described.

and on
principal
overseer.

Alarm of
garrison.

Shooting of
P. Clynch when
fighting.

Depositions
taken and
transmitted by
T. E. Wright.

An Examination was held on the following Morning, and many Depositions were taken before Captain Wright and Lieut. Cox, both Acting Justices of the Peace, in proof of the facts above stated. These were fully reported by Captain Wright, and the original Depositions were transmitted by the very first vessel that visited the Island after the event occurred ; so that the Allegations in the Monitor of his having suppressed all notice of the Transaction for 8 Months, or even for a day, is totally false.

Approval of
conduct of
T. E. Wright.

It appeared from the Statement of Captain Wright, supported as it was, by not fewer than ten Depositions, that his Conduct in the whole of the Transaction was correct, and he was informed accordingly.

Thus the matter lay over until after a Court Martial, which was held in the Month of Feby., 1829, upon Lieut. Cox, who was the

second in Command in Norfolk Island, on certain charges brought against him by Captain Wright. As an Evidence upon that Court Martial, a Convict of the Name of McCabe was brought from Norfolk Island to Sydney; and it appears that, on the faith of a statement made by him of its having been, "after he had told Captain Wright that Clynch was in Custody, that he (Captain Wright) ordered the Sergeant to proceed to the Swamp and do his Duty." Mr. Hall the Editor of the Sydney Monitor had Captain Wright, the Sergeant, and one of the Soldiers taken before the Police Magistrates and charged with Murder. The result of the Investigation before the Magistrates was, as stated in the Monitor, that Captain Wright was discharged, and that the Sergeant and Soldier were committed for Trial for Manslaughter; but, previous to the time appointed for their Trial, Captain Wright, anxious to prove the falsehood of the accusation against him, volunteered to take his Trial for the *Murder*, as the Prosecutor originally intended, and thus gave to the Prosecutor the advantage of having the two Soldiers as Witnesses against him.

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Charges of murder preferred by E. S. Hall.

Trial of T. E. Wright at his own request.

All the Witnesses required by the Prosecutor were brought from Norfolk Island, and a long Trial ensued, when Captain Wright, standing in the Dock from ten in the Morning till near 8 at night, was acquitted. Mr. Wentworth, the Counsel for the Prosecution, having frankly acknowledged that the case had broken down under him, and stated that he would not press Captain Wright to a Defence!

Acquittal of T. E. Wright.

The Result of this Trial has been since strengthened by the Public Sentiment, as collected from the Verdict of a *Civil Jury*; for, Mr. Hall having brought an Action for Libel against the Editor of the Sydney Gazette for accusing him of a gross and malignant attempt against Captain Wright, the Jury, without waiting for the Judge's Charge, brought in a Verdict for Acquittal, declaring that they were unanimously of opinion that Mr. Hall's charge against Captain Wright was gross and malignant.

Confirmation of verdict by civil jury.

The Evidence given by the Prisoner McCabe on the Trial of Captain Wright having been directly contradicted by other Witnesses, Instructions have been given to the Attorney General to prosecute him for Perjury; but his Trial for this Offence has not yet taken place.

E. McCabe to be prosecuted for perjury.

July, 1830.

ALEXR. MCLEAY.

[Enclosure No. 2.]

"REPORT of Proceedings on the Trial of Thomas Edward Wright, Esqr., Captain in His Majesty's 39th Regiment of Foot, before James Dowling, Esqr., one of the Assistant Judges of the Supreme Court in and for the Territory of New South Wales and the Dependencies thereof, and a Jury of Seven Commissioned Officers, Charged with the Wilful Murder of Patrick Clynch, a Convict felon at Norfolk Island, on the 20th October, 1827.

Proceedings at trial of T. E. Wright.

"Friday, 9th October, 1829."

Abstract of the Report.

WILLIAM HENRY MOORE, Esqr., Solicitor for the Crown, tendered an information against *Thomas Edward Wright, Esqr.*, for Wilful Murder, and Captain Wright, having placed himself in the dock, pleaded "*Not Guilty.*"

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—
Proceedings
at trial of
T. E. Wright.

The Information charged "*Thomas Edward Wright, Esqr., together with one Daniel Tunney and one Daniel Read.*" with the wilful and malicious murder of *Patrick Clyne* on the 20th of October, 1827, at Norfolk Island.

Counsel for the Prosecution.

Charles William Wentworth, Esq., Barrister at Law; William Henry Moore, Esq., Crown Solicitor.

Counsel for the Prisoner.

James Norton, Gentleman, Attorney at Law; Thomas Deane Rowe, Gentleman, Attorney at Law.

The Examination of *Charles Cox, Esqr., Lieut. of the 39th Regt. (occupying twenty-seven pages)* gives much incriminating evidence.

A Note inserted by Mr. Justice Dowling states that this witness "spoke with great rapidity and vehemence, used considerable gesticulation, and appeared to labor under some excitation of feeling. . . ."

Then followed the evidence of *John Cavenagh, Edward McCabe, William Bruce, Charles Daly and William Holt.*

Note.—Mr. Wentworth then proposed calling Sergeant Tunney and Private Read as "approvers and accomplices in the alleged Murder" to witness against the Prisoner. Mr. Justice Dowling asked if the Attorney General had authorized their being tendered as witnesses, and, receiving a negative reply, warned Mr. Wentworth that he should commit them for trial if their evidence should tend to criminate themselves. After a reference to the practice in England (which was inapplicable to the Colony), Mr. Wentworth postponed the examination of the two witnesses, and, in the meantime, agreed to communicate with the Attorney General.

The Evidence of *J. Gallavan* followed.

Note.—The Attorney General, Alexander Macduff Baxter, Esqr., then came into Court, and tendered Sergeant Tunney and Private Read as witnesses on the part of the Crown, guaranteeing there should be no future prosecution against them, and stating their testimony was necessary to the administration of justice.

The Examination of *Daniel Tunney and Daniel Read* was then proceeded with.

Note.—Mr. Wentworth here addressed the Bench, stating that, in consequence of the evidence of the last three witnesses, he should press the prosecution no further. The Jury, after being charged by Mr. Justice Dowling, pronounced a verdict of "*Not Guilty.*"

"JAMES DOWLING,

"Assistant Judge of the Supreme Court."

"Sydney, 21st October, 1829."

Note.—*The full text of the above report occupies ninety-eight pages of manuscript.*

A full and accurate report, though less detailed than the above, appeared in the Sydney Gazette of the 13th October, 1829, where Mr. Wentworth's opening speech is also given at considerable length. This speech is not included in Mr. Dowling's report.

[Enclosure No. 3.]

GOVERNOR DARLING TO LORD FITZROY SOMERSET.

My Lord,

Government House, 27th November, 1830.

Conceiving that the General Commanding in Chief may wish to be informed of the result of the Trial of Captain Wright, 39th

Regiment, which has lately taken place in the Supreme Court. I have thought that the best means of putting his Lordship in possession of the Case would be to transmit Judge Dowling's Report of it, who, on my communicating my wishes, very kindly furnished the enclosed for General Lord Hill's information.

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Transmission of
report on trial.

As the Report contains every particular, I shall not take up your Lordship's time by entering into any explanation in this place, further than to state that the Trial arose out of some proceedings when Captain Wright was Command't at Norfolk Island; and I have no hesitation in expressing my opinion, notwithstanding the eulogium passed by the Judge (as will be seen at the conclusion of his Report) on Mr. Wentworth, who conducted the Prosecution, that a fouler conspiracy against the Life and character of an Officer never existed than that which led to the Trial in question. The authors of it appear to be Captain Robison and Lieut. Cox, both at present under Sentence of Courts Martial (the latter having been brought to Trial by Captain Wright), Hall the Editor of the Monitor Newspaper, and Wentworth the Barrister. The merit of the latter seems to be in having prudently abandoned the Prosecution, when, as the Judge states in his Report, *he found the Case had broken under him!*

Conspiracy
against
T. E. Wright.

The result, however in my humble judgement, is as little flattering or complimentary to Mr. Wentworth's Head as it is to his Heart. He had ample means through Lieutenant Cox, who was the principal mover in this matter, of ascertaining every point necessary for the Trial, and the information appears to have been supported by a host of Witnesses, Convicts of the worst character, brought from Norfolk Island; and, notwithstanding the employment of such Instruments, he was under the necessity of abandoning the Case.

Criticism
of W. C.
Wentworth;

I cannot, my Lord, too earnestly impress upon you the evil tendency of the conduct of such Men as Captain Robison and Lieutenant Cox, who, having associated themselves with the Editors of the opposition Papers and the Persons opposed to the Government, employ themselves in furnishing such information, which their Military situation enables them to obtain, as they think likely to injure the Officers in the estimation of the public, and to bring the Service generally into disrepute.

and of
R. Robison
and C. Cox.

I have, &c.,

RA. DARLING, Lt. Genl. Comdg.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 66, per ship Burrell; acknowledged by
Governor Darling, 10th February, 1831.)

Sir,

Downing Street, 22d July, 1830.

22 July.

In consequence of the representations of Lieutt. Governor Arthur as to the great increase in the business of the Civil and Criminal Courts in Van Diemen's Land, and the difficulty experienced by the Chief Justice in keeping pace with it, His Majesty's Government have determined upon the appointment of a second Judge for the service of that Colony. Mr. Baxter, the present Attorney General at New South Wales, has been recommended by me to His Majesty for that appointment, and Mr.

Nomination of
A. M. Baxter
as second judge
in Tasmania.

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Appointment
of J. Kinchela
as attorney-
general.

John Kinchela has been selected to fill the situation of Attorney General at New South Wales, vacant by the promotion of Mr. Baxter to the Bench in Van Diemen's Land. The latter Gentleman will continue in the discharge of the duties and in receipt of the full salary of his Office, until the arrival of Mr. Kinchela, who will proceed as shortly as possible to his destination; But it is not the intention of His Majesty's Government to assign a higher salary to the Office of Attorney General, in the case of Mr. Baxter's Successor, than £1,200 per annum. I trust that the arrangements, above communicated to you, will be attended in both Colonies with all the benefits I anticipate.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Burrell; acknowledged by
Governor Darling, 15th January, 1831.)

Sir, Downing Street, 22d July, 1830.

Report required
re salary of
C. S. Rumker.

I am directed by Secretary Sir George Murray to transmit to you herewith the copy of a communication, which I have received from Mr. Rumker, who states that his salary as Astronomer from the 1st of January, 1828, to the 1st of January, 1829, still remains due to him; you will have the goodness therefore to furnish the Secretary of State with the proper information on this point, in order that the Colonial Agent in this Country may be instructed to discharge these arrears. I am directed further to acquaint you that His Majesty's Government have thought fit to dispense with the services of Mr. Rumker for the future, and that he has received his salary, with the exception of the arrears now claimed, up to the 18th Ulto. and for no period beyond that date.

Dismissal of
C. S. Rumker.

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

[Enclosure.]

MR. C. RUMKER TO UNDER SECRETARY HAY.

Sir, London, 5 July, 1830.

Claim of
C. S. Rumker
to arrears of
salary.

I did not receive in New South Wales the salary due to me as Astronomer for the year from the 1 of Jany., 1828. to the 1 of Jany., 1829. for reasons stated to Mr. Twiss upon my arrival in England, and was informed by him that, without reference to the Colony, it could not be paid to me here, but was promised that this reference should be made.

I would now beg to be informed whether an answer has been received from His Excellency the Governor of New South Wales, or what I must do to enable me to receive the amount.

I have, &c.,
CHAS. RUMKER.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 67, per ship Burrell.)

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Sir, Downing Street, 23 July, 1830.

I have the honor to acknowledge the receipt of your dispatch No. 115 of the 19th of Novr. last, reporting the death of Mr. Sampson, the Solicitor General of New South Wales.

Death of
J. Sampson.

In the selection of a Successor to that Gentleman, I have not failed to bear in mind the qualifications which are pointed out in your dispatch as being necessary to be possessed by the Person, who may be chosen to fill the office of Solicitor General; and I trust that Mr. Edward McDowell, whom I have recommended to His Majesty for the appointment in question will discharge the duties of it to your perfect satisfaction.

Appointment
of E. McDowell
as solicitor-
general.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 68, per ship Florentia.)

Sir, Downing Street, 24 July, 1830.

24 July.

I have received your dispatch No. 127 of the 19th of Decr. last, respecting certain Lands of which Mr. Dangar, whilst filling the situation of Asstt. Surveyor, had been dispossessed for misconduct, and which he has subsequently claimed to have restored to him on the ground of his having purchased and partly paid for them.

Despatch *re*
claims of
H. Dangar.

The information, which you have transmitted as to the nature of the titles under which the Lands in the occupation of Mr. Dangar were held, satisfies me that there has been nothing in the withholding from him the confirmation of such lands, which can be construed as any breach of faith on the part of the Colonial Government, whilst the circumstances of his case warranted the denial of every indulgence of which he could with justice be deprived; and I have therefore to approve of the line of conduct, which you have pursued towards Mr. Dangar in respect of his Land from the moment that his misconduct became known to you.

Approval of
action *re*
H. Dangar.

It appears that it was not your intention originally to take from Mr. Dangar the 1,300 acres of land reserved for him, but only to prevent him from obtaining the 1,700 or rather 2,000 acres, which he had improperly selected for himself with a view to purchase on Hunter's River. I approve of your not now disturbing him in the possession of the 1,300 acres abovementioned; but I agree with you as to the propriety of allowing him to retain the 1,300 acres only as part of the 2,000 acres, which he had received the permission of your Predecessor to purchase, not according to the terms on which it was proposed to bestow the

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Approval of
action *re*
H. Dangar.

1,300 acres when they were first reserved in his favor. I also approve of your other suggestion of allowing Mr. Dangar to select 700 acres for purchase elsewhere, in order to complete the total quantity of Land in his possession to 2,000 acres, it being of course understood that he is to have no land confirmed to him excepting to the above extent of 2,000 acres, which he will have to purchase.

I enclose for your information the copy of a letter which my Under Secretary has addressed to Mr. Dangar upon this subject.

I am, &c.,
G. MURRAY.

[Enclosure.]

UNDER SECRETARY HAY TO MR. H. DANGAR.

Sir, Downy Street, 23d July, 1830.

Decision *re*
claims of
H. Dangar
to land.

I am directed by Secretary Sir George Murray to acquaint you that the result of the reference made to General Darling on the subject of the 1,300 Acres of Land, which had been reserved in your favour at New South Wales, and of other Selections to the extent of 2,000 Acres, which you had been permitted to make with a view to ultimate purchase, has not induced the Secretary of State to alter any of the decisions of the Governor in your case, and that Sir George Murray can only qualify the Instructions, which have been already given to him respecting these lands, after the following manner:—

The reserve of 1,300 Acres, which it appears that you still hold, will be allowed to remain in your possession as part of the 2,000 Acres which you were permitted to purchase, and you will be allowed to select 700 Acres in addition in order to complete the 2,000. But, notwithstanding any intention which might have existed on the part of the Local Government, when the reserve of 1,300 Acres was made in your favor, that you should receive this Land as a Grant without purchase, the Secretary of State does not now feel at liberty to consent to your holding it upon those terms: And I am further directed to acquaint you that you cannot be permitted to retain any part of the 2,000 Acres on Hunter's River, which you used such improper means to secure to yourself in prejudice to the prior claim of Mr. McIntyre.

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

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Australia; acknowledged by Viscount Goderich, 28th December, 1830.)

Sir, Government House, 24th July, 1830.

Transmission
of letter of
complaint from
F. Girard.

I have the honor to forward the accompanying Letter which has been sent to me by François Girard, a Baker in Sydney, transported to the Colony in the Year 1821; but who is now Free. It is stated by this Man that the enclosed is the Duplicate of a Letter, which he has forwarded through the French Ambassador at London, complaining of the unjust treatment he has received from this Government.

As the Public Business has been much impeded by the manner I have from time to time been engaged in replying to the Statements of the factious Members of this Community, and as I have in fact been employed during the last Week in obtaining information to enable me to reply to another set of accusations, sent in by Mr. Hall, the Editor of the Monitor News Paper, which I shall endeavour to forward by the present opportunity, I was induced to request the Colonial Secretary and the Deputy Commissary General to explain respectively the several matters stated by Girard, as they applied to their Departments.

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Delay caused
by constant
complaints.

I accordingly transmit, Sir, the Copy of a Paper drawn up by Mr. M'Leay, being "Remarks" on Girard's Memorial, as likewise the Copy of a Letter from Mr. Laidley to the same effect.

Transmission
of replies to
statements.

When it is considered, who Girard is, a Man having just completed his term of transportation as a Convict, I may perhaps appear to have been over-scrupulous in permitting the time of Government to be occupied in answering his representations. After the best Consideration I am able to give the matter contained in the enclosed Documents, it appears to me that the defence of my Conduct should be directed to shew on what grounds Girard, as an Alien and a Convict, could have been entitled to the many favours and indulgences he received, rather than to explain the cause of the harsh and unmerited treatment to which he supposes himself to have been subjected. My reason then, in a few words, for treating him with the attention and Courtesy I did, was from the opinion that he was an industrious, active fellow, who, from the undertakings he wished to engage in, was likely to prove useful to the Colony.

Reasons for
consideration
granted to
F. Girard.

On this ground alone, I endeavoured to meet his views and to remove every difficulty that opposed itself to his wishes, until he became insolent in proportion to the exertions which were made to accommodate him.

I am not aware, Sir, that anything further can be necessary on this point.

Enclosure No. 2 will I think satisfactorily prove that, at least, no injustice has been done to him; and I shall leave it to him to explain how he can presume to come forward as a Complainant, having taken possession of Land belonging at the time to the Crown, but since granted to another, and still retaining it in defiance of the repeated orders he has received to give it up. The present Grantee is now reduced to the necessity of having recourse to Legal measures to obtain possession of his Property.

Illegal
possession
of land by
F. Girard.

I shall now, Sir, offer a few observations on that part of the representation, to which the Deputy Commissary General has

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replied in Enclosure No. 3, relating to the Complainant's Concerns as Contractor.

Contract with
F. Girard for
supply of bread.

It will be seen that the Complaints, with respect to the bad quality of the Bread he supplied, were not only repeated, but of a very serious nature; and that, the Bread having been frequently Condemned by Boards of Survey it was ordered that the Contractor should be mulct.

Retaliation by
military for
supply of bad
bread.

On one occasion, to which in my opinion he rather imprudently alludes, he was permitted, not having provided himself with Wheat to enable him to fulfil his Contract, to supply Bread Composed of equal proportions of Wheat and Maize; when not contented with this indulgence, he practised the grossest imposition; and the Soldiers in revenge broke his Windows with the ill baked and unwholesome Loaves he had supplied. It is not true, as will be seen by the accompanying Copy of an order issued on the occasion, that no steps were taken to discover the Men Concerned in this affair.

Details re
contract for
supply of
bread.

I went in Person immediately to the Barracks, and enquired into the matter on the Spot. I found that the Commandant of the Garrison and most of the Officers were at the moment attending a General Court Martial, of which circumstance it is not improbable the Men took advantage to escape detection. A Court of Enquiry, as will be seen by the Order, was assembled, which sat for two days, but without being able to discover the Men immediately concerned. The Soldiers no doubt generally Conceived themselves aggrieved by the Contractor, and would not give evidence against their Comrades. It will be seen by Girard's own Statement that he made no provision to fulfil his Contract. He speaks of the fluctuation in the price of Wheat in the Year 1828 as being from 6s. 6d. to 20s. a Bushel. Why did he not then lay in a supply, when it was at a low rate? The fact is, he possessed neither Money nor Credit, and depended on the Stores of the Government to supply his wants. He was not disappointed as to prevent the inconvenience which would have been occasioned by his failure; and, to save him and his family from absolute and inevitable ruin, he was supplied from the Public Stores, on his engaging to pay for the Wheat Advanced at the Market Price of the day. But, in consequence of his representations of his embarrassments and misfortunes, he was allowed to return Wheat in kind, and sometime after purchased a supply which had arrived from Bengal, by which indulgence, the Deputy Commissary General has stated, he was actually saved an Expence of £825 Sterling! It must, Sir, be unnecessary after this fact to offer any Comment on Mr. Girard's Statement.

As to the silly allusions in his "Supplementary" Paper to the "favoured Contractor," when speaking of his Tender for the Year 1829 having been rejected, it has been shewn that it would have been impossible under any circumstances to have permitted him to enter into another Contract, after the occurrences of the Year 1828, without risking a Mutiny amongst the Troops.

The fact of his Mill, having been received as Security on a former occasion as a matter of special accommodation to him, is a proof that he could not obtain any responsible Person to engage for him; independent of which, the Commandant of the Garrison requested, in consequence of what had taken place and the imposition practised on the Troops, that he might not again be allowed to supply them with Bread.

Mr. McLeay has pointed out in his "Remarks" that the Memorial signed by Girard is drawn up by the celebrated Dr. Halloran, whose Character and ingenuity will account for the false and specious colouring, which is given to the several matters it Contains. As to his Son, who is a Clerk in the Surveyor General's Office, and who wrote the Memorial now transmitted, You will determine, Sir, whether under such circumstances he is a proper Person to be retained in the employment of Government. Were it not for the ill effects, which in such a Community as this must result from the proceedings of the Local Government being reversed by orders from Home, I should not have hesitated a Moment in dismissing Mr. Halloran.

I have not done so, because it is possible you may not concur in the view I have taken of his proceedings in this case.

It is to be regretted that the local Government has not the power of removing any Individual, who may disturb the public tranquillity. If it were ever necessary to invest a Government with that power, it must be so here, the Community being of a very peculiar and anomalous description. A Colony, composed as this is, must always abound with troublesome and dangerous Characters.

Any attempt to keep such Men in due subjection by ordinary Means would be unavailing, with the strictest enforcement of the Law. It surely is not unjust, or too much to expect, that Individuals, who make up their minds to reside in a Convict Colony, should conform to such rules as the peculiar nature of the Community, of which their interest or inclination has induced them to become Members, may render necessary for the Public good.

It may not be irrelevant to add, before I close my Letter, that Dr. Halloran has opened, what he designates, "The Memorial Office" where any Individual may be assured of having his

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Rejection of
tender by
F. Girard for
new contract.

Preparation
of memorial
for F. Girard.

Necessity for
power to dismiss
troublesome
officials.

" Memorial
office " opened
by
L. H. Halloran.

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grievances stated according to the Doctor's talents and ingenuity. That this Establishment will not be instrumental to the promotion of the Public Peace is pretty evident.

I have, &c.,

RA. DARLING.

Reasons for
non-transmission
of documents.

P.S.—Mr. Girard has annexed to his Memorial so much of the correspondence, which has passed between the Government and himself, that I have not thought it necessary to burthen this Communication with Copies of any other Letters, or to transmit the Reports of the Boards of Survey, etc., to which Mr. Laidley refers in his Letter.

R.D.

[Enclosure No. 1.]

Memorial of
F. Girard.

THE MEMORIAL OF FRANCIS GIRARD, OF SYDNEY, NEW SOUTH WALES
(free).

To the Right Honorable Sir George Murray, G.C.B., His Majesty's Principal Secretary of State for the Colonies, etc., etc., etc.

Very respectfully setteth forth.

That your Memorialist has been several years engaged extensively in trade in the Town of Sydney, as a Cornfactor, Flour-Dealer, Baker, and Contractor with the local Government.

Request for
land for flour
mill, etc.

That, in the early part of the year 1826, your Memorialist, at the Instance of one of the first mercantile Houses in the Colony in the Spermaceti Whaling trade, proposed to erect a flour Mill, and the necessary buildings for establishing the Manufacture of Spermaceti Candles; and, with that view, applied to His Excellency Governor Darling for a piece of Land near the Town of Sydney, admirably adapted by Situation and local advantages for those purposes.

Land selected.

That the Spot of Land, solicited by your Memorialist, had previously been in possession of a Miller, then recently deceased; who, in anticipation of obtaining the allotment, had erected a small brick Cottage upon it, for which your Memorialist, in event of it's transfer to him, proposed to indemnify the Legatees, of the deceased.

Refusal to grant
land selected.

That your Memorialist, after a lapse of three months from the time of his application, was sent for by the then Surveyor General, and informed that the land, for which he applied, was already appropriated to the Erection of "*Military Barracks.*"

That your Memorialist, on this disappointment, attended at Government House, in the hope of an audience by His Excellency; but was rudely repulsed by the young Officer, who acts as His Excellency's Aide de Camp.

Lease of mill.

That your Memorialist, therefore, necessarily declined his contemplated buildings, and hired a Mill, contiguous to the allotment he had so solicited; and, finding his Circumstances much advanced by his successful Industry after a lapse of fourteen Months, he renewed his application to His Excellency the Governor, who expressed his high approbation of Memorialist's proposed Manufacture of Spermaceti Candles, and assured him of Support in furtherance of his plan.

Approval by
R. Darling.

That, a few days after this Interview, Memorialist received a letter from the Honorable the Colonial Secretary, of which a Copy is annexed (No. 1) stating "that, agreeably to the Regulations, Land could not be granted to Memorialist, he being an 'Alien.'"

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Refusal to
grant land.

That your Memorialist immediately replied soliciting "Naturalization" in legal form, and, not receiving any Answer, repeated his application, which produced the letter (No. 2) from the Colonial Secretary.

Under these discouragements, your Memorialist, considering the promised support of the Local Government in his projected undertaking hopeless, purchased an Acre of Ground for £90, and commenced the erection of a Mill upon it; when, in June, 1827, Memorialist was sent for by the Colonial Secretary, who informed him, "He had instructions from The Governor to let him have the 'land' and desired he would point out the Spot, on which he wished to select it."

Purchase
of land.

Land to be
leased.

That your Memorialist accordingly pointed out a Spot, contiguous to the land he had purchased, which would supply the necessary water for his Spermaceti candle Manufactory.

That the Colonial Secretary, who has a Grant* of Fifty acres adjacent to Memorialist's small purchase (and which Grant, on a similar valuation, must be worth nearly £5,000), expressed an apprehension that the water, which supplied his Cattle, might be deteriorated by Memorialist's use of it, and, though assured "that such could not be the case," dismissed Memorialist with the observation "that he would communicate further with the Governor on the Subject."

Objections by
A. Macleay to
land selected.

In March, 1828, Your Memorialist, not having received any further communication, repeated his application to His Excellency The Governor by letter No. 3, and, in a fortnight after, was directed to meet a Deputy Surveyor, and to mark out a piece of land, suitable for his purpose and then unlocated; which he did accordingly, but eventually received information from the Colonial Secretary "that a Spermaceti Manufactory on that Site could not be tolerated."

Your Memorialist, therefore, yielding to Circumstances rejoined "that he would abandon his intention to establish such a Manufactory altogether," but that, having erected a Mill worth £3,000 on his purchased acre, he entreated some small addition of adjacent, unlocated land, as a Garden Plot or Paddock to his Mill, an indulgence which had been granted to two other persons, possessing Mills in the immediate neighbourhood.

Spermaceti
manufactory
abandoned.

Application for
garden plot.

To this reasonable application, Memorialist received the letter No. 4, to which he returned the reply No. 5, and, after all the assurances of Encouragement and Support, and the delay that had been interposed, was finally silenced by the rejoinder No. 6, while the allotment he had prayed for, instead of being reserved (as alleged) for the Erection of Military Barracks, was given to certain Public Officers, by some of whom such grants were promptly converted into money.

Your Memorialist declines to comment on these facts, assured that, to your liberal and enlightened Mind, they will carry conviction of the real cause of his Disappointment, and of the secret influence, which, in defeating your Memorialist's views, has

* Note 140.

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deprived the Colony of a Manufactory of acknowledged public utility, and your Memorialist individually of the advantages that would have undoubtedly resulted.

Your Memorialist has briefly detailed the preceding facts, as introductory to a representation of further and more serious injury, of which he has to complain at the hands of the Colonial Government; and which he cannot but feel to have been marked in his regard by partiality and palpable Injustice, involving not only ruinous loss to your Memorialist, personally, but very serious Detriment and Expense to the Public Service.

Complaint *re*
contract for
supply of bread.

In June, 1828, your Memorialist having the contract for supplying the Government Establishments in Sydney with Bread, a serious alarm pervaded the Colony of an impending Scarcity of Wheat, in consequence of which, Memorialist applied to the Authorities for temporary permission to make the Bread for such Establishments of wheaten and Maize Meal in equal proportions; the Contractor for the Parramatta District uniting in the application, which was partially acceded to by the annexed letter No. 7.

Attack by
military on
house of
F. Girard.

Your Memorialist, consequently on this arrangement, became exposed both in his person and property to the most serious risque from the Military, for, though the Officers had surveyed the bread and pronounced it good according to the Government Order, the Soldiers attacked Memorialist's dwelling House, and demolished all his windows with the Loaves and stones to the extreme Jeopardy of himself and Family; and, though this Outrage was committed in Sight of and within twenty yards of the "Main Guard," no steps were adopted for its prevention, nor were any means used to identify and punish the rioters or to afford reparation to your Memorialist.

Loss on bread
contract.

In fulfilling his contract for the year 1828, your Memorialist, from the fluctuation in the price of wheat from 6s. 6d. to 20s. per bushel, actually sustained a loss of upwards of £2,000, yet he persisted in completing it, and was the only Contractor in the Colony, who did not forfeit the Penalties of his bond.

Proposal to
erect steam
engine;

Your Memorialist, having commenced a new Contract for 1829, submitted to His Excellency the Governor a plan for keeping down the price of wheat, and proposed to erect a Steam Engine, if His Excellency would grant him a piece of Land for that purpose, but not near the Spot formerly solicited; His Excellency appeared sensible of the advantages that would accrue from your Memorialist's plan (which however was pertinaciously thwarted by the Colonial Secretary), and His Excellency concluded by promising Memorialist a written decision on the Subject, that decision (which however has little reference to Memorialist's proposal) is comprised in letter No. 8.

and to exchange
land.

Your Memorialist accordingly submitted to Surrender the small portion of Land from his purchase on one side (as demanded by that letter), provided an equal Slip from the unlocated land on the other Side were assigned to him as an Equivalent. This equitable proposal was never answered; but on the 25th of November, 1829, Your Memorialist received the letter No. 9 to which Memorialist addressed his reply to His Excellency's Private Secretary, No. 10, which he flattered himself, could not prove otherwise than satisfactory.

At this Juncture, Your Memorialist had sent in his Tender for the Bread Contract for 1830; and, not having received any Answer from

the Private Secretary, he considered necessary a direct address to His Excellency himself by a respectful letter, No. 11, which however was not honored by any attention.

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Your Memorialist begs to represent that His tender for supplying Bread to the different Establishments was the lowest, indeed the only one presented; and that, to enable him to fulfil such Contract (in which on that Ground he naturally anticipated the preference), he had purchased 20,000 bushels of Wheat, yet that, from the Circumstance of declining to relinquish his just right without remuneration, a Spirit of Hostility was conceived against Your Memorialist, to which it appeared the determination of the Authorities to immolate the interest and future prospects of your Memorialist. The letters Nos. 12, 13 and 14, which close the correspondence, will fully explain the extent of that Hostility, and the manner in which even the Public Interest and the public Money were sacrificed for it's Gratification.

Tender for
bread contract
for 1830.

Your Memorialist most respectfully submits that it must be obvious, from the preceding Statement and the annexed Correspondence, that, without any real Culpability on his part, he has become a "marked Man" by the Colonial Government, and that, without the interposition of your powerful Authority as His Majesty's Minister for the Colonies, nothing less can be anticipated by Your Memorialist from the issue of so unequal a Contest, than present annoyance and injury, and future exclusion from the participation of rights and Indulgences, common to other Colonists, His Majesty's Subjects, to none of whom your Memorialist is second in peaceable demeanor or in dutiful Submission to the Laws and to His Majesty's Government.

Your Memorialist, therefore, humbly prays, from your sense of Humanity and Justice, that you will be pleased to communicate such directions to the Colonial Government, with reference to your Memorialist, as may include some remuneration for the Hardships and Losses, he has sustained by their Instrumentality, and may also prevent in his regard a recurrence of similar Injustice and wrong.

Request for
redress.

And your Memorialist, as bound by duty and Gratitude,

Will pray, &c.,
F. GIRARD.

[Sub-enclosure No. 1.]

COLONIAL SECRETARY MACLEAY TO MR. F. GIRARD.

Sir,

Colonial Secretary's Office, 4 April, 1827.

In reply to your Memorials of the 31st January, and 1st March, 1826, soliciting a piece of Ground for the purpose of constructing a Windmill and also a Spermaceti Candle Manufactory, I am directed by The Governor to inform you, with reference to the interview which you lately had with His Excellency, it appears from the regulations that it is not in His Power to make a Grant to you, being an Alien. But His Excellency desires me to add that he will be very willing to afford you every facility that he is able, in furtherance of the object you have in view, and, if you will describe in writing the spot which you mentioned to him, measures shall be taken to ascertain in what manner matters can be managed.

Inability to
grant land to
aliens.

I am, &c.,
ALEXR. MCLEAY.

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[Sub-enclosure No. 2.]

COLONIAL SECRETARY MACLEAY TO MR. F. GIRARD.

Sir, Colonial Secretary's Office, 25th April, 1827.

Inability to
naturalize
F. Girard.

In reply to your letters of the 9th and 20th Instant, I am directed to inform you that the instructions of His Excellency the Governor do not admit of the naturalization of foreigners in this Colony, but there is no objection to your renting a piece of land for the Scite of a mill provided the land you apply for be so disposable.

I am, &c.,

ALEXR. MCLEAY.

[Sub-enclosure No. 3.]

MR. F. GIRARD TO GOVERNOR DARLING.

Sir,

Request by
F. Girard for
land grant.

I respectfully beg leave to call your Excellency's notice to the application I some time since had the honor to make for a Grant of Land for the purpose of erecting a Windmill and a Manufactory for Spermaceti Candles. It is unnecessary for me to trouble Your Excellency with the difficulties I had then to contend with through the Surveyor General (Mr. Oxley), because I feel sensible and grateful for Your Excellency's kind condescension in directing me to select a Grant of Land for the purpose I required it. Some Months have elapsed since I troubled Your Excellency, and I would not willingly intrude now upon Your Excellency's valuable time, but that I think I have some claim upon Your Excellency's promise. I have the satisfaction to acquaint your Excellency that the Mill, I then proposed to erect, is now nearly complete; the land I was obliged to *purchase* at considerable Expense. But the land contiguous is the property of Government; and I now presume to hope Your Excellency will feel justified in making me a Grant commensurate with my Expenditure of Capital, Industry, and Application to business generally, which, I hope will not be deemed presumptuous in me to assert, has hitherto been attended with public advantage as well as my individual interest.

I have, &c.,

F. GIRARD.

[Sub-enclosure No. 4.]

COLONIAL SECRETARY MACLEAY TO MR. F. GIRARD.

Sir, Colonial Secretary's Office, 30 September, 1828.

Refusal of
land selected.

In reply to your application of the 3rd June, 1828, for a piece of land adjoining your Windmill contiguous to Elizabeth Bay, on which you intend forming an establishment for the Manufacture of Spermeceti Candles, I am directed by His Excellency The Governor to inform you that no more land can be granted or leased for the purpose of any Establishment of this nature, and that the Land, for which you apply, is already disposed of.

I am, &c.,

ALEXR. MCLEAY.

[Sub-enclosure No. 5.]

MR. F. GIRARD TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney Hotel, 1st Octr., 1828.

I beg respectfully to acknowledge the receipt of your letter of yesterday's date in reply to mine of the 3rd of June last, wherein I am informed that His Excellency The Governor cannot grant or

lease me a piece of Land for the erection of a Manufactory for the making of Spermaceti Candles, which answer has induced me to write this reply to the same.

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I beg to refer you again to my letter of the 3rd June, wherein I gave up the idea of establishing the concern above named, for you will perceive these words, "wherefore I shall abandon the Concern," meaning of course what the subsequent Sentences fully explain. I therefore respectfully beg to point out to His Excellency The Governor the misconception, which has arisen in answering my letter as above described, and humbly trust under such idea that that, together with subsequent applications for a small piece of land, may be taken into favorable consideration. I respectfully request you will be pleased to lay this before His Excellency as soon as possible.

Misconstruction
of letter.

I have, &c.,
F. GIRARD.

[Sub-enclosure No. 6.]

COLONIAL SECRETARY MACLEAY TO MR. F. GIRARD.

Sir, Colonial Secretary's Office, 7th October, 1828.

I have received and submitted to The Governor your letters of the 29th September and 1st of October representing, in reply to mine of the former date, that the land, which you wish to obtain adjoining your mill on Woolloomoolloo Hill, was *not* intended for a Candle Manufactory, and soliciting that your application may again be considered. In reply I am directed by His Excellency to inform you that your request cannot be complied with.

Refusal of
land selected.

I have, &c.,
ALEX. MCLEAY.

[Sub-enclosure No. 7.]

COLONIAL SECRETARY MACLEAY TO MESSRS. RAINE AND GIRARD.

Gentlemen, Colonial Secretary's Office, 27th June, 1828.

I have received your letter of the 25th Inst., in which you request permission to mix Maize with your wheaten Meal and also to be furnished from the Commissariat with the quantity, mentioned in the Margin,* Monthly for three months on paying the same price as it was procured at by the Deputy Commissary General out of your receipts.

Concessions on
contracts for
supply of bread.

In reply, I am directed by His Excellency the Governor to inform you that, with a view to the lessening of the Consumption of wheat, he allows you for the present to issue Bread under your Contracts with Government composed of one half wheaten Flour and One Half Maize Meal, and that Mr. Laidley has been instructed to deliver to you one Month's supply of Maize immediately, agreeably to your request; but you are to observe that this is not to be considered binding for three Months.

I am, &c.,
ALEX. MCLEAY.

[Sub-enclosure No. 8.]

COLONIAL SECRETARY MACLEAY TO MR. F. GIRARD.

Sir, Colonial Secretary's Office. Sydney, 17 Jany., 1829.

His Excellency The Governor has directed me to acknowledge your two applications of the 15th December, 1828, and 13 January, 1829, the former respecting the piece of Land adjoining your Mill

* *Marginal note.*—Mr. Raine—Two hundred and Fifty bushels. Mr. Girard—Five hundred bushels.

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Refusal of
applications
pending
surrender of
land.

and the latter respecting the purchase of Wheat and the assistance of Government to enable you to erect a Steam Engine.

In reply, I have to inform you that no application from *you* for indulgence on the part of Government can be entertained so long as you continue to disregard the Communication made to you relative to the surrender of the piece of Land in question, the more particularly as, by so doing, you retain possession of what "belongs to the Crown."

You will be pleased accordingly to consider this as a formal Notice to surrender the land and to remove your Fences before the first day of next Month.

I am, &c.,
ALEXR. McLEAY.

[Sub-enclosure No. 9.]

COLONIAL SECRETARY MACLEAY TO MR. F. GIRARD.

Retention of
land by
F. Girard.

Sir, Colonial Secretary's Office, 25th November, 1829.

It having been represented to the Governor that you still persist in retaining possession of part of the allotment given to Mr. Bowen on Woolloomoolloo Hill, I am directed to inform you that His Excellency is surprised at your conduct after the indulgence you have received; but "that care will be taken to prevent your giving any further trouble, and that your making application to the Government hereafter for a Contract or otherwise will be totally useless."

I am, &c.,
ALEXR. McLEAY.

Refusal of all
contracts.

[Sub-enclosure No. 10.]

MR. F. GIRARD TO COLONEL DUMARESQ.

Sir, Sydney, 28 Novr., 1829.

I take the liberty to transmit you the enclosed letter, just received from Mr. McLeay, the Contents of which very much surprise me, as I was not aware that the indulgence His Excellency had been so kind to grant me had any reference to the allotment of Ground alluded to therein. But, as I am most anxious that no act of mine should offend His Excellency or that he should for a moment consider me unmindful of his kindness, I respectfully beg to submit the Title by which I hold my Ground to yourself or to any person His Excellency may think proper to appoint, when, should it be found I am not legally in possession, I will, as I have often before said, immediately resign it. I am of opinion that, if I am a trespasser on Mr. Bowen, Mr. Barker* will certainly be found a trespasser on me, so that it would save much trouble if the Surveyor General could first be referred to.

I remain, &c.,
FRANÇOIS GIRARD.

Proposal to
submit title
to land.

[Sub-enclosure No. 11.]

MR. F. GIRARD TO GOVERNOR DARLING.

Sir, George Street, Sydney, 2nd December, 1829.

I cannot sufficiently express the deep regret I feel on learning, by a letter from the Colonial Secretary under date of the 25th ultimo, that I have unfortunately, and I can truly add most unconsciously incurred Your Excellency's displeasure, in having persisted in claiming part of the allotment given to Mr. Bowen on Woolloomoolloo Hill. I trust my explanation on the Subject, conveyed in

Regret at
displeasure
of R. Darling.

a letter to Colonel Dumaresq, will have convinced Your Excellency that nothing could be more remote from my intention in that transaction than to give offence to Your Excellency, to whom I acknowledge a debt of Gratitude, which I have on all occasions been prompt to express; I admit and with unfeigned feelings of grateful Sensibility that I have experienced much indulgence from Your Excellency, and that I have given considerable though involuntary trouble. The latter I hope Your Excellency will do me the Justice to admit was consequent on unfortunate Contingencies, over which I had no controul, and not from any disposition on my part to occasion unnecessary trouble or embarrassment to the arrangements of Government, while the former (the liberal indulgence with which I have been favored) encouraged my reliance so far on the kindly disposition of Your Excellency in my regard that, under that impression and in anticipation of the Contract for the ensuing year (for which I have presented the lowest Tender), I have made a very large purchase of Wheat twenty two thousand bushels, a quantity that would enable me to fulfil in the most satisfactory manner the Conditions of the proposed Contract, from which my exclusion under these Circumstances, I need scarcely suggest to Your Excellency, will be most ruinous to me. Of the various Contracts with the Government for the year 1828, I believe I am the only one who completed his Engagements; and the great loss I incurred that year, and should have incurred this year also but for Your Excellency's kindness, are well known; My Means however for the ensuing Year are so ample that I presume to assure Your Excellency that a recurrence need not be apprehended of those difficulties or of that trouble, which in the performance of the late Contract originated in successive unfavorable Seasons, and from natural Causes which human foresight was unable to counteract, but which the blessing of Providence has now auspiciously removed. I do most earnestly and respectfully entreat Your Excellency therefore favorably to receive the assurance of my sincere regret and Sorrow for having in the slightest degree, through involuntarily, incurred Your Excellency's displeasure; and I pray that Your Excellency will be graciously pleased to rescind the resolution communicated to me by Mr. Laidley and in Mr. McLeay's letter as consequent on that displeasure in excluding me from all future Contracts and from the favorable Consideration in all other respects of the Colonial Government.

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Wheat purchased in anticipation of contract.

Loss on former contract.

Request for new contract.

I have, &c.,
F. GIRARD.

[Sub-enclosure No. 12.]

MR. F. GIRARD TO DEP. COMMISSARY-GENL. LAIDLEY.

Sir, Sydney, 8th December, 1829.

Having seen in the Gazette of the 3rd Inst. an Advertisement from your department, by which the public is informed that tenders would be received for the manufacturing of flour into bread, vizt., for His Majesty's Troops, Transport and Colonial Vessels, and the Convict Establishments in Sydney, during three Months commencing the 25th Instant.

Request for reasons for rejection of tender.

And, having myself offered on the 26th of November (according to your Commissariat Notice, dated the 26th of October) to supply the several Establishments as above stated for twelve Months at a very low Price, and named a Person of respectability and of Wealth for my Security, and having purchased 22,000 Bushels of wheat for

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the Contracts of Sydney, Parramatta and Liverpool, and as I know I am the only person, who tendered at Sydney, and being the lowest for some of the Establishments of Parramatta and Liverpool. I request you will be pleased to let me know the reasons why my offers were rejected.

I have, &c.,

FRANCIS GIRARD.

[Sub-enclosure No. 13.]

DEP. COMMISSARY-GENL. LAIDLEY TO MR. F. GIRARD.

Sir, Commissariat Office, Sydney, 8th December, 1829.

Reply by
J. Laidley.

I have received your letter of this date; and, in reply, beg to acquaint you that the benefit of the Public Service has rendered it expedient to adopt the arrangement relative to the supply of bread, to which you allude.

I am, &c.,

JAMES LAIDLEY, D.C.G.

[Sub-enclosure No. 14.]

MR. F. GIRARD TO DEP. COMMISSARY-GENL. LAIDLEY.

Sir, George Street, 10th December, 1829.

Criticism of
arrangements
by J. Laidley
for supply of
bread.

I have the honor to acknowledge the receipt of your Communication of the 8th Instant, acquainting me that the Benefit of the Public Service has rendered it expedient to adopt the arrangement relative to the Supply of Bread, to which I have alluded in a former letter. "The benefit of the Public Service" ought certainly to precede every private or personal Consideration; and I will not admit a doubt that, in the contemplated arrangement, you as an Officer of rank and honor are governed by a Sense of Public Duty alone. Taking however the "benefit of the Public Service" as the sole principle, on which the several arrangements in your Department *are* and *ought* to be founded, I trust, Sir, you are too candid to conceive offence at any Individual, who, from whatever motive, may undertake to demonstrate to you that, of two proposed plans for the Supply of bread, the one which you deem expedient to adopt is in reality the less consistent with the Criterion by which you profess to regulate your decision. In illustration of this Opinion, I beg respectfully to submit to your inquisition the accompanying Estimates and Calculations, for the accuracy of which I confidently pledge myself; and, should you find their result clear and irrefutable, I anticipate from your known integrity and regard to the benefit of the Public Service that you will pause ere you allow yourself to be influenced by any Consideration to the eventual rejection of a Contract, by which under its proffered Conditions a saving of nearly £1,500 per annum must accrue to the Government or rather to the Public Service. I would therefore earnestly entreat you, Sir, to bestow upon the Question at issue Your most deliberate and impartial Consideration, and, in Apology for any apparent importunity on my part, to reflect that if be urged by a regard to individual interest, the paramount object "the benefit of the Public Service" is also deeply involved in the result of your determination.

I have, &c.,

F. GIRARD.

SUPPLEMENTARY REMARKS BY F. GIRARD.

Supplementary
remarks by
F. Girard.

IN addition to the various Statements contained in the preceding Document, your Memorialist feels it a duty to himself and his Connections, as well as to the public generally, to bring under the serious consideration of Sir George Murray, His Majesty's Secretary

of State for the Colonies, the following facts, which he pledges himself demonstratively to substantiate, and which have occurred subsequently to the Date of his preceding Representations.

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The Contract for supplying Bread to the "Convict Departments," for which your Memorialist had presented the lowest indeed the only Tender, "and which Tender was rejected, as before stated, from motives of personal Hostility to your Memorialist, *openly avowed by the local Authorities*, has since been given to Mr. Robert Cooper, of Sydney, Dealer and Auctioneer; although *his* tender, submitted after the rejection of *that* of your Memorialist, is twenty five per Cent. higher than such rejected one. Thus has the Colonial government palpably sacrificed the public Interest to the Gratification of inimical feelings towards an Individual, whose only offence has been Impatience under oppression, and perhaps an imprudent resentment of supposed Injustice.

Bread contract
given to
R. Cooper.

Memorialist doubts not that, in Justification of this culpable partiality, the local Authorities will allege "that your Memorialist had only '*Bengal Wheat*,' and that the Flour from such Wheat will not supply good Bread." This Argument, however plausible in appearance, is easily refuted by fact. The very flour, used by the present "*favoured Contractor*," consists principally, if not entirely, of the produce of Bengal Wheat; of which *he*, the said Contractor, purchased Sixty Tons from your Memorialist, who was obliged by the pressure of his Circumstances, consequent on the harsh Measures adopted by the Colonial Government in his regard, to sell that quantity of Flour to the present Contractor at a very low rate, under an execution, placed by the Sheriff on Memorialist's premises *at the said Contractor's Suit*. By this insidious Manœuvre, that Individual is now deriving an Advantage of at least "*seventy five per Cent.*" at the expense of your persecuted Memorialist!

Sale of flour by
F. Girard to
R. Cooper.

Your Memorialist feels necessary further to observe, for the Information of His Majesty's Government, "that a tender, made by Memorialist's Brother in Law Mr. *Patrick* Hayes, which was at a Sum twenty five per Cent. below the present Contract, was also summarily rejected on Account of his Connexion and Affinity with your *obnoxious* Memorialist!"

Rejection of
tender by
P. Hayes.

On these irrefutable facts, your Memorialist (from feelings of respect to the high and distinguished character, whom he has the Honor to address) forbears to comment in the indignant language, which such Conduct might appear to warrant. He submits them without animadversion to His Majesty's Ministers, solemnly adjuring them, by every principle of Justice and Honor, so to mark their reprobation of such a System, oppressive to Individuals and injurious to the public, as may prevent a recurrence of similar Acts by the local Authorities to your Memorialist, or to others of His Majesty's Subjects, in this remote Dependency of his Dominions.

And your Memorialist, as bound by Duty and Gratitude, will pray, etc.

Sydney, 26th May, 1830.

[Enclosure No. 2.]

REMARKS on the Memorial of Francis Girard of Sydney, to the Right Honble. Sir George Murray, G.C.B., etc., without a date, but transmitted with his letter of 30th April, 1830.

Remarks on
memorial of
F. Girard by
A. Macleay.

MR. GIRARD states correctly that he is *free*, but he arrived in this Colony as a Convict in the year 1820, under the name of Francois

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Remarks on
memorial of
F. Girard by
A. Macleay.

Application
by F. Girard
for land.

Girard alias Delisle, a Native of Paris, tried in London and transported for 7 years for stealing a Watch. He became free in February, 1827, but he held a conditional Pardon from 1825, carrying on in Sydney the Trade of a Bread and Biscuit Baker. On the 31st of January, 1826, Mr. Girard transmitted through Mr. Oxley, then Surveyor General of the Colony, a Memorial to the Governor, applying for a Piece of Land close to the Town of Sydney for the site of a Windmill and a Manufactory of Spermaceti Candles. Upon this Memorial, which was followed up by a Letter dated the 1st of March, 1826, the Surveyor General reported on the 2d of that Month that the Land applied for was not disposable. The Governor, however, considering that such an Establishment as Mr. Girard proposed was very desirable, directed the Surveyor General to communicate with him, and to arrange with him about such a suitable piece of Land, as might be assigned to him for the intended purpose.

Sites proposed
by J. Oxley.

On the 9th of March, Mr. Oxley reported that, in compliance with the Governor's directions, he had "pointed out to Mr. Girard several situations on the South East side of the South Head road, distant from $2\frac{1}{2}$ to $3\frac{1}{2}$ Miles, eligible for Windmills and a Spermaceti Manufactory," but that Mr. Girard had afterwards informed him that neither of the Situations pointed out would answer his purpose. The next application from Mr. Girard on this subject was in a personal Interview with the Governor in the beginning of the Year 1827; when the Governor assured him of his desire to forward his views as far as possible; but, his application being for a *Grant* of Land, the Governor found upon reference to the Regulations that, Mr. Girard being an Alien, no Land could be granted to him.

Inability to
grant land to
alien;

He was accordingly on the 4th of April informed by letter to this effect; but it was intimated to him at the same time that the Governor would be very willing to afford him every facility in his power; and that, if he would describe in writing the Spot which he wished for, measures should be taken to ascertain in what manner the matter could be settled. In reply to this, Mr. Girard, in a Letter dated the 9th of April, 1827, stated that, as he intended to remain in the Colony, he *had no objection to be naturalized*; and, on the 20th of the same Month, he was informed that the Governor's Instructions did not admit of the Naturalization of Foreigners in the Colony; but that there was no objection to his *renting* a piece of Land for the site of a Mill, provided the Land, he applied for, was disposable. On the 2d of May, he again addressed a Letter to the Governor, complaining of Mr. Oxley's Conduct towards him, and using some disrespectful expressions respecting Archdeacon Scott, to whom it appears that Mr. Oxley had referred him, in consequence of the Land, he had last chosen, belonging to the Church. On the 4th of the same Month, the Surveyor General was called upon to point out some small Piece of Land in the neighbourhood of Sydney, which could be let to Mr. Girard for the site of a Windmill and a Spermaceti Manufactory, and, on the 16th, the Surveyor reported that a Spot near the five Mile Stone* on the South Head Road, having a permanent supply of Water, was eligible for a Spermaceti Manufactory; but that he was unacquainted with any Situation on Government Land near Sydney, which combined the requisites for the two objects, which Mr. Girard had in view. The Governor, however, still anxious to assist Mr. Girard in his proposed Undertaking, directed the Colonial Secretary to send for him,

and to issue
letters of
naturalization.

Site for lease
proposed by
J. Oxley.

and to arrange with him as to some situation, which he might be allowed to occupy, and accordingly the Colonial Secretary had a personal communication with him, when he stated that he had purchased for £90 a piece of Land adjoining Mr. Barker's Mill* on Woolloomooloo Hill, and that he was then building a Mill there. The Colonial Secretary, having on that occasion informed him of the Governor's wish that he should have a Piece of Land suitable for a Spermaceti Manufactory, he, on the 8th of June, addressed a letter to the Secretary, stating that he had ascertained that a Spot near to his Mill would afford a sufficient supply of Water by sinking a few feet. On the 12th of June, the Governor ordered that he should have the ground for which he then applied on lease, taking for granted that only a small piece would be required; and the necessary communication to that effect was made to the Surveyor General on the 14th of that Month. In this state matters remained until the third of March following, when Mr. Girard addressed to the Governor, the letter, which forms No. 3 of the Appendix to his Memorial. The Acting Surveyor General was then called upon to report upon the subject, which was referred to the Surveyor General on the 14th of June preceeding, and which the long and severe Indisposition of that officer appears to have delayed. The report of the Acting Surveyor General, which is dated the 14th of March, 1828, states that the quantity of land applied for by Mr. Girard extended to 15 acres, but that a considerable portion of this ground, being on the Hill, could not be available for this purpose; and, if it were, it was to be considered, whether such an Establishment in that situation would not prove a nuisance to the Inhabitants of three good houses about to be built to the Northward of the Mills. It was also stated in this Report that 5 acres would be quite sufficient for Mr. Girard's avowed purposes. Soon afterwards, Mr. Girard, not satisfied with what was proposed, had another interview with the Governor, and, in a letter from him to the Colonial Secretary dated the 2d of June, he stated that he had abandoned the scheme of establishing a Spermaceti Manufactory, but again solicited a Grant of land, adjoining his Mill. At that time however, there were such repeated complaints of the manner in which he executed his Contract, which he held for supplying the Troops and Convicts with Bread, that the Governor thought proper to defer complying with this new application until it should be seen how he conducted himself in fulfilling his Contract.

In the mean time, in consequence of numerous applications for Sites for Villas, at Woolloomooloo Hill, Orders were given to the Surveyor General to divide and mark out into suitable Allotments all the disposable land in that Neighbourhood; and, in consequence of this, Mr. Girard addressed a letter dated the 24th of Sept. to the Colonial Secretary and one of the 29th of the same Month to the Governor, urging his claim to the land near his Mill, on the plea of it's having been before offered to him for a Spermaceti Manufactory; although, after it was so offered, he abandoned the scheme for which it was to have been given to him.

It appears from the correspondence that the object of these two last mentioned letters was misconceived, for, in a letter addressed to Mr. Girard on the 30th of Septembr., he was informed that his application for a piece of land near his Windmill, contiguous to Elizabeth Bay, for a Spermaceti Manufactory, could not be granted

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Remarks on
memorial of
F. Girard by
A. Macleay.

Land purchased
by F. Girard.

Lease ordered
for F. Girard.

Report *re*
land selected.

Complaints *re*
bread supplied
by F. Girard.

Villa sites
surveyed at
Darlinghurst.

Refusal of site
for spermaceti
manufactory.

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Remarks on
memorial of
F. Girard by
A. Macleay.

or leased to him; but it was added, at the same time, that the land for which he applied had been already disposed of.

His Letter of the 1st of October, which forms No. 5 of the Appendix to the Memorial, appears to have been intended merely to remove the misconception which had taken place as to the object of his former letters; but, renewing his application, and in consequence of this explanation, the letter, forming No. 6 of his Appendix, was written to him, informing him that his request could not be complied with.

Retention
of land by
F. Girard.

Notwithstanding these repeated refusals, he addressed to the Governor on the 15th of December a long letter, expressive of his gratitude to His Excellency for his kindness to him, and charging the Surveyor General with being the cause of all his disappointments. In this letter, he states that some land, which he had unauthorisedly enclosed as a Garden, was demanded from him by another Person, to whom the Government had granted it, and expresses his determination not to give it up, even if his life depended on it. Without waiting for an answer to this letter, he applied to the Government in a letter dated the 9th January, 1829, for land for the site of a Steam Engine Cornmill; and, after having had an Interview with the Governor on this subject, he addressed another letter to His Excellency dated the 13th of January, 1829, soliciting the assistance of Masons, Carpenters, Millwrights and Laborers for the erection of his intended Steam Mill, and also requesting to be accommodated with from 15 to 20 thousand bushels of Wheat from the Govt. Stores to enable him to carry on his Contract.

Proposed
erection of
steam mill.

Refusal of
applications
pending
surrender of
land.

In reply to these last applications, the letter of the Colonial Secretary dated 17th of January, 1829, which forms No. 8 of the Appendix to the Memorial, was addressed to him, informing him that no application from him for indulgence from Government could be entertained, so long as he continued to disregard the orders given for his surrendering the land of which he had illegally taken possession, and formally giving him notice to surrender the land in question before the 1st of the following Month. On the 19th of January, he acknowledged the receipt of that letter, and stated that he was willing to give up the land, and the Surveyor General was accordingly directed to lose no time in marking and shewing to Mr. Girard the correct limits of his own land, which the Surveyor General afterwards reported to have been done.

Continued
retention
of land by
F. Girard.

Notwithstanding, however, his agreeing in his letter of the 19th of January to give up the land, which he had thought fit to take possession of, and repeated verbal promises to the same effect, made to the Governor, he still persisted in retaining possession of this land; and the Colonial Secretary was therefore directed to write to him the letter of the 25th of November, 1829, which is No. 9 of the Appendix to the Memorial. As if he had conceived that the last letter was unauthorized by the Governor, he transmitted it to the Private Secretary in a letter dated 28th Novr., which forms No. 10 in the Appendix, the object of which seems to have been principally to state that, if he was a Trespasser on Crown Lands, another Individual was a Trespasser on him. Four day afterwards, viz., on the 2nd of Decr., he addressed a Letter to the Governor, in which he disclaimed all intention of giving offence to His Excellency, to whom he acknowledged a debt of gratitude for much indulgence wh. he had experienced, and expressed regret at having occasioned such

considerable trouble; but still he persisted in keeping the land, and he has actually retained possession of it to this day.

The foregoing is a correct Abstract of the whole correspondence that has taken place with Mr. Girard respecting his applications for land, which forms the ground of complaint in the first part of his Memorial; and it is presumed that, so far from shewing that he had any reasonable cause for complaining, it will be seen that the Governor had every desire to comply with his wishes, and that the Colonial Secretary did all that depended upon him for this purpose. Indeed, until his letter to the Private Secretary of the 28th of Novr. last, it does not appear that he had even suspected the Colonial Secretary to be hostile to his views, for on all occasions he blamed the Surveyor Genl. as the cause of all his disappointments. The Statement in the Memorial of the Colonial Secretary having "expressed an apprehension that the water which supplied his Cattle might be deteriorated by Memorialist's use of it" is utterly void of foundation. The Colonial Secretary certainly neither expressed nor felt any such apprehension. In fact, when the land applied for by Mr. Girard was first refused, the Colonial Secretary possessed no land either in that neighborhood or in any other part of the Colony; and, although a small part of the land which he now possesses at Elizabeth Bay lies between the place applied for by Mr. Girard and the Sea, it is supplied with a sufficiency of water for the *whole of his Cattle*, consisting of two Cows and two working Bullocks, independently of the Stream which was applied for by Girard. If the Colonial Secretary had expressed any apprehension of the contamination of the water in that stream, it would naturally have been with reference to the want of water for the Town of Sydney, because the Stream in question, or rather some pools in the bed of it, for it ceased to run, have during the last three years actually afforded no inconsiderable part of the very scanty supply of water, which the Inhabitants of Sydney were able to obtain.

In the 5th page of his Memorial, Mr. Girard states that, after having abandoned his intention to establish a Spermaceti Manufactory, "he entreated some *small* portion of adjacent unlocated land as a Garden Plot or Paddock to his Mill, an indulgence which had been granted to two other Individuals, possessing Mills in the immediate neighborhood." It will be seen, by the correspondence, that the *small* portion of land, for which he applied, consisted of *15 acres*. One person, possessing a Mill in the immediate neighborhood, is a free Emigrant Settler of very respectable Character; and it is true that, in addition to the one acre on which this Individual originally built his Mill, he has since got a grant of 5 acres; but nothing is known of the other case to which Mr. Girard alludes.

What he means by the *secret influence*, which is stated in the 6th page of the Memorial to have defeated his views, is not precisely known; but it is reasonable to conclude that his intention is to charge the Colonial Secretary, with this exercise of secret influence; for in page 9 he expressly states that he was pertinaciously thwarted by the Colonial Secretary, a charge which is perfectly unfounded; all that the Colonial Secretary ever said or did in the matter having been to express his opinion that, while Mr. Girard continued to resist the orders of the Governor, he was not entitled to any indulgence.

The other great subject of complaint in the Memorial is the refusal of his tender for the Contract for Bread for the present

1830.
24 July.

Remarks on
memorial of
F. Girard by
A. Macleay.

Absence of
cause for
complaint.

Denial of
statement by
F. Girard.

Water supply
from
Rushcutters
bay.

Application by
F. Girard for
garden plot.

Allegations
by F. Girard.

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24 July.

Remarks on
memorial of
F. Girard by
A. Macleay.

Refusal of
contract for
bread supply.

year. The Circumstances, which led to this refusal, can be best explained by the officer at the Head of the Commissariat Department; but it consists with the knowledge of the Colonial Secretary that Mr. Girard, in the execution of his several Contracts, occasioned very great trouble to the several Departments concerned; and that he received indulgence and assistance at various periods in corn and money, without which he could not possibly have fulfilled his Contracts.

It is also worthy of remark that, when he entered into the Contract for the year 1829, his credit was so bad that he could not procure the personal security which was required of him; and that, therefore, the Governor, contrary to usage, took security on his Mill for the due execution of his Contracts.

Release of
F. Girard from
tender for wind-
mill.

As another instance of the indulgence of Govt. to this Man, it may be mentioned that, in 1826, a Windmill the property of Govt. was advertised to be let for a period of years at a yearly Rent; and Girard, being the highest Bidder, was declared to be the Tenant; but he no sooner got possession than he appears to have wished to relinquish it, and he was ultimately released from his engagement. It is true that this Mill was subsequently condemned and taken down; but he took it as it stood, and was in strictness of Law bound to uphold it.

Absence of
cause for
complaint.

Upon the whole, it may be stated beyond any doubt that there is no man in the Colony of New South Wales, who has less cause to complain of the treatment he has met with from the Government, than Mr. Girard, in as much as his impertunity and perseverance procured for him many indulgences, for which more deserving but more modest persons would have never applied.

Preparation
of memorial
and letters.

It is to be remarked that not only the Memorial but also some of the Letters contained in the Appendix are the composition of Doctor Halloran, and that the whole, as now transmitted, is actually in the handwriting of a Son of the Doctor's, who is employed as a Clerk in the Office of the Surveyor General.

21st July, 1830.

A. McLEAY.

[Enclosure No. 3.]

DEP. COMMISSARY-GENL. LAIDLEY TO COLONEL DUMARESQ.

Sir, Commissariat Office, Sydney, 12th July, 1830.

Report by
J. Laidley re
contracts for
bread with
F. Girard.

I have the honor to acknowledge the receipt of your Letter of the 2nd inst. enclosing an Extract from a paper addressed by Mr. Girard to the Right Honble. Sir George Murray relative to his Contract for Bread.

In attention thereto, I beg leave to lay before you, for the information of His Excellency the Governor, the following brief Statement of facts connected with Mr. Girard's Statement, which certainly bear out anything but the conclusion he has so unwarrantably drawn.

In December, 1828, Mr. Girard contracted to supply the Troops and all the Convict Establishment in Sydney with Bread until the 24th December, 1829, the former at 2½d. per lb. and the latter at 1½ per lb.; in January following, he undertook to supply all the Establishments at Parramatta for the same period, the Troops at 2½d. per Lb., and the Convicts at 2¼ per pound; and in the next Month he contracted to supply the Troops and Establishments at Liverpool until the end of the year, the former at 3d. per Lb., and the latter at 2½ per Lb. These he obtained for Sydney, because

his offer was the lowest and appeared to be the most advantageous to the public, and the other two in Consequence of the failure of individuals when his tenders were accepted being the cheapest. At this time, the price of Wheat averaged at from 7s. to 9s. per bushel, by which, at the rates he tendered, he must have realized very considerable profit for some Months after the commencement of his Contract.

1830.
24 July.

Report by
J. Laidley *re*
contracts for
bread with
F. Girard.

He proceeded in their fulfilment without any serious complaint until the beginning of June, when several Condemnations of Bread took place at Parramatta, Vizt., on the 7th, 11th, 12th and 28th June, as per Copies of the reports of Survey annexed, the three former of which were submitted to His Excellency on the 20th June with a recommendation that he should be mulcted in the Amount of one fourth the sum falling due to him for Bread supplied at Parramatta between the 25th May and 24th June, which was approved and deducted accordingly agreeably to the terms of his agreement, but this was only the commencement of Complaint and Vexation.

Complaint *re*
quality of
bread.

In the month of July, Girard applied for the loan of Wheat from Government sufficient for one Month's Consumption, and upon his repeated representations that, unless assistance were afforded him, he could not continue the Contract, His Excellency was pleased to grant his request upon the Condition that the Grain should be returned in kind by the end of the succeeding Month, or paid for at the Market price, then 9s. 6d. per bushel. Copies of the Letters, which passed relative to this Loan, are transmitted herewith.

Loan of wheat
granted.

On the 19th August, the Bread supplied at Liverpool was condemned as per the accompanying report of Survey, and His Excellency directed in consequence that a Mulet equal to one fourth the Amount falling due for a Month's Supply, should be enforced against the Contractor.

Condemnation
of bread.

On the 28th August, the Bread supplied at Parramatta was Condemned; on the 3rd September, he failed to supply any, and on the 5th of that Month, Mr. Girard ceased to furnish Bread at Parramatta and Liverpool altogether.

Cessation of
supply at
Liverpool and
Parramatta.

On the 26th, 27th, 28th and 29th August, the Bread offered in Sydney was Condemned each day Successively, which was reported to His Excellency; and on the 1st September (another condemnation having taken place that day) I received Instructions to cancel all Mr. Girard's contracts, and to make new arrangements for the supply of the Troops and Various other Establishments at Sydney, Parramatta and Liverpool respectively. This was done accordingly and the sum due for Bread retained to pay for the Wheat supplied to him in July.

Condemnations
of bread at
Sydney.

Contracts
cancelled.

On this being communicated to Mr. Girard, it appears he made a representation to the Governor, stating that certain ruin would attend him if he were deprived of all his Contracts, upon which His Excellency was pleased to allow him to resume the Contract for supplying the Convict Establishment, and further authorized his being supplied with such moderate Supplies of Wheat as might enable him to resume his Contracts at once, and to continue until enabled to purchase or obtain Supplies of wheat from other Sources, it having been Stated to His Excellency by Girard that he was in the immediate expectation of receiving a very considerable importation of Wheat from India, stipulating however that he should pay for it at the Market price of the date of issue; this he at first

Renewal of
contract for
supply of
convicts.
Wheat supplied
from public
stores.

1830.
24 July.

Report by
J. Laidley *re*
contracts for
bread with
F. Girard.

Repayment for
wheat in kind.

declined, expressing himself however deeply sensible of the favorable consideration extended towards him; but, finding that it would not be issued on any other terms, he at last assented, and the Wheat was supplied to the extent of 1,200 bushels, making, together with that issued in July, 3,000 bushels.

In accordance with this arrangement, the sums falling due to Girard were retained to pay for the Wheat supplied to him; in the beginning however of the Month of November, the Brig William Young arrived from India with his expected supply of Bengal Wheat, and he then made application to the Governor in writing, and moreover waited upon His Excellency at Parramatta, to solicit permission to repay his debt of Wheat to Government in kind. To this request His Excellency was pleased to accede, thus at once relieving Mr. Girard from a direct loss of £825 Sterling, which he must have sustained, had he been obliged to pay the Commissariat for the Wheat supplied him at the Market price of the period when the assistance was afforded to him, whilst he purchased the Bengal Wheat, which he returned to Govt., at 4s. 6d. per bushel.

I am not aware of the arguments which Girard used to obtain such a mark of favorable consideration; but it is clear that, in granting it, His Excellency was not influenced by "hostility" towards him; on the contrary it plainly evinced the Governor's readiness to relieve him from the pressure of difficulties, which, according to his own Statements, threatened inevitable ruin on his affairs.

Refusal of
tender for
1830;

His Statement is correct that he again tendered to supply the Troops and other public Establishments at Sydney, Parramatta and Liverpool, with Bread during the present Year, which was declined, lower and more advantageous tenders having been accepted at Parramatta and Liverpool, and it having been thought better to supply the Establishments in Sydney by contracting for the Manufacture of Government Flour into Bread rather than subject the service generally to the inconvenience and vexation experienced during the last year, when Mr. Girard was Contractor.

and of tenders
from F. Girard
and P. Hayes.

In the Month of March, tenders were again invited for the supply of Bread to the Convict Establishments in Sydney until the 24th of next December, and Mr. Girard and a Mr. Patrick Hayes tendered among others. Girard's tender was declined for the same reasons as previously in November, and, on enquiry as to Mr. Hayes' Competency to undertake a Contract of such extent, it was found that he possessed no property or means, and moreover that he was at the time an apprentice to Mr. John Dickson of the Steam Engine,* and consequently not in a situation to make any engagement of the kind; this I learned at the time Verbally from Mr. Dickson, and I now enclose a written Document from that Gentleman to the same effect.

If the Government were on all occasions to accept the lowest tenders without making enquiry or ascertaining the abilities of the persons tendering, Vexation and constant disappointment would be the certain result, for, as in the instance of Hayes, it has before occurred that persons possessed of no property have tendered at prices, which could not even remunerate them.

Moreover the inconvenience occasioned by Mr. Girard was not only experienced in 1829; in 1828, similar complaints were made and similar assistance afforded, even to the advancing of £600 in

* Note 143.

the Month of August, which he was allowed to repay in three instalments of £200 each. The Vexation, consequent on his irregularity in supplying Bread to the Troops during 1828 and 1829, induced Colonel Lindesay to make a special request to His Excellency that Girard might not be allowed again to become the Contractor.

I have, &c.,

JAMES LAIDLEY, D.C.G.

1830.
24 July.

Report by
J. Laidley *re*
contracts for
bread with
F. Girard.

[Sub-enclosure.]

MR. J. DICKSON TO DEP. COMMISSARY-GENL. LAIDLEY.

Sir,

Sydney, 13th July, 1830.

I was not at Home yesterday when your Note was left, or I would have answered it sooner. Respecting Patrick Hayes, he was, at the time he tendered to you to Supply the Government with Bread, my apprentice, and I am not aware of what means he had to enable him to Undertake such Contract.

Report *re*
P. Hayes.

I have, &c.,

JOHN DICKSON.

[Enclosure No. 4.]

GENERAL ORDER.

23d July, 1828.

THE Lt. General has heard, with no less surprize than disappointment, of the misconduct of some of the Soldiers in consequence of the inferior quality of the Bread, which was issued to them yesterday.

General order
re attack by
soldiers on
house of
F. Girard.

It appears that these Men, without waiting the result of the Board of Survey which had been assembled in consequence of their complaint, the Proceedings of which the Lieut. General had not even received when the outrage was committed, rushed out of the Barracks and, proceeding to the Baker's, broke in the Windows of his House. Having preferred their complaint, it was their duty to have waited the result with patience, as they must have been sure they would have received such redress, as the circumstances of the case should be found to require.

The expedient that has been adopted, of mixing a portion of Maize Meal with the Wheaten Flour, they must have been aware, was a matter of necessity, and was resorted to only in consequence of the scarcity of wheat. The Lieut. General need not point out that, in a Community like this, the Troops ought to have been the first to set an Example of cheerful compliance with a measure, which they must have been satisfied was intended for the general benefit and convenience of all classes, Military as well as Civil.

It is painful to the Lt. General to address the Troops on such an occasion as the present. It has hitherto been his good fortune to speak in terms of approbation of their Conduct; and he must ever regret, when the Soldiers under his Command are so regardless of their Character as to hazard it as they have done on the present occasion.

They must not suppose, because it is gratifying to him to praise, that he will not punish when circumstances require it. He assures them that an example shall immediately be made, if the Promoters of the outrage which has been committed can be discovered.

The Lt. General now warns the Troops, as they regard their Character, not to allow themselves in future to be betrayed by an

1830.
24 July.

General order
re

intemperate feeling into the Commission of any Act contrary to their Duty. The Soldiers must recollect they are stationed here to assist the Civil Power, and protect His Majesty's subjects, not to destroy their Property and endanger their lives. They are not "to take the Law into their own hands" and avenge themselves of supposed injuries. By so doing, they deprive themselves as in the present instance of any redress they might have had a claim to. Let them look to their Officers for example, and prove themselves by their future conduct deserving of their good opinion, and thus re-establish the claim, which they have so inconsiderately and wantonly hazarded on the present occasion, to their Confidence and protection.

The Lt. General has directed that Biscuit shall be issued to the Troops in Sydney this day.

Supply of bread
to military.

The Officers Commanding Corps will be pleased to order that a Serjeant of each attend daily at the Contractor's, at a proper time, to see that the Wheaten Flour and Maize are mixed in equal quantities, so long as it may be necessary on account of the scarcity of Wheat to continue the issue of a reduced Quantity of Flour.

Previous to the daily issue, the Captain of the day and an officer of the 39th and 57th will form a Board, in order to ascertain that the Flour was of a proper quality and that due pains have been taken in making the Bread.

The Board will report to the Commandant of the Garrison.

Such Men, as prefer it, will be allowed that portion of the stoppage on account of Rations, which is not paid for their meat, being about 2½d. per day. They will recollect that this sum will not purchase more than Half a Pound of Bread at the present moment.

Returns must in this Case be sent every morning to the Depy. Commissary General, that the Contractor may be apprised in time of the Quantity of Bread he will be required to furnish for the ensuing day.

Court of inquiry
on attack on
premises of
F. Girard.

A Court of Enquiry will assemble immediately after the Garrison Parade to ascertain if practicable, who were the Promoters and Abettors of the outrage committed yesterday on Mr. Girard's premises.

The Court will also inspect the Premises, accompanied by the Civil Engineer, and report the particulars of the Damage which was done by the Soldiers.

The Court will consist of Bt. Lt. Col. Shadforth, President. Members: Bt. Major Campbell, 57th Regt.; Captain Barker, 39th Regt.; Lieut. Scarman, 39th Regt.; Lieut. Bate, 57th Regt.

Guard on duty
at time of riot.

The Lt. General cannot but consider, if the Main Guard had been alert, that some of the Men, who were concerned in the Riot, would have been apprehended. The circumstance occurred immediately opposite and within a few yards of the Guard; still, though the Rioters were numerous, not an Individual was secured; a Guard is of no use, if it allow itself to be surprized, and the Officers and Non-Commissioned Officers Commanding Guards are apprised that they will be made strictly responsible for any irregularity, which may take place in the Neighbourhood of their Posts.

The above order to be read by the Officers Commanding Companies to their Men on three successive days, so that no one may plead ignorance.

By Command.

C. STURT, Major of Brigade.

[Enclosure No. 5.]

1830.
24 July.

MR. S. A. PERRY TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, Sydney, 26th July, 1830.

Having, in compliance with your request, called on Mr. Halloran (the Writer of the accompanying paper, purporting to be the Memorial of Francis Girard, of Sydney, New South Wales, and addressed to the Rt. Honble. Sir George Murray, G.C.B., His Majesty's Principal Secretary of State for the Colonies, etc., etc.), to state by whose Authority he performed the Writing, I have the honor to acquaint you that he informs me he did it by desire of his Father, Doctor Halloran. I have, &c.,

Writing of
memorial by
H. Halloran.

S. A. PERRY, Dy. Sr. Genl.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Per ship Australia.)

25 July.

LIEUTT. GENERAL DARLING presents his Compliments to Sir G. Murray, and, with reference to his Note of the 12th of November last, respecting the Wife and Family of a Convict named Robt. Morrison being permitted to join him, begs to transmit herewith a Copy of the Local Regulations which govern Cases of this description.

Indulgence
proposed for
R. Morrison.

Robt. Morrison arrived here in January last, a Prisoner for life.

New South Wales, 25th July, 1830.

[Enclosure.]

GOVERNMENT NOTICE.

Colonial Secretary's Office, 25th February, 1830.

SEVERAL instances having occurred of Free Women, permitted to come out at the Expense of Government to join their Husbands in this Colony, finding on their arrival that their said Husbands had been transported to Penal Settlements, or had otherwise by their misbehaviour rendered it improper to suffer them to reside with their Families, it has become necessary to define more strictly the period of probation, which will be required before Convicts will be allowed this indulgence in future.

Regulations re
probation
required prior
to free women
joining convict
husbands.

His Excellency the Governor has accordingly directed the Regulations on this subject, dated 1st March, 1817, to be republished, and a distinct Notification to be now made that no application of this nature will be transmitted to the Secretary of State, until the Applicant shall have not only shown his ability to support his family as required by the Regulations alluded to, but shall also have given proof of his desire to do so by Continued good Conduct, during at least half the period required to procure him a Ticket of Leave, "Vizt.":

A Convict transported for 7 years, during 2 years; 14 Years, during 3 Years; and Life, during 4 Years.

Applications for this Indulgence are to be made in the subjoined Form, Copies of which may always be obtained on applying to the Principal Superintendent of Convicts.

By His Excellency's Command,

ALEXANDER MCLEAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch marked "Separate," per ship Australia; acknowledged by Viscount Goderich, 22nd January, 1831.)

Sir, Government House, 27th July, 1830.

I have the honor to forward to You at the desire of Mr. Hall, the Editor of the Monitor Newspaper, the accompanying Letter Containing Fourteen different Accusations against me.

This Document was sent in the day before Captain Robison sailed for England, who I understand was Charged with Copies of it, and who, from the matter it Contains, I have no doubt was principally Concerned in its fabrication. I mention this not as attaching any importance to these accusations, the whole of them being contemptible in the extreme, but that you may be aware, Sir, of Captain Robison's Agency, should he intrude himself, as I have no doubt he will, on Your Notice.

In replying to these Accusations, which I have done in the accompanying Paper, I admit, Sir, that I have taken more pains than the subject merits; but I have done so in order to shew at once that Hall, whose sole object is to vilify the Government, is utterly undeserving attention, and to relieve myself from the necessity of replying to his Calumnies in future.

I must acknowledge, Sir, it has been very painful to me to be subjected to reply to the slanderous Charges* of such Men as Wentworth, Lockaye, Hall and Robison, and I regret it the more, as much valuable time has been wasted in doing so.

It should be recollected that Hall, in particular, being in Jail, has much leisure, writes with facility, is unrestrained by principle and reckless of all Consequences. His representations and those of his Confederates have now become so frequent that the question is, whether they are to be attended to, or the Business of the Government?

Reference to my late Despatches, and to those which I have the honor to forward by the present opportunity, will satisfy You that it is impossible to attend to both. I freely acknowledge, Sir, that it has cost me much trouble to reply to these Statements, as the facts are not always totally unfounded but grossly distorted. The most trivial incident furnishes a theme, which is magnified or manufactured to suit the purpose of the Writer, and I am laid under the necessity of explaining or accounting for the measure or proceeding. I have now, Sir, had too much experience to be likely to commit the Government or myself rashly. On the contrary, I am led to believe that the Caution, which has been used of late, has done any thing but raise the Government in the

* Note 144.

1830.
27 July.

Transmission
of charges by
E. S. Hall.

Copies taken
to England by
R. Robison.

Reasons for
full replies.

Time lost in
replying to
charges.

Prudence in
administration
of government.

estimation of even the most sober minded and discreet. I think, however, I have acted with prudence in yielding to Circumstances in the instances to which I allude.

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I will not, Sir, close my Letter without adverting more particularly than I have in my "Replies" to the Accusation, which relates to Captain Wright's Appointment as Police Magistrate at Emu Plains (meaning Penrith). It was in fact a measure of necessity as well as an act of justice.

Appointment
of T. E. Wright
as magistrate at
Penrith.

Through the machinations of Wentworth, Hall, Robison and Lieutt. Cox of the 39th Regt., who had been brought to a Court Martial by Captain Wright and was sentenced to be cashiered but pardoned, he, Captain Wright, was induced to require being put on his Trial, though not necessarily obliged to do so. The Case broke down, as you have been already informed, Sir, and the Parties were obliged to abandon the Prosecution. Captain Wright had been withdrawn from Norfolk Island, where he was employed as Commandant and had suffered much persecution by the Parties alluded to; the Government was therefore in some measure bound to support him.

But his Appointment to Penrith was at the same time, as I have stated, a matter of necessity, from the difficulty, impossibility indeed, of finding a Competent Officer, who would undertake the duty. It is a fact that Three Captains declined the Appointment.

I have now, Sir, to apologise for having taken up so much of your time in a matter of this nature, and, in doing so, I am sure you will excuse my frankness in expressing the mortification I have experienced on the occasion.

A Man, whose character does not furnish a Shield against the attacks of such Assailants, as I have had to contend with, has indeed but little to boast of.

You will receive, Sir, by this opportunity my Replies to two sets of Accusations preferred against me by the Editor of the Monitor Newspaper. One relating to the Murder of *Clynch*, as stated in that Paper, the other Set is enclosed with this Letter; as likewise, my replies to Girard's representations. By a late occasion, I had the honor of transmitting "Replies" to Captain Robison's Statements, and of referring You to the General Commanding in Chief for the voluminous Charges, which he had transmitted against me to Your Department and to the Horse Guards. I forwarded by the same opportunity an explanation of the proceedings in the case of Raine's Contract.

Replies to
various
accusations.

I have, &c.,

RA. DARLING.

1830.
27 July.

[Enclosure No. 1.]

MR. E. S. HALL TO SIR GEORGE MURRAY.

Sir,

H.M. Jail, Sydney, 19th May, 1830.

Transmission of
printed copies
of former
letters.

On the 8th Instant, I did myself the honor to address You, in reply to Your Despatch dated the 6th of November last, which You transmitted to His Excellency General Darling, a printed Copy of which I now enclose, together with printed Copies of the Letters I have formerly had the honor to write to you, and which are bound up with it in a species of stitched Pamphlet.

There is one part of your Despatch, which, on account of its importance, I have reserved for special consideration in this Epistle, and accordingly I now take the liberty of resuming the subject.

Alleged virtual
conviction of
R. Darling for
libel.

I have pointed out to You, in my letter of the 8th Instant, that His Excellency had been virtually convicted in our Supreme Court of libelling me in an Article published in the Sydney Gazette, a Newspaper published here by Authority. In Your Despatch, you state two things; First, that the humblest Individual, if injured by the Government, shall have redress at your hands; And secondly, that, in consequence of my having been convicted of a Libel, "indecent, scandalous, and emanating from personal Motives," General Darling was justified in depriving me of the use, in common with the free and free'd Colonists of New South Wales, of the interior waste Pastures of the Crown; that is in effect, that, however numerous my Flocks and Herds may be, they shall not be allowed to feed upon any save my own Lands, however inadequate such Lands may be for their support; which punishment in a pastoral Colony, whose chief Wealth at present consists of live stock, is incalculably severe, while it is a punishment in addition to that of fine and imprisonment, which I am now enduring.

Approval of
action of
R. Darling re
E. S. Hall.

I, being thus punished and in Your Judgement, Sir, justly and constitutionally punished for *my* Libel, I humbly suggest to You the propriety of Your granting me Redress against His Excellency the Governor for his Libel on me, a Libel decided by a Special Jury of the Country indifferently chosen, and not by a Jury selected and paid by me the Prosecutor. For You are aware, Sir, I cannot seek Redress in a Court of Justice here against the Author of my Wrongs, as the General has done with regard to me, because the Law forbids that any Man should be prosecuted in his own Seignory. Therefore, Sir, I appeal to you for redress herein. That the Libel published against me in the Sydney Gazette was written by General Darling, the Records of your office, Sir, will abundantly make manifest.

Claim for
redress.

Inability to
prosecute
R. Darling.

In regard to that part of Your Despatch, in which you state "that you are of opinion that, as my strictures in certain of my letters to You are merely those of an Individual upon public questions, with which I have no concern of a personal or private kind, they require no special answer from the Government"; I beg to observe that, as the Law considers all His Majesty's subjects bound to prosecute offences, which come to their knowledge and violate their moral sense. I consider, Sir, You would not have gone too far, had you promised me investigation into my complaints, such as His Majesty's Crown Officers might advise you thereupon. The immoralities, peculations and offences, pointed out by me to you, Sir, in the said Letters, were partly chargeable on General Darling himself, either through neglect or misapprehension of his duty; and

Claim to
investigation
of charges by
E. S. Hall.

therefore, as you are aware, I could not institute Prosecutions against His Excellency in his own Government, it appears to me that, in having pointed them out to you in my said letters, I acted in the most constitutional and becoming manner; and therefore I still respectfully call upon you to institute enquiries into them, particularly into the gross improprieties practised at our penal Settlements, as explained by me at great length in certain of my Journals, Copies of which I have heretofore transmitted to you; These improprieties, Sir, I published in my Journal on the spot, challenging contradiction in the most open way in the face of the Government, under which they were committed. So far, however, from the Governor instituting any enquiry into the offences, I thus manfully brought against the late Commandant* at Port Macquarie, His Excellency ordered his Attorney General to prosecute me *ex officio* for the same. By this means, the Commandant was relieved of the usual oath of purgation. The Jury was composed of the Brother Officers of the Commandant. I was found guilty and sentenced to three Months' Imprisonment.

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Conviction
for libel on
F. C. Crotty.

In order, Sir, that the Conduct of the present Administration may now be brought more formally under Your consideration, I shall, late as it may appear, make my complaints against General Darling in the shape of distinct accusations.

Specific
accusations
against
R. Darling.

I would have done this, Sir, long ago; but I did think, before I received Your Despatch, that the bold, manly, fair, open Allegations, published from time to time in my Journal on the Spot and challenging contradiction, would so far have attracted your attention, as to have relieved me from the expence, time, and labour of becoming the public Accuser of General Darling. But Your Despatch, Sir, I am truly grieved to observe, leaves the Colonists little ground for consolation as to their grievances being redressed voluntarily by His Majesty's Government.

1st. First then, Sir, I accuse His Excellency General Darling of unlawfully disregarding and passing over, after he was informed of the same, of the peculations, gross immorality, unofficerlike, ungentlemanly behaviour of Captain Crotty, 39th Regt. at Port Macquarie, in having appropriated to his own use the King's Stores there; Secondly in associating publicly with the Convict Women of the Settlement in an improper manner; And thirdly, in having associated with a twice convicted Convict by becoming his Guest.

Alleged
condonance of
conduct of
F. C. Crotty.

2ndly. I accuse General Darling of bringing the Magistracy of the Colony into contempt by His Excellency having put into the Commission of the Peace Captain Thomas Edward Wright, 39th Regt., and constituted him Police Magistrate at Emu. Capt. Wright was lately tried in Our Supreme Court for the murder of Patrick Clynch. The two Approvers, Soldiers of his own Regiment, who promised to tell the truth, swore on the Trial differently to what they had solemnly alleged to certain of their own officers; and they also contradicted each other on the Trial. The Counsel prosecuting, therefore, was unwillingly obliged to give up the Case; and, the Judge not directing it to proceed, as I humbly conceive he was bound to do, seeing that there were other witnesses waiting to be examined, whose testimony might have established the guilt of the Prisoner, Captain Wright was acquitted. But, as the Community at large considered that Captain Wright's *innocence* was by no means made clear, and that he owed his Acquittal entirely to the

Appointment of
T. E. Wright as
magistrate
after trial in
supreme court.

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Appointment of
T. E. Wright as
magistrate
after trial in
supreme court.

prevarication of the Approvers and to the Prosecution not being gone through with, the Colonists have witnessed the appointment of Captain Wright to the Judicial Chair with feelings of disgust and dismay. And this dissatisfaction was not lessened by the circumstance of Captain Wright's being gazetted as Police Magistrate at Emu, a few days after the publication in the same Paper of Lord Hill's condemnation of that Individual for having trafficked in the Convicts' and Soldiers' Rations of food, while Commandant at Norfolk Island. Captain Wright is at this moment cohabiting at Emu with a Concubine, by whom he has a Family of Children, and for whose support, it was, he sent to Sydney the provisions just alluded to. This Woman he brought out from England with him, having kept her as his Mistress on board the Convict Transport which conveyed him to this Colony.

Retention in
magistracy of
A. Robertson ;

3rdly, I accuse General Darling of bringing the Magistracy further into contempt by continuing in the Commission of the Peace Lieutenant now Captain Robertson, 57th Regt., after His Excellency had been informed of that Individual having harbored a Woman of the name of Elizabeth Harman, the wife of a private Soldier of the 3rd (Buffs) Regt., and who was compelled to leave the Colony in great distress of mind on account of her being so harbored, and living with her in a State of Adultery and of disregard to the feelings of the Wives and daughters of the officers of the Sydney Garrison, in not calling Captain Robertson to account, after His Excellency had become acquainted with his having brought the same Woman into his Quarters in the Garrison of Sydney, and after it had become notorious, to the said Garrison and to a large portion of the Public, that the said Elizabeth Harman had a child or children by Captain Robertson.

and of
S. Wright.

4thly, I accuse General Darling of further bringing the Magistracy into disrepute by continuing in the Commission of the Peace Mr. Samuel Wright, late Lieutenant of the Buffs, after His Excellency had been informed that the said Lieutenant Samuel Wright had appropriated to his own use the services of Convicts, and the use of a Government cultivated Farm, and been guilty of other improprieties as Superintendent of Police at the Settlement of Newcastle.

Proposed
prosecution
of E. S. Hall
by S. Wright.

5thly, I accuse General Darling of prostituting his Authority and influence as Governor to feelings of private resentment, in having caused a Letter to be written to the said Mr. Samuel Wright by the Colonial Secretary or other person, the tenor of which Letter was to induce the said Mr. Wright to prosecute me for Libel by a criminal Information, and intimating to him that his expences should be paid ; but which Prosecution the said Mr. Wright declined acceding to.

Alleged illegal
appropriation
of money in
payment of law
costs.

6thly, I accuse General Darling of having unlawfully appropriated the public Monies of the Colony, particularly in his having paid out of the Colonial Treasury the expences incurred by Captain Thomas Edward Wright (39th) in his defence before the Magistrates and Supreme Court respectively, when he was prosecuted in the name of the Attorney General for Murder. And with a like misapplication of the Public Money in defraying the damages and Costs, obtained by me in the Supreme Court in two several Prosecutions* against Messrs. Rossi, Brown, Bunn, and Wolstonecraft, Magistrates, and against Mr. Hely, Superintendent of Convicts, respectively ; and also

* Note 146.

in paying the Costs of a Criminal Prosecution instituted by me against the same Magistrates, which (accompanied with a severe reproof and reprimand to those Magistrates) had been ordered by the Court to be defrayed by them the Defendants.

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7thly. I accuse General Darling with unlawful and unconstitutional interference with the administration of Justice in the Colony generally, particularly in calling on the judges for explanations of their decisions delivered from the Bench, and in having directed the Police Magistrate of Sydney to lay before His Excellency, for his consideration, the Depositions taken by him in the examination of Captain Thomas Edward Wright (39th), which depositions ought to have been seen only by the Attorney General and the Judges, inasmuch as the Governor had to select the Jury who were to try that Individual. And I further accuse His Excellency of countenancing, upholding and continuing in the Commission of the Peace Magistrates, who have rendered themselves obnoxious to the Re-proofs of the Supreme Court by their partial or ignorant administration of Justice, and who thereby had lost the confidence of the Community at large.

Alleged interference with administration of justice.

8thly. I accuse General Darling of an unequal, unfair and impolitic assignment of the Crown Lands and Crown Servants by all the various modes of Alienation, as well to Emigrants as to free and free'd Convicts, male and female, of the different Grades which distinguish our Society.

Alleged unfair distribution of lands and assigned convicts.

9thly. I accuse General Darling with having unlawfully, unconstitutionally and most oppressively ordered the Crown Officers to institute Criminal and Civil Prosecutions against His Majesty's free Subjects of New South Wales, contrary to the opinion, Counsel and inclination of the said Officers.

Prosecutions ordered by R. Darling.

10thly. I accuse General Darling of sanctioning the Purchase and issue of certain American salted Meat, which was brought into the Colony from India by a Mr. John Lord, and which Mr. Goodsir of the Commissariat in the absence of Mr. Wemyss purchased of the said Mr. Lord, with whom he had returned to the Colony in the same Ship. There was at that time abundance of salted and fresh Meat, both beef and pork, of very superior quality in the Colony, and the grazing Interests as well as the farming were at the same time greatly deteriorated, the first for want of a Market for Colonial Bullocks, and the latter by the prevalence of a destructive drought. The American *Meat* (so called) purchased by Mr. Goodsir was composed of Shins of beef badly cured originally and very old, and was in a most fetid state, unfit for food either for Man or beast. After persevering attempts to force it on the Prisoners, both in the Colony and the Penal Settlements, continued for more than twelve months, and which I specially charge upon General Darling as an act of great cruelty and oppression towards the Prisoners, it was finally directed by the General to be made into Soap.

Alleged improper purchase of American meat.

11thly. I accuse General Darling of severity, negligence or carelessness in his office, one or all, in not providing the Prisoners in the road and iron Gangs and at the penal Settlements with sufficient food, nor with food delivered out to them in such a state and under such circumstances as to render it effective *as food*. I allude to the want of salt for their Meat in hot weather, some simple Utensils

Alleged neglect to provide sufficient food for convicts.

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Alleged neglect
to provide
sufficient food
for convicts.

for cooking, and other bad management. And, in consequence of such bad and insufficient food, I accuse General Darling of being the indirect cause of the numerous plunderings and murders, committed amongst distant and lonely Settlers, and the present disturbed state of the Colony as to Bushranging, the consequent numerous executions, the vast additional expense to the British Treasury in bringing to Justice the said Bushrangers, the consequent deprivation to the Colonists of the ancient mild Laws of England by investing our Magistrates with very unconstitutional power, and the innumerable evils consequent on a disturbed State of Society.

Alleged neglect
to inquire re
acts of torture.

12th. I accuse General Darling of neglecting to enquire into and punish various Acts of Torture, which have been practised towards the Prisoners by the Convict Overseers of the Iron Gangs. To which usage, in addition to bad and insufficient food, may be attributed the existence of the numerous Gangs of desperate Men, who have infested the Country during nearly the whole of General Darling's Administration.

Influence in
passing of acts
of council.

13thly. I accuse General Darling with having proposed and caused to be passed Laws contrary to the Laws of England, and with over-awing the Legislative Council by using expressions in Council of a compulsory and menacing nature to the Members, in order to intimidate them to consent to his Measures.

Alleged packing
of military
juries.

14thly. I accuse General Darling with having packed the Military Juries of the Colony by deviating from the routine and form of selection commonly called a *Roster*, omitting to place on such Juries for long periods of time, or altogether, officers of respectability and high Character, and continuing on the said Juries for long periods of time other Officers, needy Men and dependent on himself.

All which Acts and Conduct, being Contrary to his Duty as Governor and Commander of the Forces, and to the peace, welfare and good Government of the Colony in general (and the same having been attended with great loss and suffering to myself in particular), I now humbly submit to You, Sir, as the representative of my Sovereign in the high and responsible situation, which you hold, for Your consideration and redress. Being ready so soon as General Darling shall have left the Government, whereby Witnesses will not be intimidated from coming forward in giving a fair, full and unbiassed testimony, to *prove the same*.

I have the honor of forwarding to You this Letter through His Excellency Genl. Darling.

I have, &c.,
E. S. HALL.

[Sub-enclosures Nos. 1, 2, 3, 4 and 5.]

[*These were letters from Mr. E. S. Hall to Sir George Murray, dated 17th and 26th November, 1828, 12th March, 2nd May, and 6th June, 1829; see pages 579 et seq. and 596 et seq., volume XIV, and pages 54 et seq. and 61 et seq., and note 65 in this volume.*]

[Sub-enclosure No. 6.]

COLONIAL SECRETARY MACLEAY TO MR. E. S. HALL.

Sir, Colonial Secretary's Office, Sydney, 8th May, 1830.

I am directed by His Excellency the Governor to transmit to you the accompanying copy of a despatch, which has been received

from the Right Honorable the Secretary of State in reference to the various representations you have addressed to him on the under-mentioned dates, viz.:

17th and 29th November, 1828; 2d January, 1829; 16th March, 1829; 2d May, 1829; 6th and 8th June, 1829.

I am, &c.,

ALEX. MCLEAY.

[Sub-enclosure No. 7.]

[This was a copy of Sir George Murray's despatch, dated 6th November, 1829; see page 243.]

[Sub-enclosure No. 8.]

MR. E. S. HALL TO SIR GEORGE MURRAY.

His Majesty's Gaol,

Sydney, New South Wales, 8th May, 1830.

Sir,

I had this day the honour to receive a copy of your Despatch to General Darling, dated 6th November, 1829.

Despatch
acknowledged.

The contents being of the greatest importance, as well to the inhabitants of this Colony as to myself, I now crave your patience and condescension, while I take upon me the arduous duty of replying to your communication.

And first permit me, Sir, to return you my acknowledgments for the attention you have paid to my communications; it is gratifying to perceive that the letters of individuals, in so remote and small a Colony as this, share your attention, devoted as it is to subjects of national moment.

You inform me, Sir, in the first part of your letter to His Excellency, that you see no reason to question the propriety of General Darling's decision in refusing the territorial gifts to a person convicted before the Supreme Court here (as I have unfortunately been) of a libel, which was expressly declared by the judgment of that Court to have been "indecent, scandalous, and emanating from personal motives."

Approval of
refusal of land
by R. Darling.

The judgment of a Court of Justice can seldom be impugned with credit to him who calls it in question. But while it is painful to me to make distinctions, my duty to myself and to my fellow-colonists in general requires I should draw the distinction between Courts of Justice in England and the Courts here. In England, in any state prosecution such as that to which you allude, the Judges are (first) independent of the Crown; secondly, the Jury are not selected by the virtual prosecutor; neither (thirdly) are they paid by him; besides which (fourthly) they can be challenged by the accused on slight grounds. But in New South Wales, the Judges are distinctly and notoriously dependent on the Crown, and still more so on the Governors, *de facto* if not in principle; and any personal pique, having perhaps a private or domestic source, may occasion the removal of the upright and wise among our Judges, and, at the same time and from the same causes, prove the support and preferment of the least worthy. Hence, Sir, in all government prosecutions, where dependent Judges preside, no person found guilty is satisfied with the decision of the laws; that is, if he be sentenced to punishment, no man considers he has had a fair, English, Magna-Charta-like trial. Acts of Parliament, which authorise such punishment, must be submitted to; but the person punished

Contrast
between courts
of justice
in England and
N.S.W.

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and the people generally, will consider such an one a victim. And, allow me to say that it is impossible the people of any community, if they be a wise and understanding people, that is, if they be Saxon Englishmen, not to sympathize with the sufferings of the person so punished. The effects on the public sentiments of such a community, I need not here portray. They are sufficiently obvious.

Criticism of
jury at trial of
E. S. Hall for
libel.

The Jury, Sir, that tried me, were many of them my political antagonists. They were military men. They were under the dread controul of military law and military discipline. Their commander was their constituent, and virtually he was my prosecutor; in two subsequent instances he was literally so. So far, however, that Commander abided by the Act of Parliament which at present rules this unhappy Colony. But he also did that which is *not* authorised by that Act of Parliament. He gave his jurors fifteen shillings a day for their duty; a sum exceeding in amount the pay of most of them; and they must have been conscious that, so long as they did not fall under the displeasure of that commander, they would *continue* to receive from him this important addition to their income. And this feeling of course had a tendency to render them a partial and interested jury; and persons convicted under such circumstances may be legally punished, but they are not justly punished.

Fees given
to jurors by
R. Darling.

Limitation
on right of
challenge.

When a certain jury that lately tried me was impanelled, I was precluded from challenging them, save on the ground of "*direct interest and affection*"; an exception so exclusive that I believe it was never permitted by our Judges to operate in favour of the challenger in a single instance since the foundation of the Colony. I have been a resident in New South Wales eighteen years, and I do not recollect of its ever being available. At all events, the challenge, if ever it have been permitted, has been of rare occurrence. I myself once challenged one of my soldier-jurymen, and my challenge was refused by the Court. The interest proved by me, the Judge said, was not "*DIRECT affection*." Yet to shew you, Sir, how far my challenge was grounded on justice, I had occasion to make oath subsequently in the Supreme Court that, in the very prosecution in which the challenged juror sat, the latter was overheard outside the jury-room making use of observations of a compulsory and menacing nature to a brother jury-man to induce him to yield up his opinion (which was in my favour) to his brother jurors. And, on another occasion, I had to make oath to the Court that the foreman on the jury on four other trials, on which I was also convicted, had been heard to *declare by his Maker* (previously to his being impanelled) that he would find me guilty in every prosecution that was then pending. But to return to the judgment in the prosecution of the King against me, at the instance of Archdeacon Scott, from which you have quoted the given words in your despatch.

Judgment in
prosecution for
libel on Revd.
T. H. Scott.

I was certainly greatly surprised at the severity of the remarks made by the learned Judge (Dowling) when he pronounced that judgment.

The expressions, which had been charged on me as libellous, were contained in my comments upon the conduct of the Rev. Mr. Scott in having ejected me from a pew I held in St. James's Church, Sydney, the safe tenure of which to me and my family, according to the new Churchbuilding Act, depended (as I conceived and still conceive) on conditions which neither had nor have been broken by

me. The most severe expression used by me in my comments was that such conduct in Mr. Scott, coupled with other of his public acts, "had a tendency to show that he was not a man of peace"; and that the law-suits, in which he had been engaged, "were specimens of litigiousness."

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When the Judge summed up on the said trial, His Honor did not allude to the great provocation I had received; but, on the contrary, he drew the character of a Minister of God as it *ought* to be, and then made a powerful appeal to the jury as to the protection a meek and lowly clergyman should receive from the rude attacks of a newspaper. My offence was thereby made to appear to be malevolent and without extenuation. The conduct and character of Mr. Scott pure and irreproachable. I was quickly found guilty of the libel. It had been filed *ex-officio*. No grand jury; No petty jury; No challenge; The jury was appointed by the Government, and paid by the Sheriff-Selector.

Summing up by
J. Dowling.

Verdict of
guilty.

The Attorney General subsequently informed me that he should not bring me up for sentence. But afterwards, he informed me he *should* call me up for judgment, *but would call for no punishment*. Accordingly, expecting none, my counsel said nothing in mitigation of punishment, though attending in Court for the purpose. It is usual, Sir, in this Colony, in passing sentences, for the Judges to be *all present*. On this occasion His Honor Judge Dowling sat alone; and he passed a sentence on me which is likely to prove my ruin. His Honor ordered me to enter into a recognizance for £500, a sum, which to a man with eight children, will, if it be forfeited (and General Darling is now prosecuting* me with that intent) prove my destruction. Surely, Sir, fines and securities should in their amount be made somewhat commensurate with men's fortunes? This I know is the practice of the English Courts; and I am sure it is called for by that universal maxim of christian jurisprudence, which declares that judgment should be tempered with mercy. I perceive, by a fine lately exacted of a Parisian editor, that in France, where the laws are more despotic and severe than in Britain, at least as Englishmen are taught to believe, but which I do not believe as regards the laws of *this Colony*, the fine was very moderate. Sydney is a small town, the Colony is infantile, and the people are as poor as the soil and climate are hostile to fertility and wealth. Heavy fines and recognizances in such a place are unmerciful.

Sentence passed
by J. Dowling.

You have already, Sir, been made acquainted with the *final issue* of the question between the Rev. Mr. Scott and myself, as regards my pew in the Church of Saint James, Sydney. After a painful and protracted series of litigations and prosecutions, in the course of which I have been under the necessity of complaining to you of the conduct of His Honor Judge Dowling, I have at last recovered of the Archdeacon damages* for his having illegally ejected me from the pew in question. The means by which I was ejected, you, Sir, on reading the trial and the narration I have given of them at various times, will, I feel confident, pronounce to be everything that can be deplored in a Church Dignitary.

Damages
recovered
from Revd.
T. H. Scott.

The ultimate issue then, Sir, of that affair, for which I am now suffering the most fearful anticipations (I allude to my recognizance of £500) is this: That I and my six daughters were indecently, insultingly, and tyrannically driven from our pew, morning and evening, for a period of nearly twelve months, by constables with

Result of
dispute *re* pew.

* Note 147.

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Result of
dispute *re* pew.

Criticism of
remarks by
judge.

uplifted staves, through the orders or influence of Archdeacon Scott, which, after numerous trials and litigations that occupied two years and a half, were, by a special jury of merchants and landowners, finally pronounced to be illegal, Mr. Scott being visited by them with damages and full costs of suit.

For my comments on such conduct then on his part, which I respectfully contend, in opposition to the opinion of the learned Judge, were neither "indecent" or "scandalous," nor yet did they (immorally) "emanate from personal motives," but were fair remarks, decorous reflections, and true statements; for these comments, I say, I was punished by the very same Court and the very same Judge, which within the last month have rewarded me with pecuniary compensation for the indignities and wrongs which were the occasion of those comments!

Permit me, Sir, to ask of you, as one that is placed near to that august personage, who ought to be and who I believe is sensitively alive to the honour of his Government, and of the British name, even in these his remote dominions; what effect on the native-born youth of this country, who are daily superseding their fathers in their estates, must such contradictory decisions have? Can you possibly imagine, Sir, that a race of young men, with judgment, sensibility and ardour of mind, far superior to anything I ever remember to have seen of the youth of England in their rank of life, and with physical energies commensurate, will look upon such events with any thing but disfavor, mingled with ridicule? Of what use is it to such a people for the Government adherents to declaim in lofty terms on the advantages of British freedom, British laws and British jurisprudence, when they witness such decisions as are above described?

Effect of
decisions on
native-born
Australians.

The next paragraph in your despatch, to which I feel bound in duty to my character to mention, is that wherein you inform me that General Darling's refusal to let me a portion of the crown pastures was proper; more especially as you had observed "that my Journal had continued, not less after my conviction of the libel on the Rev. T. H. Scott than before it, to be the channel of the most unmeasured and unjustifiable attacks on the characters, both public and private, of numerous and respectable persons."

Approval of
refusal by
R. Darling to
lease land.

I do not object to be considered guilty of such conduct as is here described, save in the terms "unmeasured" and "private." With respect to the term *unmeasured*, if, Sir, you had read my Journals, and considered the evil tendency of the acts of persons in authority at our penal settlements and in other situations, some of which I exposed in my Journal of the 9th February, 1829, Number 187, and subsequent numbers, I feel satisfied you would not have thus condemned me *ex-parte*. I greatly regret, Sir, that you should not have been aware of the peculations, immoralities and cruelties therein laid open to you and the British public; for, if you *had* been so aware, you could not have pronounced me guilty of "unmeasured" and "unjustifiable attacks on the characters, both public and private, of *respectable* persons." If, Sir, your rebuke be correct and just, it would follow that a Free Press is an evil. The characters of men, however (whether they be public men or private men, no matter), according to *my* view of Christian morals, are to be held in respect, not according to their *respectability* but according to their *virtue*. The character of a poor man, who is not a respectable

Reply to
criticism by
Sir G. Murray.

man in the sense you use the term, I solemnly assure you, Sir, is as sacred in my eyes as that of a rich one. With respect to a vicious man in humble life, as he has no power to oppress the public, the Press has no concern with him; Not so with a vicious *public* character. The venality and tyranny of a man in power ought, I humbly conceive, to excite the attention and correction of all good men. If, Sir, respectable persons are to be privileged with security from public animadversion, on account of their respectability, upon what kind of vice and on what class of society will the Press be justified in making its animadversions? The Author of Christian morality levelled *his* shafts at the chief priests of his day, and at the rich Sadducees, who were high in political power and trust, *not against the poor*. To the woman taken in adultery, he was forbearing, because she was humble and stood before him self-convicted.

And here, Sir, bear with me I pray you, While I again assure you that you are verily mistaken, when you accuse me of attacking the *private* characters of individuals. I have never done so. No part of any person's *private* frailties have I ever exposed to public view, unless they were connected with his office in some positive and palpable way. I believe the friends of General Darling will themselves acquit me of this part of your accusation. I entirely agree in the distinction drawn by judicious casuists, between public immorality and private immorality. The distinction, however, be pleased to observe, Sir, does not lie in the *act*, but in the *circumstances* of the act. For instance, if a public officer commit adultery, so long as the act is unconnected with his official conduct and is kept private by him to the utmost of his power, it is a private sin, with which the public have no right to be acquainted through the medium of the public journals. So of men who are intemperate, so long as their inebriety does not interfere with their public duties, it ought to be safe from newspaper attacks; and by me such sort of adulterers and drunkards, whether civil or military officers, have ever been unmolested. But, if an officer is found intoxicated in his office, and the public suffer by such conduct, then his intemperance becomes a legitimate subject for the Press to take notice of; the private sin becomes then a public nuisance and vice. Or if an adulterer, in lieu of concealing his fault, drive through the streets with his paramour to the scandal of chaste matrons and virgins, or if an officer in authority walk through the streets with a prostitute under his arm at mid-day and entertain her publicly in the verandah of a Government-house, such gross indecency ought to be noticed by the Press. This last impropriety, Sir, has been exposed by me once; and I am sorry you make it no exception in your rebuke. Such persons, Sir, after their immoralities have been exposed in my Journal, to which they ventured not to call me before a civil court, have sat on trials, and on the verdicts of such men I am now in gaol.

This, Sir, is the distinction I have ever drawn in my Journal between public and private vice; and I feel confident that, if you were to direct one of your subordinates of a sound and discreet judgment to give my Journal a fair perusal, he would report to you that I had strictly abided by this rule. If you differ with me as to the *rule*, of course I must submit to your condemnation. But in that case my own conscience will be clear; and I shall feel that

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Necessity for exposure of viciousness in public persons.

Distinction between public and private immorality.

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Conviction
of Revd.
R. Mansfield
for libel on
E. S. Hall.

Libel written
by R. Darling.

Verdict given
by civil jury.

Indulgences
granted at
discretion of
governor.

to be deprived of the use of convict labour, and the Crown pastures, for conforming to such a rule, will be a piece of self-denial on my part, which my duty to God and man call upon me to exercise.

I ought here, Sir, here to inform you of an action lately gained by me against the Editor of the Government Journal for having published a libel* on me in his Gazette, couched in a document which he designated to be "The Reply by his Excellency General Darling" to certain landholders and merchants, who had addressed his Excellency on various subjects. But, as I have mentioned this subject in a letter which I lately did myself the honor to address to you, I need not repeat the information now. Still it is due to myself to notice the circumstance in this place, so far as to shew that, if my libel on the Archdeacon was denounced (not indeed as *false*), but as "indecent and scandalous," and as "emanating from personal motives," what terms will it be proper to use in designating the libel (of which the Editor was found guilty), written by his Excellency the Governor himself? For a libel on his Excellency, I am now incarcerated. Surely when the Governor had procured a verdict and a sentence against me, and had inflicted the sentence, he should not have added to my troubles by almost immediately afterwards causing the Government Editor to publish a libel on the man whom his Excellency had just incarcerated for libel on himself?

This remark will gain additional strength, Sir, when you are informed, that the verdict gained by me was not pronounced by a Jury selected and paid by me, but by a Special Jury of Merchants indifferently chosen by the Sheriff. Neither did the Special Jury receive from me fifteen shillings a-day, to be paid or withheld from them at my pleasure, as is substantively and consequently the case as regards all the Juries on whose verdicts I am imprisoned.

Leaving this part of your Despatch, I now proceed to that portion where you acquaint me "that, even though I had not attacked any person in the way you specify, still you would have been very unwilling to interfere in my complaint against General Darling for denying me the use, in common with other colonists, of the Crown pastures for my cattle." And you go on to observe "that, if the Governor of any of his Majesty's Colonies should invade any *right* of any individual, however humble, it would be the duty of the Secretary of State, upon being satisfied of the facts, to do the earliest possible justice to the applicant. But that with respect to Territorial *gifts*, except the instance of the one grant which each settler emigrates to take on the faith of the published regulations, and to which he so far has an equitable claim, you can admit of no demand of *right* whatever. The distribution of these lands, you allege, to be a matter of pure indulgence; and the question, how far in any particular case the applicant may have forfeited all reasonable claim to such indulgence, is, you say, incapable of being tried by broad principles like those of legal and constitutional right; they can be measured only by such considerations as those of general character and conduct."

In taking the liberty of writing to you my sentiments on this important part of your Despatch, I beg to be understood that I do not discuss it as an abstract political question *merely*, with which I have no particular connection, but the contrary. I am deeply interested in it.

* Note 148.

Emigrants to this Colony have understood clearly and distinctly, before they proceeded hither, that they would be put in possession of three certain advantages; this at least was *my* understanding with Lord Liverpool and Mr. Peel, eighteen years ago, when I emigrated hither. And I beg to add that, if his Majesty's Government adopt *new* regulations in this respect, it will, I feel confident, see the justice of not making them retrospective. The covenant, formerly entered into by his Majesty's Government with emigrants to New South Wales, can never terminate as to *them*, but with their lives. The understanding, on which *I* emigrated to this Colony, was based on three things. First, that I was to be put in possession on my arrival of a certain portion of land and cattle. Secondly, that, in common with the colonists at large, I was to be entitled to the use of convict labour; and (thirdly) of the Crown pastures, so long as such things were used in common. For these three advantages, I left my friends and became an exile from my native land; and these advantages I shall humbly claim at the hands of his Majesty's Government, as long as I live. I claim no such right for my children; they must submit to such regulations as his Majesty may be pleased to ordain respecting the rising generation of the Colony. I stipulated for myself only, not for my posterity.

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Concessions
promised to
immigrants.

It may perhaps, Sir, be answered by you that my argument, even though good, admits still of an exception. It could not be supposed, you will perhaps say, but that such advantages were to be consequent on my good behaviour; and that to have been found guilty of libelling the *Authorities* is to be of bad behaviour.

Possible
forfeiture of
concessions by
misconduct.

To which I reply that, to all crimes and misdemeanours, the law has annexed a certain punishment, and that the same law in its principle and letter forbids all punishment beyond the measure prescribed. Thus, it is held in law that a person, being transported hither for seven or fourteen years, having served his time, shall not be further punished by his being deprived (if he remain in the Colony, and by his industry acquire property) of the use of either the Crown pastures or convict labour. In proof of which, great quantities of land are held by these persons; and half the convicts in the Colony are assigned to them. And surely, if the *greater* breach of the law (namely felony) be not visited by extra-judicial punishment, the lesser shall not. I allude to misdemeanours, into which men of the purest morals may fall, to wit libel, which has never been and never can be defined, and which consequently, for want of a clear definition, *any* man may unwittingly commit. I mean any man may commit in the opinion of the Jury who try him; for what is libel in the opinion of one Jury has often been found not to be libel by another. Every Jury, sitting on a trial for libel, virtually makes the law for the occasion. This is the real spirit and effect of the English law on libel, as at present constituted.

Legal
limitations on
punishment.

I therefore beg leave to say that (to use your own expression) my "consideration" for emigrating to New South Wales was not a grant of land *only*. It was three-fold. First, a grant of land quit-rent free. Secondly, the use of convict labour, in common with other colonists, any quarrel with the Governor to the contrary in any wise notwithstanding. And thirdly, the use, in common with others, of the Crown pastures.

"Consideration"
for
immigration.

You next go on, Sir, in your Despatch, to state "that, with regard to my letter of the 16th March, 1829, you find no occasion to blame

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anything except my own very improper conduct in wilfully directing my convict servant to disobey the directions of the Governor for that servant's attendance at the office of the Superintendent of Convicts."

Decision of
supreme court
re right to
resist revocation
of assignment
of convict.

The Supreme Court having, on solemn argument and trial of this question, lately decided that I acted *legally* in refusing* my servant to attend at the office in question, and that the Governor's interference was no more warranted by law than if he had sent to direct the attendance there of any one of my free servants, I need not enter into a vindication of my conduct in this behalf.

Evils of vesting
power of
revocation
in governor.

But I will suppose that the law had, unhappily for the Colony, been different to what it has lately been decided to be by our three Judges, and that the Governor *had* a right to interfere with my convict servant in the way he did; what, Sir, would be the consequence to the Colony at large of such power being vested in the Governor? The ancient English punishment for transportation was banishment to a certain colony, with power to assign the services of the transports. By a late Act of Parliament, to the punishment of transportation has been added that of keeping the convict at labour until his sentence shall have expired, and exposing him in the interim to the summary jurisdiction of Magistrates, without the protection of either Grand or Petty Juries. But when once His Majesty is pleased to part with his controul over a convict, and to invest that controul *in another*, that controul should not be interfered with, save for the good of the convict or for his better discipline. And, in the latter sort of interference, the law should be *general and equal*, and not consequent on the caprice of the Governor, so that he should have the power extra-judicially to punish any one or more of the King's subject by depriving him or them of one or all of their servants, whenever he thinks fit, which, in harvest-time, would be investing his Excellency with the power to destroy any given settler or number of settlers (or printers), on any day, in any year, in his Excellency's pleasure.

I will not here comment on the consequences of such power as this. And I deeply regret that you, Sir, should call that conduct in me "very improper," which went to resist the exercise of such pure despotism. If freedom be better for a people than slavery, and if a limited monarchy be better than an unlimited, whether for those who rule or those who are governed, I am sure, Sir, you will see cause to recal the hasty expression in your despatch, to which I now allude. To act, Sir, upon the principle you have laid down would be to lay prostrate every rule, which gives dignity to the Crown and stability to His Majesty's Government. Such power as you, Sir, would invest in the Governors of this Colony, and the resistance to which on my part you have termed "very improper," is unknown in any part of the Globe. There is *no* nation, language or people, however debased, where the rulers exercise such power in the full plenitude in which your remark may be interpreted.

And now, Sir, having gone through your despatch, bear with me, I pray you, while I add a few reflections on *its general tendency*.

Regret at
immigration
to colony.

I deeply regret to think, Sir, that my large family and scanty fortune condemn me to eke out my existence in this land of slavery. of slavery I mean for men accustomed to be free. After eighteen years' residence, I deeply regret leaving my native land. I see nothing before me, but what paralyses my mind and depresses my spirits. When eighteen years ago I arrived in this Colony, it was

* Note 149.

not even then like the home I had left; but I hoped, as population and property accumulated, that the evils consequent on a new settlement would dissipate. The barrenness of the soil, the hostility of the climate to agricultural labour, the increased power of the Colonial Government, and the consequent insecurity of property and personal safety (as witness the laws which have incarcerated me for thirty-seven months, not to mention the additional sentences which await me, and which have ruined me by numerous fines and by causing me to be defendant against the King in nine prosecutions within the last 18 months, in all of which the subject, though he gain the suit, you are aware, Sir, must pay his own costs) the certainty of conviction in all government prosecutions, the denial of convict servants and of the distant commons to my son, although he is settled in the interior 140 miles from Sydney, the irresponsibility of the Governor for bad laws, now that he no longer makes them himself, but can procure the sanction of fifteen persons in making them, who are as dependent on him as our Judges are; all these things, Sir, make me look around me, and I sigh for the freedom and security I have left behind me. Reflecting on the future, I see nothing but political struggles for a better order of things, which may probably end before my death in a civil commotion; and in which civil commotion my offspring perhaps may be rashly engaged. For of one thing I am certain, ten years hence, the native youth will not quietly submit to that policy and those measures, to which the steady, unshaken loyalty of us old Colonists induces us to bend the neck with some degree of patience.

The only consolation left me in such a state of things is to endeavour to persuade his Majesty's Government, by my public writings, to change their views and measures, *ere it be too late*; and, in the meantime, to deter my countrymen at home from voyaging to a country, which, besides its natural disadvantages, is torn by political dissensions, destroyed by impolitic laws, laid waste periodically either by flood or drought, and demoralized by the shameful hypocrisy of religious professors on the one hand, and the open profligacy of immoral men on the other. While our servants, trained up as they have been to pilfering, unchastity, lying, deceit, against which even the largest measure of experience can but ill protect us, are a source of perpetual annoyance. I have, Sir, at this moment a family of six daughters outside the walls of this gaol without a mother, the eldest of whom is not nineteen, whom, owing to the reiterated prosecutions of General Darling, I am obliged to consign, I may truly say, to the care of God's Providence for the next two years, not reckoning what sentences may await me before those are expired; For you must be aware, Sir, the General has only to file his informations against me *ex-officio*, and it is not to be supposed that the officers of his own regiment, as they may be termed, will not be inclined to hold the same opinions as their Commander, on what he may be pleased to select from my Journal as libellous. Can you therefore wonder, Sir, that, in such a country as this, any one, who has a sound understanding and an English heart, should be disappointed and dismayed? And your letter, Sir, so far from alleviating these feelings, increases them. Until lately, I considered that His Majesty's Ministers would *enlarge* the freedom of the Colony. But it is clear you intend to confine it within still narrower limits! From your letter, Sir, I should conclude that you are of opinion the Colony will be happy and prosperous in

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Objections to
settlement in
colony.

Proposed
agitation
against
immigration.

Family of
E. S. Hall.

Expected
further terms of
imprisonment.

Civil liberties.

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Policy of
administration
in colony.

exact proportion as you reduce the liberties of the Colonists, un-anglicise the people, and add to the overgrown irresponsible power of the Governor. From your letter, Sir, I am compelled to believe that, out of England, you consider a despotism to be the best form of Government; and that, of all despotisms, an oligarchy will work the easiest. For the power of a Governor is much greater with a Council to assist him, than it is without one. The Acts of our new Council have proved this. The Governor would never have adventured, *without* a Council, to pass the oppressive and unconstitutional acts, which have been passed since a Council was given him. I always forewarned the Colonists of this, but they did not believe me; and they foolishly rejoiced in the prospect of a Council to be chosen by you, Sir, they not foreseeing, as I foresaw, that your choice would depend on the secret influence of a faction here, whose workings you did not discover nor never can discover. Would to God, Sir, that, if you think it expedient to govern us by an oligarchy in lieu of allowing us to make our own laws by our Representatives, you would render the Governor *absolute* and annul the Council! The Governor's sway would then be mild, as it was of old; if not from goodness, from fear. But now, the Council add to the power of the Governor's personal authority, his personal predilections, and his personal prejudices, however unconscious he may be of the effect of such secret influences on his mind. I have, &c.,

E. S. HALL.

[Sub-enclosures Nos. 9 and 10.]

[*These were copies of the general order,* dated 18th March, 1829, and the letter* from E. S. Hall to Governor Darling, dated 20th March, 1829.*]

[Enclosure No. 2.]

Replies by
R. Darling.

REPLIES to Accusations Contained in a Letter, signed E. S. Hall, dated the 19th May, 1830, addressed to the Right Honorable Sir George Murray, etc., etc., etc.

Conviction
of Revd.
R. Mansfield.

A. The Editor of the Sydney Gazette was found Guilty† of having published the Governor's reply to a Public Address, presented by the Principal Settlers and Merchants of the Colony. But a new Trial was moved for and granted, on the ground of the Jury having returned a Verdict contrary to the direction of the Judge and other irregularities.

See Report of the Case, in the Sydney Gazette of the 22nd June, 1830.

Inability to
proceed against
E. S. Hall by
civil process.

B. When Mr. Hall was called on by Mr. McLeay to know whether he would enter into security to pay such Costs or Damages, as might be awarded in the event of a Civil Action being brought against him, he declined it, and on a very recent occasion the same thing has occurred. He could not find any one who would be surety for him. It was therefore useless to proceed against him by a Civil Process, though it may be very convenient for Mr. Hall to rail against the course that has been pursued, and his not being allowed an opportunity of proving the truth of his Statement.

* Note 150.

† *Marginal note.*—N.B.—This was at the Prosecution of *Hall*, the Editor of the Monitor (see note 148).

Accusation 1st. The allegations in the "Monitor" are generally of so unfounded a Nature as to be undeserving attention. Whenever they have been enquired into, they have been found to be false or grossly exaggerated.

An enquiry did take place into the proceedings at Port Macquarrie, not indeed at the instance of Mr. Hall but of Captain Crotty himself, when his Conduct was enquired* into the same as others, and there was no ground whatever to suppose that Captain Crotty had been guilty of "Peculation, gross immorality, or un-officer like or ungentlemanly behaviour"; or, that "he had appropriated to his own use the King's Stores." As to his having associated with either Convict Men or Convict Women, I never heard of it; and, considering the Statement in the "Monitor" to be as untrue as it was improbable, I paid no attention to it.

2nd Accusation. The circumstance of Captain Wright having been tried for Murder† is as follows:—Hall, Wentworth and Robison, who was lately dismissed from the service, assisted by Lieutt. Cox, who had been brought to a Court Martial by Captain Wright and sentenced to be Cashiered, got up an accusation against the latter, who had been Commandant at Norfolk Island, when Lieutt. Cox was stationed there, of the Murder of a Convict named *Clynch*.

The Case was enquired into in the usual manner by the Magistrates, and Captain Wright was dismissed from want of Evidence; But two Men of the 39th Regt. were Committed to take their Trial for the Murder. The Cabal, which was raised in Consequence by Wentworth, Hall and their Associates, induced Captain Wright, as these Men had acted under his orders, to come voluntarily forward and stand his Trial in place of the Soldiers, as the Evidence of these Men could then be taken on the Prosecution.

Wentworth, who was entrusted with the conduct of the Legal Proceedings, eagerly seized at this. The Case, however, completely broke down, as will be seen by my Dispatch of the 21st July, marked *Separate*, transmitted by the present opportunity, and a fouler Plot to take away the life of a Man was never Concocted by any set of Men, Lieutt. Cox of the 39th being the Instrument and tool of the Party, who endeavoured to effect it.

It is not true that Captain Wright was condemned by Lord Hill, as stated by Hall, of trafficking in the Convicts' and Soldiers' Rations. His having disposed of his own was animadverted upon by His Lordship; but Mr. Hall, indifferent to what he states, immediately after acquits Captain Wright of this. He says that these Provisions were sent by Captain Wright to Sydney to the Woman who had lived with him!

Captain Wright's Letter, Copy of which is enclosed, shews that the latter part of the statement is totally false. I understood at the time that Captain Wright's principal reason for wishing to go to Norfolk Island, where he held the Command a year and a half, was to get rid of this Woman. I have never heard since his return of their living together, and I certainly have never considered it my duty to enquire into any such matter.

3rd Accusation. I can only repeat that I do not consider it my duty, in matters of this nature, to do more than put a stop to any gross breach of decorum. The Woman alluded to may or may not have cohabited with Captain Robertson. I never heard that he had

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27 July.

Replies by
R. Darling.

Misrepresentations
re conduct
of F. C. Crotty.

Trial of
T. E. Wright
for murder.

Allegations
against
T. E. Wright
re trafficking
in rations;

and immorality.

Allegations *re*
A. Robertson.

* *Marginal note.*—See Copy of the Proceedings of the Commission transmitted with my Despatch of the 24th May last, marked *Separate*. † Note 150.

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27 July.

Replies by
R. Darling.

Inquiry re
complaints by
R. Robison.

Prosecution of
E. S. Hall by
S. Wright.

Payment of
legal costs for
magistrates.

Alleged
interference
with
administration
of justice.

Alleged
prosecutions
ordered by
R. Darling.

brought any Woman into his Quarters in the Garrison of Sydney; and the fact, which appears to me sufficient to falsify the assertion, is that Lieutt. Colonel Allan, the Officer Commanding the Regiment, who is a Married Man, is on the very best terms with Captain Robertson, who constantly visits Col. Allan's family.

4th Accusation. Captain Robinson of the Veterans, who was Hall's associate and informant on all Military Matters, made some Statement to this effect. A Court of Inquiry was assembled, when Captain Robison's proceedings and Complaints were investigated. The result was that he was brought to a Court Martial and dismissed the Service.

5th Accusation. It is not true that a Letter was written to Mr. Wright to induce him to prosecute Mr. Hall. Mr. Wright requested that the Attorney General might be ordered to file a Criminal Information against Hall, which the Attorney General declined doing. Mr. Wright was then informed, if he would bring a Civil Action against Hall, and it should appear that he had not merited the attack made on his Conduct, the Expences of the Suit would be paid. See Enclosures. If Officers and Magistrates were to be subjected to the payment of Law Expences, which here are understood to be treble the amount they are in England, for Acts done in the discharge of their duty, no one would Act.

The circumstances of Captain Wright's Trial* are stated in reply to Accusation No. 2.

The Government did not interfere in any respect, and Captain Wright took his own Course. The Parties against him were exposed to no expence, as Mr. Wentworth was one of them, and carried on the Legal proceedings; while their object would in some degree have been answered, had Captain Wright been subjected to pay for the Legal Assistance necessary for his defence.

It is true that the Magistrates did receive a severe reproof and reprimand from the Supreme Court for doing that, which it now appears by the Secretary of State's Despatch of the 30th of January last has been declared by His Majesty's Attorney and Solicitor General to be Legal. Would it have been just then in the Government, who considered the Magistrates to have acted Correctly, to have left them to pay the Expences of the Trial in addition to the censure they had received? I am warranted in stating that a feeling of respect for the Government alone prevented the Magistrates from resigning on that occasion.

7th Accusation. I sincerely wish it had never been necessary to call on the Judges to explain their proceedings, and I regret it the more, as an instance has occurred since the date of Mr. Hall's Letter. As to the next assertion, it is false; (See the Letter of the Superintendent of Police enclosed) and, with respect to the remaining part of this accusation, I countenanced the Magistrates because I considered they had correctly and faithfully discharged their duty. (See Answer to Accusation No. 6.)

8th Accusation. Vague and unfounded.

9th Accusation. If any explanation were necessary in this Case, it would be proper to enquire how Mr. Hall came to be so well informed of what passes between the Crown Lawyers and the Government.

Mr. Moore's reappointment as Crown Solicitor, who is Connected and identified with the opposition Party, would perhaps answer the question.

The situation of the Government with respect to the Crown Lawyers is humiliating in the extreme.

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27 July.

10th Accusation. When Provisions or other Stores are required, they are purchased by the Commissariat according to the Instructions of the Lords of His Majesty's Treasury. The Colonial Meat, which he speaks of as being so abundant and of such superior quality, has at least as often as any other proved unfit for use after having been kept. When any Article has suffered by keeping or otherwise, it is disposed of in a manner the most advantageous to the Government. I have some recollection of Colonial Salt Beef having also been converted into Soap, as the best means of disposing of it. I certainly have no desire to defend or espouse the cause of Mr. Goodsir, and the Commissariat may be dishonest, but every possible check is used, and no pains are spared to enforce a rigid adherence to the Instructions and orders under which they act.

Replies by
R. Darling.
Purchase and
disposal of
meat by
commissariat.

11th Accusation. The Annexed Extract from the Regulations for the Messing of Road Parties is the best reply to this Accusation. The Men at the Penal Settlements are supplied in the same manner. In addition to which, every Convict in Charge of the Government receives *Two Suits* of Clothing Annually.

Messing of
convicts.

12th Accusation. Mr. Hall should have instanced the Acts of *Torture* to which he alludes; I never heard of one.

Alleged acts
of torture.

The reply to accusation No. 11 is a sufficient proof of the unfounded nature of his assertion of a want of attention to the Prisoners.

The Bushrangers no doubt have been troublesome of late; but several have been apprehended, and there is no doubt that the remnant of the Gang will be immediately secured. Mr. Hall might have been able to account for the increase of Crime by the additional number of Convicts which have been sent out lately, with reference to former Years, and the effect his Paper must have on Men, who like himself are destitute of all principle, and are as ready to imbibe as he is anxious to disseminate his Poison. I am under no apprehension, however, of not being able to keep both him and them from doing any serious mischief.

13th Accusation. I had some intention of requesting the Council to reply to this Accusation; But it might have been considered as trifling with their situation, to have referred a matter to them, so totally undeserving attention.

Alleged
influence of
R. Darling
on council.

14th Accusation. The accompanying Letter from the Major of Brigade is the best answer to this accusation. One officer, only, the Paymaster of the 57th Regt. has been omitted on the Roster, and that was in Consequence of his improper Conduct in disturbing the Court and insisting on his right to sit as Foreman.

Method of
selecting
military juries.

The latter part is false and undeserving an answer.

RA, DARLING.

[Sub-enclosure No. 1.]

CAPTAIN WRIGHT TO MR. T. DE LA CONDAMINE.

Sir,

Emu Plains, 25th May, 1830.

I have the honor to acknowledge the receipt of your communication of the 24th Inst. and to inform you, in reply, that the Statement, which constitutes the import of your letter, is an entire fabrication.

Statement by
T. E. Wright *re*
his mistress.

I am not aware that the Individual, to whom you allude, has quitted Sydney one hour since my departure thence.

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Statement by
T. E. Wright *re*
his mistress.

I am willing to add further that no intercourse of an immoral Construction in any way exists between us; but it is strictly confined to what every honest man considers a duty. I never intended in the most remote degree that she should become the Partner of my residence at Emu Plains, or the renewal of any further correspondence than that which a Father feels towards the Mother of a Child to whom he is attached.

I have, &c.,

T. E. WRIGHT, Capt., 39th Regt.

[Sub-enclosure No. 2.]

[1] MR. T. C. HARINGTON TO MR. S. WRIGHT.

Sir, Coll. Secretary's Office, Sydney, 6th May, 1829.

In acknowledging the receipt of your letter of the 30th Ultimo requesting that the Attorney General may be instructed to file Criminal Information against the Editor of the Monitor Newspaper for libelling paragraphs therein, highly injurious to your Official Character.

I have the honor to inform you that that Officer has been requested to take the necessary measures for the prosecution of the Editor accordingly.

I have, &c.,

for the Col. Secy.,

T. C. HARINGTON.

[2] COLONIAL SECRETARY MACLEAY TO MR. S. WRIGHT.

Sir, Colonial Secretary's Office, Sydney, 24th July, 1829.

With reference to my letter of the 6th May last No. 29/259, wherein it is stated that the Attorney General had been instructed to adopt the necessary Measures for the prosecution of the Editor of the Sydney Monitor Newspaper for libellous paragraphs therein highly injurious to your Official Character.

I have now the honor, by direction of His Excellency the Governor, to inform you that he has cancelled the above order to the Attorney General, as he has stated that it is not his duty to prosecute *ex officio* a libel in your Case. His Excellency will however be glad that you pursue the matter as a private individual; and, if it should appear, as He is confident is the Case, that your Conduct has not merited the attack of which you complain, your expences will be paid by Government.

I have, &c.,

A. McLEAY.

[Sub-enclosure No. 3.]

MR. F. N. ROSSI TO COLONIAL SECRETARY MACLEAY.

Sir, Police Office, Sydney, 5th July, 1830.

I am honored by your Letter of the 3rd Inst., requesting me to state for the information of His Excellency the Governor whether I had been called on to lay before him the depositions taken by me in the examination of Captain Wright, 39th Regt., in the case of the trial for the murder of Patrick Clynch; in reply, I have the honor to state that I was not called upon at any time to lay before His Excellency the Governor the depositions in question; but I am aware that it was stated to be the case in one of the Newspapers more than once; and I was at length induced to authorize the

Proposed
prosecution
of E. S. Hall.

Refusal of
prosecution
ex officio.

Promise to
pay costs.

Denial of
alleged orders
by R. Darling
for production
of depositions.

Editor of the Sydney Gazette Newspaper to contradict it in the most unqualified manner, which was accordingly done, as will appear by a reference to that Paper, dated 20th October, 1829.

I have, &c.,
F. Rossi, J.P.,
P. Supt. of Police.

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[Sub-enclosure No. 4.]

REGULATIONS FOR THE DEPARTMENT OF ROADS AND BRIDGES.

No. 40, Relative to the System of daily Messing.

It will be the Overseer's duty to attend to the System of messing and the faithful disposal of the Rations of the Men, weighing out to the Cooks daily the due proportion, and guarding by every possible means against their misappropriation. He will himself in the presence of the Men see the Meals, when cooked, fairly divided amongst them, the Maize and Sugar of the Ration of each Man to be cooked in a quart of water and be put on to boil at 10 o'clock on the Evening before it is required for breakfast, in order to allow of the Maize Meal being perfectly boiled. The remainder of the rations, viz., 1 lb. of Meat, 1 lb. of Flour, 1½ oz. of Salt to be cooked for dinner, a portion of which each Man should be taught to reserve to afford him a supper. If more than one day's Ration is served out to the Gang at one time, the Overseer will take them into his own care under Lock and Key, issuing only the regulated proportion for each Meal at a time, when two Delegates from the Gang will attend to see the Measure given out to the Cooks, and will also attend the Cooking.

Regulation re
messing of
convicts in
department
of roads and
bridges.

A List of Cooking and Mess Utensils to each Road Party and Iron Gang:

2 Iron Boilers; 1 Iron Ladle; 1 Flesh Fork; 1 Large Tin Dish to every ten Men; 1 Mess Kid to every six Men; 1 Tin Plate and Spoon to each Man; 6 Knives and Forks to each Gang; 1 Tin Saucepan Do.; 2 Frying Pans, Do.; 6 Tin Pots Do.; 10 Water Buckets, Do.

N.B.—The reason, why there is such a small number of Knives and Forks to each Gang, is that Major Lockyer (then Surveyor of Roads) found the Men made away with them.

J. NICHOLSON, Assist. Surveyor.

[Sub-enclosure No. 5.]

LIEUT.-COLONEL SNODGRASS TO MR. T. DE LA CONDAMINE.

Sir, Brigade Office, Sydney, 2 July, 1830.

In reply to your letter of yesterday requesting me to state, for the information of the Lieut. General Commanding, in what manner Officers have been appointed to serve as Jurors in the Supreme Court during the period of my having held the situation of Major of Brigade in this Colony;

Report re
method of
appointing
military jurors.

I have the honor to report to you, for the information of His Excellency, that I have appointed the Officers of the Garrison to Juries by a Roster, kept in strict accordance with His Majesty's Regulations, taking a due proportion from the Senior to the Junior in the respective ranks of Field Officers (except Commanding Officers of Regiments) Captains and Subalterns, and occasionally part of the Regimental Staff, availing myself of the services of Half

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27 July.

Report *re*
method of
appointing
military jurors.

pay Officers of the Navy and Army, residing in Sydney, by putting them on the Juries in their regular tour, and occasionally before it, when the Garrison Duties are very severe. Officers from His Majesty's Ships have also been employed as Jurymen, when their Services could be dispensed with from their Ships.

I have, &c.,

K. SNODGRASS, Lt. Coll.,
Major of Brigade.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 43, per ship Australia; acknowledged by
Viscount Goderich, 13th January, 1831.)

2 Aug.

Correspondence
with judges.

Sir,

Government House, 2nd August, 1830.

I have the honor to transmit for your information, the Copy of a Letter which I addressed to the Judges of the Supreme Court, on the receipt of your Despatch of the 30th of January last, Marked "Separate," together with a Copy of their reply.

Opinion of
judges *re*
revocation of
assignments.

I have only to express my satisfaction that the Judges consider that the question of the power of the Governor to withdraw assigned Servants under the 9th Section of the 9th Geo. 4th, Chap. 83rd, is still open to discussion, and that it is likely to be disposed of according to the opinion of His Majesty's Law Officers, as conveyed in your Despatch.

Reasons for
conclusions by
R. Darling.

Having myself considered the question to have been set at rest, and, having in my Despatch dated the 12th of April last No. 20, stating the Expences which had been incurred in the several legal Proceedings, expressed Myself to that effect, I feel it incumbent on me to state, Sir, for your information the grounds on which I had come to that Conclusion.

I shall in the first instance furnish a brief outline of the Case; and *Secondly*, quote Certain Passages from the Judgement of the Court, as delivered by Judge Dowling on the 1st July, 1829, and reported in the Sydney Gazette of the 4th of that Month, from the Notes of the Judge, to which Paper I beg, Sir, to refer you as furnishing more ample means of judging of the matter.

1st. The outline of the case is as follows:—

Revocation of
assignment of
P. Tyler to
E. S. Hall.

Tyler, who had been assigned to Hall, the Editor of the Sydney Monitor in April, 1826, was shortly after the receipt of the Act of 9th Geo. 4th, Chap. 83d, ordered to be withdrawn under the 9th Section of that Act.

The case of *Jane New** was decided on the 21st of March, 1829, and Hall informed Mr. Hely that, having detained *Tyler* in consequence of the Decision of the Judges, he would prosecute him, if he again "captured" or took possession of him. The Solicitor General then endeavoured to prevail on Hall, through

* Note 152.

his Counsel, to agree to a feigned Issue, in order that the meaning of the 9th Section might be brought formally before the Court, *Judge Dowling having reserved his final opinion* for such an occasion.

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2 Aug.

It will be seen, by reference to the "Australian" of the 31st of March, 1829, that Mr. Keith, on the part of Hall, proposed to the Court that a special case should be put for this purpose. But the Court objecting to this, it was considered by the Solicitor General most advisable to have the question argued upon a Motion for a Writ of Certiorari, to bring up the Proceedings of the Magistrates, and the matter was accordingly referred to the Magistrates for that purpose. Hall was fined by the Magistrates in the Mitigated Penalty of five Dollars. He then brought his case* into the Supreme Court, and the Magistrates, who had fined him, were cast with costs, and severely reprimanded by the Court for having Acted in opposition to its "Solemn Decision."

Proposal for
test case.

E. S. Hall fined
by magistrates.

Magistrates cast
with costs in
supreme court.

I shall now proceed to quote the Passages, to which I have alluded in the Judgment of the Court delivered on the 1st of July, 1829, and it is important to observe, as shewing that the Judges could refer only to the case of *Jane New*, that that case was disposed of on the 21st of March preceding and that no other case of a similar nature was brought before the Court within that period.

The following are the quotations above referred to, "Viz.":—

"There was much of obliquity in the Conduct of the Magistrates." *Again 2ndy* "The proceeding to Conviction was opposed to a *Solemn Decision* of this Court, then pointedly and distinctly brought under their notice." *Again 2ndly* "The fact that *the question of Law, involved in the case, had been solemnly decided.*" *Again* "In support of this application, it is positively sworn that the Bench was distinctly and pointedly informed, that *this Court had solemnly DECIDED UPON THE CONSTRUCTION OF THE 9TH SECTION.*" *Again* "It has been suggested that the object of the Justices, in proceeding to Conviction, was merely to call upon the Court to give a more deliberate and solemn adjudication upon the *9th Section* than was pronounced upon it in the case of *Jane New*, etc., there is no doubt that that case *might have been* decided on a *point peculiar* to itself," etc.

Quotations
from judgment
delivered in
supreme court.

Again "The Judges applied their anxious and most deliberate attention to the subject, and, after a careful examination of the clause, and after hearing Counsel on both sides, *they felt themselves bound to hold that His Excellency the Governor had not the extensive powers supposed to be given to him by that Section of the Statute.*"

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Quotations
from judgment
delivered in
supreme court.

Again "We think it can hardly be doubted that the Magistrates had their minds distinctly informed of the fact that the *Judges had pronounced a deliberate opinion upon the Act.*"

Again "There was an obvious Path open for the Justices without setting up their opinions, hastily concocted, in *opposition to the Solemn Judgment of the Court*, pronounced after many days anxious deliberation."

Again "If the Judges *have put* an erroneous interpretation upon a Section involving such Vital consequences to the King's People in this Colony, it was not unadvisedly or inconsiderately pronounced."

Deductions
from decisions
by judges.

The foregoing serve to prove that, when Mr. Justice Dowling delivered the Judgment of the Court on the 1st of July, 1829, in the case of the Magistrates, that the Court considered the question of the power of the Governor to withdraw Servants under the 9th Section to have been solemnly decided in the negative in the case of *Jane New*; and further that the Chief Justice understood and considered it to have been so decided appears from what he said in the case* of *Hayes Versus Hely* so late as the 16th of March, 1830, "Vizt.":

"With respect to the power of revocation, that Question has been already decided by the Court."

These, Sir, are the grounds on which I had supposed, previous to the receipt of the accompanying Letter from the Judges, that the power of the Governor to withdraw assigned Servants, under the 9th Section of 9th Geo. 4th, Chap. 83d, had been decided by the Court in the Negative.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

GOVERNOR DARLING TO THE JUDGES OF THE SUPREME COURT.

Gentlemen,

Government House 14th July, 1830.

Request for
report on trial
of Hall v.
magistrates.

In reference to the accompanying Extract from the Despatch of the Right Honorable The Secretary of State, dated the 30th of January, 1830, marked "Separate," Copy of which I had the honor to transmit to you with my Letter of the 2nd inst., I request, as the question therein alluded to has been decided in the Supreme Court in the Case of Hall Versus Rossi and other Magistrates, that your Honors will be pleased to furnish me with a full Report of the Proceedings, which took place on the 27th of June, 1829, and the 15th of March last, in order that the question may be disposed of as may appear expedient to His Majesty's Government.

I have not thought it necessary to call for a Report of the Trials in the Cases* of Hall and Hayes against Hely, concluding that the Reports, which I have requested to be furnished with, will be sufficient for the object in view, but, should your Honors be of opinion

* Note 154.

that there are any matters in the last mentioned cases which may be necessary to the more complete elucidation of the question, I beg that the Reports of these Trials may also be furnished.

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2 Aug.

I have, &c.,
RA. DARLING.

[Enclosure No. 2.]

THE JUDGES OF THE SUPREME COURT TO GOVERNOR DARLING.

Sir,

Sydney, 23d July, 1830.

We have the honor to acknowledge the receipt of Your Excellency's Letter under date the 14 inst., enclosing an Extract from The despatch of The Right Honorable The Secretary of State, dated the 30th of January, 1830, marked "Separate," a Copy of which we had the honor of receiving with Your Excellency's Letter of the 2nd inst., requesting that, as the question therein alluded to "has been decided in the Supreme Court in the Case of Hall versus Rossi and other Magistrates," we would furnish Your Excellency with a full report of the Proceedings, which took place on the 27th of June, 1829, and the 15th of March last, in order that the question may be disposed of, as may appear expedient to His Majesty's Government.

Letter
acknowledged.

We have the honor to assure Your Excellency of our readiness to comply with Your Excellency's request; but, before proceeding to perform the laborious Duty thus required of us, we would take the liberty of respectfully suggesting that we fear Your Excellency is under a misapprehension in supposing that the question, alluded to in the Extract of the Right Honorable The Secretary of State's Despatch, transmitted to us, has been *decided* in the case of Hall Versus Rossi and other Magistrates in the Supreme Court on the 27th of June, 1829, and the 15th of March last. In none of the cases brought before the Court since that of Jane New, has the construction of the 9th Section of the 9th Geo. 4, Cap. 83, been substantively brought under consideration, and, as we still hold ourselves ready to reconsider and decide that question, should it ever again be distinctly brought before the Court, we would respectfully wait your pleasure, whether (after this assurance and understanding), Your Excellency will deem it necessary to press for the performance of so very laborious a task, as that required of us by Your Excellency's Letter of the 14th instant in the present exhausted state of our health and spirits under the pressure of the late Terms Business in the Supreme Court.

Denial of any
finite decision
re power of
governor to
revoke
assignments.

With perfect respect, We have, &c.,

FRANCIS FORBES, C. Justice.
JOHN STEPHEN, Judge.
JAMES DOWLING, Judge.

[Enclosure No. 3.]

[This was a copy of the issue of the Sydney Gazette, dated 4th July, 1829.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 44, per ship Australia.)

Sir,

Government House, 6th August, 1830.

6 Aug.

The Circumstances and result of a Trial which has lately taken place in the Supreme Court, appearing to me of much

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6 Aug.

Report *re* trial
of Wentworth
v. Mansfield.

importance to the Government, I am induced to request your attention to the case, of which I shall endeavour to give you a brief abstract, being without any legal assistance to enable me to draw it up in a more formal manner, leaving you, Sir, to determine, whether a correct view has been taken of it, and whether it has been properly disposed of by the Court.

You are already, Sir, in possession of the Charges* or "Impeachment" as they are termed, forwarded against me by Mr. Wentworth, as also of the "Address" presented to me on that occasion, and my "Reply" thereto.

The Address and Reply* were as matter of course published in the Sydney Gazette, the official Paper, in which the Acts, Proclamations, and other Documents of the Government are inserted for the information of the Public.

Some time after this, Mr. Wentworth, the Author of the "Charges," instituted a Prosecution for Libel against the Editor of the Gazette for publishing my Reply, and I do myself the honor to transmit for your information the accompanying Report of the Chief Justice, who tried the case, and to enclose the Gazette of the 8th of June last, to which he has referred in his Report.

Mr. Therry, the Counsel for the Defendant, was desirous of referring to a Pamphlet, being a printed Copy of the Charges or Impeachment; not being permitted to do so, he declined proceeding with the Defence, upon which, the Chief Justice "summed up," and the Defendant was pronounced guilty.

Shortly after this, the Counsel for the Defendant moved for a New Trial on the Grounds that Evidence had been improperly admitted and rejected, and that the Judge had misdirected the Jury.

It will be seen by the Report that the Court declined granting a New Trial, and the Judges respectively delivered their opinions on the occasion which are inserted in their Report, with the exception of Mr. Justice Stephen's, whose opinion will be found in the Gazette of the 1st of July last.

My object, Sir, in bringing this matter under your Notice is to shew the situation in which a Government must be placed, which has not the means of giving publicity to its orders, etc., without the Editor of the Gazette, in which they are promulgated, being liable to Prosecution for inserting them.

It may be proper to point out that it is stated at the head of the Gazette, under the Signature of the Colonial Secretary, that all communications made in that Paper, bearing an official signature, are to be considered as official. The Document in question bore the signature of the Governor (and, as I have already

Motion for
new trial.

Reasons for
submitting
report.

observed, was inserted as matter of course without further enquiry), notwithstanding which, the Editor was convicted of Libel for having published it, the Judge, as appears by the Report in the Gazette, which I understand was corrected by himself previous to its publication, having closed his Charge to the Jury as follows, "Vizt.":—

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6 Aug.

Conclusion of
charge to jury
at trial.

"Gentlemen, as I have already stated, the points for your consideration are these two, and, when you retire from Court to Consider of your Verdict, I press it upon you to close your eyes to all others."

- 1st. "Whether the matter laid in the Information is in itself libellous"; and
- 2ndly. "Whether the Evidence is so clear and satisfactory as to lead you to believe that it alludes to the Prosecutor and no other person."

I may possibly, Sir, have taken an erroneous view of the matter. This will, however, be seen by a reference to the Report of the Trial and to the opinions and Decisions of the Judges.

Transmission
of issues of
Sydney Gazette.

Having annexed the Sydney Gazette of the 8th of June to the accompanying Report of the Judges, I have been induced to enclose the Gazettes of the 29th of that month and the 1st of July last, for the purpose of completing the Series, but more especially to supply the omission in the written Report of Mr. Justice Stephen's Opinion, which will be found in the 3rd and 4th Columns, Page 4, of the latter Paper.

I have, &c.,

RA. DARLING.

[Enclosure.]

EXTRACT from Chief Justice Forbes' Report of the Proceedings of the Supreme Court, June 3rd, 1830, in the case of *Wentworth v. Mansfield*.

Report on
proceedings
in case of
*Wentworth
v. Mansfield*.

[NOTE.—*In the above report some remarks appeared, which were omitted in the report published in the Sydney Gazette. The conclusion of the chief justice's report (which included the omitted portions) was as follows:—*]

... "There was undoubtedly another course of defence open to the learned counsel, namely by shewing such circumstances as would relieve the Defendant from the presumption of malice, arising from the naked fact of publishing the matter charged to be libellous.

The Defendant's Counsel sat down and offered no further defence, though the Judge waited several minutes in the expectation that the course of defence, which he had suggested, would have been adopted.

The Chief Justice then proceeded to sum up the case for the consideration of the Jury. The Chief Justice did not make any enlarged minute of what he stated to the Jury, having been abruptly called upon to sum up the evidence. He has only preserved the

1830.
6 Aug.

Report on
proceedings
in case of
Wentworth
v. Mansfield.

points, upon which he put the case to the Jury. But he has read in the Sydney Gazette of the date of the 8th of June, 1830, an account of what he is reported to have said, and he believes it to be substantially correct, excepting in the omission of that part of the charge, in which he said as nearly as follows:—"the evidence which goes to point the matter, charged as libellous" to the prosecutor, is not so clear, but it may admit of a different application; the prosecutor's name is not mentioned; and, in the opinion of the principal witness, in support of its reference to the prosecutor, the witness says that he should not know to whom the word "author" referred, if he had heard of any other impeachment, attributed to another person. If the Jury should feel any the least doubt upon the fact of the passages charged as libellous referring to the prosecutor and the prosecutor only, then the Defendant will be entitled to have the benefit of such doubt. And, in closing the case, the Chief Justice said, "Gentlemen, the legal terms of the Information define the nature of libel; it must be a malicious, it must be a scandalous defamation in writing; it must refer to the prosecutor, and to no other person than to him; it must be intended to bring him into hatred, contempt or ridicule. Take the Information, and the Newspaper Containing the Passages charged as libellous together with you into your retiring room, carefully compare the one with the other, and make up your minds as honest men, and say upon your oaths whether the Defendant is guilty of what he is charged with, in the terms and with the intention imputed to him."

The Jury retired, and found the Defendant Guilty.

FRANCIS FORBES.

[Copies of the issues of the Sydney Gazette, dated 8th and 29th June and 1st July, 1830, were also enclosed.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 45. per ship Australia.)

7 Aug.

Observations
by J. Stephen
in case of
Wentworth
v. Mansfield.

Sir, Government House, 7th August, 1830.

My attention having been called to some observations made by Mr. Justice Stephen, in delivering his opinion in the Supreme Court on the 29th of June last in the case of the King at the Prosecution of W. C. Wentworth, Esqr., versus the Revd. R. Mansfield, which observations are reported in the Sydney Gazette (Page 4, Column 3rd) to have been to the following effect, "Vizt." :—

"He should consider that he had betrayed his trust as a Judge and was unworthy to hold his high office one Moment longer, had he suffered such Evidence to be received, particularly in a case to which the high functionary, to whom the Pamphlet attempted to be read was said to refer, was no Party whatever; for (said His Honor) I never can believe for one Moment that the Governor of the Colony would sanction such a Publication, as that which is the subject of this Prosecution. I never will believe that he would make use of his power against a private

Individual by publicly imputing that to him, which would justly render him odious in every Society, in open defiance too of the Laws of his Country, the administration of which it is his peculiar duty to uphold. I say, I can never believe that the Governor could sanction such a publication, because, if he did, it would be the Signal not only for his dismissal from the office he now holds, but render him totally unfit to hold any other office whatever under His Majesty's Government."

1830.

7 Aug.

Observations
by J. Stephen
in case of
Wentworth
v. Mansfield.

Again "This has been very frequently called a peculiarly Constituted Colony, but I ask who is it will contend that an Individual emigrating to a Colony loses any of his rights as a subject, or that he is to be libelled by any Person, however high and exalted, any more than he could be by the Sovereign himself! The Libel which is the subject of this Prosecution, the Court pronounced to be of the grossest character at the time of granting the information, and I trust that the result of the Trial will be a useful Lesson and teach parties that they are not to scatter poison under the sanction of any Individual, however exalted"; I was induced to bring the matter under the consideration of the Executive Council, when it was judged advisable that a Letter should be written to Judge Stephen to request he would state whether the Report as given in the Sydney Gazette was correct, and I have the honor, Sir, to transmit for your information Copies of the Letter, which I addressed to the Judge in consequence, and of his reply, in which he states that the Report alluded to is substantially correct.

Reference of
report to
executive
council.

It will be observed, on reference to the Report in the enclosed Gazette, that, towards the conclusion of Mr. Justice Stephen's address, he alludes to an observation, which had fallen from the Chief Justice the preceding day, with respect to notifying the cause or grounds of the dismissal of Constables from their Office. How a Constable could be tried by a Jury of his Peers for Drunkenness, I confess I do not very well understand. But it is perfectly well known that the practice alluded to did not originate with the present Government, but had been continued from the Settlement of the Colony, as a proper and salutary measure with reference to the class of Individuals to whom it applies, the constabulary being almost exclusively formed from Men of expired Sentences or holding Tickets of Leave. At any rate, it would have been as prudent to have taken some other opportunity of apprising the Government, if the practice was considered irregular, than that of a public Trial, and more especially as the Trial in question was one of no ordinary character, the Governor in fact being the Defendant, that is, the Prosecutor had Impeached the Governor, in consequence of which the principal

Allusion to
practise in
dismissal of
constables.

1830.
7 Aug.

Inhabitants presented an address to him, and the Editor of the Gazette (the general medium of the communications of Government) was tried for Libel in publishing the Governor's "Reply."

Condition of
appointment
of constables,

But, to return to the previous matter, there can be no hardship or injustice in the proceeding alluded to, as the Man, who is appointed in the room of a Constable dismissed for Drunkenness, must be aware that he is himself liable to be removed for the same offence. It is, in fact, a condition of his appointment.

Further charges
by J. Stephen.

As to the instances, to which Mr. Justice Stephen alludes, that "offences of the very worst description are every day imputed to Individuals; that they are Harbourers of Bushrangers and various other serious Charges," I can only reply that I have no recollection of any such instances. But I can feel no hesitation in stating that the Individuals implicated in this practice, who it is to be regretted are extremely numerous, are as little likely to suffer in their feelings as their character from the circumstance of their names being published in the Sydney Gazette as Delinquents.

Regret at
necessity for
report *re*
J. Stephen.

I regret, Sir, that it should have been necessary for me to bring under your Notice the Conduct of Mr. Justice Stephen on this occasion. I had hoped that the rebuke, conveyed in Mr. Secretary Huskisson's Despatch dated the 21st September, 1827, No. 2, which was communicated to Mr. Stephen and to which I beg leave to refer you, would have prevented any similar proceeding on his part; But, on the contrary, he appears to have come forward very gratuitously to say the least (not having attended the Court one day during the whole Term previous to the occasion now alluded to) in order to impugn the measures of the Government, and to hold up the Governor himself to the Public as a person who should not only be dismissed from his office, but as totally unfit for any other office whatever under His Majesty's Government.

I beg, Sir, to repeat, in closing this communication, that I have felt very painfully the necessity of calling your attention to this proceeding. It has been urged upon me as a Duty, which I could not with justice to the King's Service avoid. Having discharged it, I am satisfied, for as to me personally the observations, which have been made by Mr. Justice Stephen, can be of no consequence.

I have, &c.,

RA. DARLING.

P.S.—Presuming it to be intended by the 9th and 11th Paragraphs (the former of which relates to Mr. Justice Stephen) of your Despatch dated the 30th of August, 1828, No. 26, that I should in all cases put the parties against whom I may be under the necessity of making any representations in possession of the

matter or facts with which they are charged, I have in consequence communicated a Copy of this Despatch to Judge Stephen, and have the honor to enclose for your information, a Copy of the Letter which accompanied it.

1830.
7 Aug.

Copy of
despatch given
to J. Stephen.

R.D.

[Enclosure No. 1.]

[This was a copy of the issue of the Sydney Gazette, dated 1st July, 1830.]

[Enclosure No. 2.]

GOVERNOR DARLING TO MR. JUSTICE STEPHEN.

Sir, Government House, 14th July, 1830.

The Report of the Proceedings in the Supreme Court on Tuesday, the 29th of last Month, as given in the Sydney Gazette of the 1st inst. in the case of "The King, at the Prosecution of W. C. Wentworth, Esquire, Versus The Revd. R. Mansfield," having attracted the attention of Government as containing matter of very serious importance, I am to request you will acquaint me whether the report alluded to is, as far as relates to the observations which Your Honor is stated to have made, substantially correct; and, if not, that you will be pleased to signify in what particulars the Report differs from the matter, which you actually delivered on the occasion in question.

Request for
confirmation
or correction
of report in
Sydney Gazette.

I request to be honored with your answer to this Communication at your earliest convenience.

I have, &c.,

RA. DARLING.

[Enclosure No. 3.]

MR. JUSTICE STEPHEN TO GOVERNOR DARLING.

Sir, Sydney, 22nd July, 1830.

Your Excellency's Letter of the 14th Instant I had the honor to receive just as I was stepping into my Carriage to go into the Country for change of air, and I returned to Town only yesterday.

Letter
acknowledged.

Your Excellency's Commands contained in that letter, I should have attended to sooner, had Your Excellency expressed a desire for an earlier reply.

The first time I have had an opportunity of seeing and perusing attentively the Report in the Sydney Gazette of the 29th of June Ultimo, to which you refer, was this morning.

When the Motion for a New Trial in the case of Rex, on the Prosecution of Wentworth, Versus Mansfield was heard, I had taken my seat on the Bench for the purpose of making my report of certain cases, that had been tried before me the preceding terms, having been for a period of upwards of nine months previously confined to bed with a severe fit of Gout.

Presence on
bench during
motion for
new trial.

In pronouncing my opinion on the case referred to by Your Excellency, I did not commit it to writing, nor take any notes of what fell from me.

To the best of my recollection, however, there is not any material variation in substance from what I said, as stated in the Gazette alluded to.

Confirmation
of report in
Sydney Gazette.

It was a matter of just surprise to me to find that the Counsel for the Defendant laid so much stress in argument upon justifying the Libel, upon which he had been found guilty, in consequence of a supposition that the matter contained in it originated from high

1830.
7 Aug.
Reasons for
observations
in court.

Authority, which did not appear to authorize the Defendant to publish it in his Newspaper to the World at large; and I expressed myself in terms, such as the Gazette supposes me to use, in reprobat- ing the idea that even the highest Authority in the State could justify a violation of those Laws, which all, from His Majesty even down through all gradations in society, were bound to observe, amongst which were those for the protection of the Right of the Subject, as well in his good name and reputation, as what might affect his person.

I lamented that, even in the humble walks of Life, unnecessary publication of what might be ruinous to Individuals in their consequences should take place, and instanced the case of a Constable, whose Dismissal from Office might be notified without the opprobrious circumstance of his being discharged for drunkenness, and such like, which being stated might have the effect to prevent his getting employment for the rest of his life. That I had heard of instances of men, without any previous legal investigation of the fact, having been in the public Newspaper accused of harbouring Bushrangers, which had the effect of embittering many hours of their lives, and might have been attended with the most fatal consequences.

I have thus related to Your Excellency all that you have required of me, and have only to add that,

I have, &c.,
JOHN STEPHEN,
Judge of the Sup. Court.

[Enclosure No. 4.]

GOVERNOR DARLING TO MR. JUSTICE STEPHEN.

Sir, Government House, 7th August, 1830.

I have been prevented by indisposition until this moment acknowledging the receipt of your Honor's Letter of the 22d Ultimo, in reply to mine of the 14th of the same Month. I now do myself the honor to transmit for your information the Copy of a Despatch, which I have felt it my duty to address to the Right Honble. the Secretary of State for the Colonies, in reference to the above correspondence, in order that your Honor may have an opportunity of giving such explanation of the matter as you may deem necessary; and I beg to express my readiness to forward any Letter, which you may address to the Secretary of State on the subject.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Australia.)

My dear Sir, Sydney, 7th August, 1830.

Having been favored with your private Letter informing me that this Colony is again attached to Your Department, I avail myself of this opportunity of referring to some of my present Despatches. I must request your particular attention to the weight of extraneous matter which is thrown upon me, and the interruption which must consequently be occasioned to the

Transmission
of copy of
despatch to
J. Stephen.

Difficulties
caused by idle
complainants.

Public Business by my being required to answer the Complaints of every idle or evil disposed scribbler, who may think himself aggrieved. However false or malicious accusations may be, the Geniuses of Botany Bay are too well practised in their art not to render something more than a simple Yes or No necessary in reply. The time of both the Colonial Secretary and myself has been very much occupied of late in obtaining the information necessary to expose the falsehood of the Statements, made by Hall and Girard, that is Doctor Halloran, who has lately opened Shop for the accommodation of his friends. I trust after such an ordeal as I have been subjected to, in replying to Hall, Wentworth, Lockaye, Robison, Girard, and other Worthies of like character, I may in future be excused from noticing their gross and wanton Calumnies. New South Wales is at present in this respect the same as it ever has been, and its character will not be altered, until the present generation at least has passed away. So long as it continues to be a receptacle for Vagabonds, who cannot be kept in order in England, so long will the Government be abused.

1830.
7 Aug.

Difficulties
caused by idle
complainants.

Abuse of
government
due to state
of colony.

2ndly. The next subject, to which I must request your attention, is that of Judge Stephen; and I assure You, I have very reluctantly reported the matter, feeling perfectly indifferent to his Proceedings, and not being at all disposed to enter the Lists again with the Judges, or expose myself to further censure on their account. The fact is, I could not avoid it, as even the Members of Council expressed their surprise that I had not taken any notice of his Proceedings, and "the more sober-minded and discreet," as I have intimated in one of my Despatches, expected he would have been immediately suspended from office. But, with the experience I have had, I should hardly have ventured on such a step under any circumstances.

Report re
J. Stephen.

3rdly. I must now request your attention to the subject of my Despatch of the 6th August, 1830, reporting the result of the Trial of the Editor of the Gazette for publishing* my "Reply" to the "Address," which was presented to me on the occasion of the "Impeachment." I have confined myself to stating the Case as briefly as possible, and I shall not take up your time by entering into the Matter here, further than to point out that You may find it useful in considering the question to refer to the Leading Article in the Sydney Gazette of the 8th of June last, which accompanies my Despatch, and which contains a Report of the Trial, As also of the Gazettes of the 8th and 10th of last Month, which contain a very clear exposition of the Case, and to the same Paper of the 6th and 8th of April last, in which is the Report of a Civil Action, brought by Hall the Editor of the

Prosecution
of Revd.
R. Mansfield
for libel.

1830.
7 Aug.

Monitor, against the Editor of the Sydney Gazette for Libel, with comments thereon. If the Editor of the Gazette cannot insert the Governor's Reply to a Public Address, I am at a loss to conceive how the Editors of Newspapers escape, who publish the Reports of General Courts Martial, by which Officers are dismissed the service for almost every species of Crime.

It will be observed in Page 19 of the *written Report** that Mr. Forbes says, the Report in the Gazette of the 8th of June is substantially correct. But he adds that part of the observations in his Charge to the Jury are omitted. The omission as stated is not altogether unimportant, as it might be considered to alter the nature of the Charge very materially. The written Report has been drawn up just now, two months after the Trial. The Report in the Gazette was drawn up at the moment, and was corrected by Mr. Forbes, before it was published, as will be seen by the enclosed Letter from the Editor, and is therefore as likely to be a correct Report as that which has been just written.

The Letter from the Editor was in answer to an application to be informed, whether the Reports of the Trial, etc., in the Gazette could be depended on as correct. I had some time before called on the Judges for their Report; but, as Mr. Forbes and Mr. Dowling subsequently left Sydney, I doubted whether I should receive it in time for the present opportunity; and, intending at any rate to write home on the subject, I was anxious to ascertain whether the Reports in the Gazette could be relied on, it being my intention in that case to transmit them without waiting to hear from the Judges. Their Report and the Editor's Letter came to hand nearly at the same moment.

I must apologise for taking up Your time in explaining a Matter apparently of so little Importance. But I have done so to prevent any misapprehension of my Motive, my object being to confine myself as much as possible to the simple facts of the Cases, to which I am desirous of drawing your Attention.

I remain, &c.,

RA. DARLING.

[Enclosure.]

REVEREND R. MANSFIELD TO COLONIAL SECRETARY MACLEAY.

Sir, Gazette Office, Sydney, 4th August, 1830.

In reply to your letter of this date, marked "*Private and Confidential*," requesting me to inform you whether the summing up of the Chief Justice in the Trial of Wentworth versus Mansfield and the opinions of the Chief Justice and Judge Dowling, when a new Trial was refused, were printed from the notes of my Reporter or from the notes of the Judges themselves, I have the honor to state:—

1st. That the summing up of the Chief Justice in the said Trial, as reported in the Sydney Gazette of the 8th June, 1830, was printed

* Note 156.

Report *re*
charge by
F. Forbes
to jury.

Letter *re*
reports in
Sydney Gazette.

Statement
re reports in
Sydney Gazette.

partly from notes furnished by the Chief Justice and partly from those of my Reporter. But a *Proof* of the entire summing up was submitted to the Chief Justice, who returned it marked thus, "*Returned corrected.*" The corrections were merely of a few *literal* errors.

2nd. That the opinions of the Chief Justice and Judge Dowling, when a new Trial was refused as reported in the Sydney Gazette of the 1st of July, 1830, were printed from notes furnished by the Judges themselves.

I have, &c.,

R. MANSFIELD.

1830.

7 Aug.

Statement
re reports in
Sydney Gazette.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 60, per ship *Florentia*.)

Sir,

Downing Street, 8 August, 1830.

8 Aug.

I have to acknowledge the receipt of your despatch No. 7 of the 23d of January last, enclosing a Petition from certain landed Proprietors in the Colony under your Government, wherein they pray for a reduction of the duties on tobacco to one third of the present amount, and that no further restriction be imposed than that the weight of each package should not be less than 100 lbs.

Memorial
acknowledged.

In transmitting to you a copy of the reply to a communication, which was made to the Lords Commissioners of His Majesty's Treasury upon this subject, I have to desire that you will acquaint the landed Proprietors, whose signature is attached to the Petition in question, that, however anxious His Majesty's Government may be to relieve the Colony of New South Wales from such burthens and restrictions as may press upon its Inhabitants, yet, as the arguments which have been urged in favor of this Indulgence, are not confined to New South Wales, it would be unjust towards other British Possessions, were His Majesty's Government to admit into this Country the Tobacco of New South Wales upon more favorable terms; And that, as they are not prepared to recommend to Parliament a further reduction of the duty upon that Article as a general measure, they cannot encourage any expectation of a compliance with the request of the Petitioners.

Inability to
grant reduction
in duty on
tobacco.

I am, &c.,

G. MURRAY.

[Enclosure.]

MR. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 27th July, 1830.

I have laid before the Lords Commissioners of His Majesty's Treasury your letter of the 21st Ultimo, transmitting a further Memorial addressed to Secretary Sir George Murray by certain Landed Proprietors in New South Wales upon the subject of the advantages likely to result to that Colony, if Tobacco grown there were to be admitted into the Ports of this Kingdom upon a more

Letter
acknowledged.

1830.
8 Aug.Inability to
recommend
reduction in
duty on tobacco.

advantageous footing than it can be imported under existing Regulations; and I am commanded to acquaint you for Sir George Murray's information that my Lords cannot encourage an expectation of a compliance with the request of the said Proprietors of obtaining, for New South Wales Tobacco, an admission for consumption into England on terms more favorable than the Tobacco of other Colonies of Great Britain; whatever arguments may be urged in favor of this Indulgence to New South Wales apply equally to other Colonies, and the reasons, which have limited the Duty on Colonial Tobacco to a reduction of 3d. per lb. as compared with Foreign Tobacco, have great force as regards New South Wales.

I am, &c.,

J. STEWART.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 70, per ship Florentia; acknowledged by Governor Darling, 7th April, 1831.)

9 Aug.

Conditional
pardon for
W. Robertson.

Sir, Downing Street, 9 August, 1830.

Application having been made to His Majesty's Government by the Lord Justice Clerk in favor of William Robertson, who was tried at the High Court of Justiciary at Edinburgh in the month of July, 1821, and was transported to New South Wales for life in the Ship Guildford, I am to desire that you will grant the said William Robertson a Pardon on condition of his residing within the Colony, provided the Prisoner's conduct has been such as to throw no impediment in the way of granting that Pardon.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 46, per ship Australia.)

Sir, Government House, 9th August, 1830.

I have the honor to acknowledge the receipt of your Despatch, dated the 30th of January last, Marked "Separate," relative to the Proceedings of the Judges of the Supreme Court in the case of "Jane New" and, having communicated the same to their Honors on the 2nd ultimo, I do myself the honor to forward at the desire of the Chief Justice the enclosed Letter, which he has addressed to you on the Subject.

It was my wish to have forwarded the Chief Justice's Letter as I did his Report in the Case of "Jane New," without remark or observation; but I feel I cannot strictly confine myself to the line I wished to follow.

The Chief Justice says, Page 9, "We entertained the hope that, in the mean time, the subject would be regulated by the

Despatch
acknowledged.Transmission
of letter from
F. Forbes.

local Legislature, whose powers, we conceived, were sufficiently large to invest the Government with every necessary Authority over the Convict population."

1830.
9 Aug.

Act of council
proposed by
F. Forbes.

On which I beg to point out that, having made a similar observation in his Letter of the 25th April, 1829, transmitting the Report on the case of "Jane New," which was forwarded with my Despatch of the 20th May last Year, I took an opportunity of enquiring of Mr. Forbes, in what manner he would propose regulating the matter by means of the Colonial Legislature. His Answer was by passing an Act to enlarge the powers of the Magistrates. So that in effect, the Governor was to come forward, as all Acts originate with him, and Voluntarily to relinquish a power, if he could do so, which had been placed in him by Parliament, and to transfer it to the Magistrates.

I cannot suppress my apprehension, without at all meaning to impugn the Motives of the Chief Justice, that the opinion, which he has given on this question, has in no inconsiderable degree been influenced by the view he has taken of the policy of the measure.

Alleged bias
in F. Forbes.

It will be seen on this point that, in Page 10, that he considers it as "pregnant with the seeds of litigation between the Governor and the Colonists"; and he states, in Page 11, "that their opinion (of the Judges in the Case of Jane New) was given in good faith and with a sincere desire to preserve harmony in the Colony."

Observations
by F. Forbes.

I confess I am totally at a loss to understand what ground Mr. Forbes has for the apprehension he appears to entertain from the Governor being Vested with the power of withdrawing assigned Servants. For my own part, I feel myself fully warranted in stating that the more intelligent Classes at least consider that the well being of the Convicts renders it desirable that the Governor should possess that power. It appears to have been always exercised, and without complaint I believe until the cases of the Men lately withdrawn from the Editor of the Australian and Monitor. The justification of the proceeding in those cases will be found by perusing those Papers.

Public opinion
in favour of
power for
governor to
revoke
assignments.

I cannot, Sir, close this communication without requesting your attention to another point in the Chief Justice's Letter. It will be seen, Page 10, that he considered (adverting to the case of Jane New) that the 9th Section of the 9th Geo. 4th, Chap. 83rd, applied only to such Convicts as have been assigned since the Act of 5th Geo. 4th, Chap. 84, came into operation, and I may add that this is still his opinion; though I should conceive, it appearing to have been the object of the 9th Section of the 9th Geo. 4th, Chap. 83rd, to remove the restriction imposed by the

Interpretation
of statute by
F. Forbes ;

and by
R. Darling.

1830.

9 Aug.

Confirmation
of opinion of
R. Darling.

5th Geo. 4th, that the present Act would have had a still further retrospective effect, had there been any impediment to the Governor's withdrawing assigned Servants generally; and I appear to be borne out in this view of the matter by the opinion of His Majesty's Law Officers, as conveyed in your Despatch of the 30th of January last, which does not limit the power of revocation to Convicts assigned under the 5th Geo. 4th, Chap. 84th.

I have, &c.,

RA. DARLING.

P.S.—I perceive I have omitted to notice the appeal made by Mr. Forbes (Page 12 and 13) to me for the assistance he has lately rendered the Government; and I should not do him justice, did I not acknowledge, which I do most willingly, that he cheerfully contributed his assistance in framing and passing the Bills alluded to. If it were necessary to shew that I have been equally desirous to promote the Harmony, so strongly inculcated in the Despatch* alluded to by the Chief Justice, I might state that, although disapproving as I did of the proceedings of the Judges in the case of the Magistrates, as reported by this opportunity, I made no allusion whatever to the matter either to themselves or otherwise since the Trial took place in July, 1829, conceiving it necessary, to the fulfilment of your Instructions, that I should avoid any cause of contention or controversy with the Judges.

I am not aware that the matter is of much importance, but it may be as well to point out, in reference to the observation in Page 9 of the Chief Justice's Letter, in which it is stated that the Prisoner Jane New was a transport to Van Diemen's Land, that Van Diemen's Land was a Dependency of this Government at the time when she was transported.

R.D.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO SIR GEORGE MURRAY.

Sir,

New South Wales, 19th July, 1830.

His Excellency General Darling did me the honor to enclose, by your commands, copies of a despatch, dated the 30th of January last, and of a paper drawn up by your Under Secretary, Mr. Twiss, both relating to the judgment of the Supreme Court of this Colony in the case of a female convict, named Jane New. I understand it to be your wish, Sir, in causing these documents to be laid before my colleagues and myself, that an opportunity should be afforded us of reconsidering our opinions, in order to prevent the alternative of either appealing to His Majesty in Council or of resorting to Parliament to correct the error into which it appears that the Judges of this Colony have fallen in construing the 9th Section of the New South Wales Act. The opinion of His Majesty's law officers is decisive upon the point that the Governor may, under the authority of the Act, revoke the assignment of a convict, whose

Assistance by
F. Forbes in
drafting bills.Avoidance of
controversy
with judges.Status of
Tasmania at
transportation
of J. New.Despatch
received *re*
judgment in
case of J. New.

sentence there is no intention to remit either generally or partially. This view of the law certainly differs from that which the Judges of the colony had previously entertained; but, as the point has never been solemnly determined by the Supreme Court (the question respecting the Governor's power of revocation not having been substantively raised in any case which has since come before us), and we now have the benefit of the opinion of His Majesty's law officers, whose official situation necessarily affords them the means of accurately informing themselves of the intention of Parliament, we shall feel no difficulty in deferring to their superior judgment. In thus yielding up my own opinion, I am influenced by a sense of duty and a sincere desire to do justice. Errors in judgment are too frequent among the ablest lawyers to require any excuse from me; and it is rather a source of consolation to know that there is a power, which may correct any errors into which I may have fallen. But I do assure you, Sir, that I feel most deeply and painfully that any impression should have been left upon your mind, so unfavorable to me as to draw down the severe censure upon my conduct, which is implied in the terms of your despatch. To earn the reputation of an upright judge has been the highest point of my ambition; and, if, in the attainment of that point, there may have been a predominating motive, it has been the desire I felt to preserve the good opinion of the Department, under which I was appointed to this Colony. To lose that would be to me a severe loss indeed; for it is the only thing I could say that I had acquired after a long course of twenty years, passed in the service of the public. With these feelings pressing upon me, I am compelled to appeal directly, Sir, to you; and, if I am out of order in doing so, I trust that, in your candour, you will make every allowance for the motive which impels me to such a step. I do address you, Sir, with some degree of confidence that, when the whole of the circumstances, under which my opinion was formed and my judgment was delivered in the case alluded to, shall be laid before you, they will alleviate, if they do not altogether remove those impressions, which it will ever be a source of painful reflection to me to think should have been made upon your high and honorable mind.

I came to this colony with the confidence of His Majesty's government; and I was directed to report upon such subjects connected with my own department, as might require to be provided for in the new Act of Parliament. Among the many unsettled questions, which came under my cognizance, was the right of the settler to the services of his assigned convict, and the power of the Governor to restrain the re-assignment of such convict, or to grant him a temporary remission of his sentence. In order to prevent this very delicate question from becoming the subject of conflict in the Court, I drew up a paper* upon the state of the transportation laws, and enclosed it to the Governor, under date the 3rd of October, 1827, with a request that his Excellency would transmit it to His Majesty's government in England. It would be trespassing too much on your time, Sir, to recapitulate the contents of that paper. It will suffice for my present purpose to say that it was composed with care and deliberation, and formed the basis of the opinions and the arguments, which I afterwards delivered in court; and, being addressed in the first instance to His Majesty's government in the confidence and privacy of an official communication, it cannot be presumed to have been written with any other feeling than that

1830.
9 Aug.

Difference between opinions of judges and counsel.

Regret at censure passed by Sir G. Murray.

Debatable points re assigned convicts.

Report by F. Forbes on transportation laws.

* Note 158.

1830.
9 Aug.

Opinion given
re assigned
convicts.

of a sincere desire to have a most important subject fully investigated and placed upon a legal foundation. In the paper alluded to, I traced the history of the transportation Acts as low down as the 5th Geo. 4th, c. 84, and deduced from them the two following positions:—first, that the assignee of a convict under the Act had a right of property in the services of such convict for the whole term of his transportation; and secondly, that this right of property could not be restrained or divested by the Governor, by any means except by an absolute or a conditional pardon. My opinion upon this subject was laid before His Majesty's law officers, and they coincided with me in the view I had taken of the law, as appears by the following extract of a despatch, addressed to the Governor under date the 30th of August, 1828 (No. 26), and enclosed to me by your commands:—

Confirmation
of opinion
by counsel.

“6. Respecting the question of the authority of the Governor of New South Wales over the convict population, the law officers of the Crown have reported their opinion that, under the former law,* the assignee of a convict might have reassigned him without the Governor's consent; and, that the Governor had no power, by means of a ticket of leave or otherwise, to grant to a convict, without the consent of his master, the liberty of absenting himself from his master's service, except in cases of pardon, either absolute or conditional. On this branch of the subject, therefore, Mr. Forbes appears to have been right in his opinion. The recent alteration of the law† has set the controverted question at rest.” This opinion of His Majesty's law officers goes directly to the two points which had been raised by me, and confirms the opinion I then entertained of the law. At the date of my papers being received in Downing Street, Mr. Huskisson's new bill‡ had been printed by order of the House of Commons; and, as it contained no provision upon the points to which my opinion referred, I was led to infer that the clause, which forms the ninth section of the Act, had been introduced to remove the particular doubts which had been expressed in my paper; and, carrying this impression with me to the construction of the clause in question, I thought it was intended, first, to restrain the unlimited power, before vested in the Settler, of re-assigning convicts; and secondly, to empower the Governor to revoke the assignments of convicts, with the view of granting them temporary remissions in the nature of tickets of leave. I did not conceive that it was intended to create in the Governor a third and a new power of unqualified revocation. It was not until after the case of Jane New had been decided, that the Judges were apprized, for the first time, of the views of His Majesty's government in passing the law. Upon the policy of the measure, as it is now established by the opinion of the law officers, it would be unbecoming in me to offer any remark, nor should I have done so at any time, if I had supposed that such, as I am now advised, was the intention of His Majesty's government in proposing the Bill, and of parliament in passing it. At the great distance we are removed from England, we have no means of communicating with the framers of Acts of Parliament respecting the internal government of this Colony; and we are left to find our way to the intention of the legislature with no other clue to guide our judgment than the general analogies of law and the pre-established rules of expounding Acts of Parliament.

Interpretation
of section in
new bill.

Intentions of
parliament.

* *Marginal note.*—5th Geo. 4th, c. 84.

† *Marginal note.*—9th Geo. 4th, c. 83.

‡ Note 159.

I was under such impressions of the law, as I have stated, Sir, when I was called to consider the case of Jane New. The case was one of a writ of Habeas Corpus, brought by James New, a free subject, to obtain the discharge of the prisoner upon the two grounds of her being his lawful wife and also his assigned servant. You must have observed, Sir, from the report of the proceedings, that the Attorney and Solicitor General resisted the discharge of the Prisoner exclusively upon the alleged right of the Governor to revoke her assignment; that the court was desirous of avoiding this delicate point, and suggested that there was another ground upon which the case might be disposed of, without entering into the discussion of the Governor's power of revocation under the Act; and that the crown officers still pressed for the opinion of the Court, alleging that it was the wish of the local government that "the question should be set at rest, in one way or the other." I quote the words used by the late Solicitor General Sampson, and, in corroboration of what I advance, I would beg permission to refer to the annexed minute of Court, taken at the time by my learned colleague, Mr. Justice Dowling. Had the Court disposed of the case on the ground upon which it was rested on both sides, and decided against the power of the Governor to revoke the assignment of the female convict, and in favor of the husband's right to reclaim her as his assigned servant, although in so deciding the Court would have been in error, as it is now advised, yet I humbly presume, Sir, that we should not have been considered to have gone out of the case, and to have determined upon a point not in issue before us. In placing our decision, however, upon a new and wide ground, not at all taken in argument, namely, that the prisoner was a transport to Van Dieman's Land and unlawfully found in New South Wales, I would respectfully submit it to your candor, Sir, that we discovered an anxiety, I may almost be permitted to say an ingenuity, to avoid coming to a distinct decision upon the question of the Governor's power of revocation. At the same time, having reason to believe that the question would be again brought before the Court under circumstances less favorable and more calculated to excite feelings of irritation, we thought it advisable to comply with the solicitations of the law officers, and to intimate, strongly, what our opinion of the law then was, and what our judgment would be in the event of being compelled to adjudicate directly and finally upon the question. We entertained the hope that, in the mean time, the subject would be regulated by the local legislature, whose powers, we conceived, were sufficiently large to invest the government with every necessary authority over the convict population. I am satisfied that my brethren on the Bench thought with me that, in putting the government in possession of our opinions, we were complying with its own desire, communicated to us in the most public manner by its own officers. And if, in expressing my opinion, I may have been led into the use of arguments, which seem to bear a popular turn, I trust, Sir, that it will be ascribed to the nature of the subject, and the necessity of adapting my reasoning to the opinion I entertained of the law, and the consequences I apprehended, perhaps erroneously, from a contrary interpretation. It used to be a frequent maxim of Lord Mansfield (than whom no English judge was ever more free from popular bias) that, "in deciding upon questions that admitted of doubt, arguments drawn from convenience and public utility might fairly be called in to

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Motive of judgment on motion for writ of *habeas corpus* to discharge J. New from factory.

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J. New from
factory.

turn the balance." What I intended to do was to argue the question in the abstract, and, by the best reasoning I could use, to guard the Governor against the exertion of a power, which, as it then appeared to me, was doubtful in itself; undefined in the manner of its being carried into execution; applicable, by the terms of the Act, to the comparatively small portion of the convict population assigned under the 5 G. 4, c. 84; and pregnant with the seeds of litigation between the government and the Colonists. I am prepared to admit, Sir, in the fullest extent that, if the Judges had under the influence of any undue motive intentionally gone out of the case, and pronounced a speculative opinion upon a point of law not in issue before them, they would justly have deserved something more marked than censure. Were I permitted on the present occasion, Sir, I could on my own part in the most solemn manner abjure any such motive; and I am sure that I should be conscientiously joined by my learned and respected colleagues. I admit also that, in Westminster Hall, even the pressing solicitations of the Attorney and Solicitor General would not be considered as a sufficient excuse for the Judges there to depart from the strict rule of confining their judgment to so much of the case as might be absolutely necessary to decide it. But in this Colony, where every thing is new and requires to be settled, the Judges are differently situated. The business of the Court must frequently stop, if we adhered to the rigid practice of Westminster. We are called upon for our opinions by the local government; and, under a sense of necessity, we have given our advice freely in all cases, excepting only such as would be likely to come before us judicially. Some allowances will be made for the force of local circumstances, which it may be difficult to convey, but which it is impossible not to feel. Could you, Sir, I would most respectfully submit, transfer yourself to this Colony, and look at the case such as it presented itself to us in all its local bearings and circumstances, I think, Sir, you would perceive that, however the Judges may have been in error in their construction of the law, yet that their opinion was given in good faith and with a sincere desire to preserve harmony in the Colony. I have endeavoured to lay these circumstances before you, Sir, as plainly as I am able, although I fear very imperfectly. I submit them to your candid consideration, and I shall bow with the utmost deference to your decision.

Differences
of opinion
between
R. Darling
and F. Forbes.

I have already trespassed too long, Sir, upon your attention; but there is one remaining subject, upon which I shall be excused for touching. I allude, Sir, to my late unfortunate differences with the Governor of this Colony upon points of a public nature. Those differences, I hoped, had been composed and forgotten. I have received my share, Sir, of your merited censure; I have bowed to it with the most respectful submission; and I trust, Sir, that you are too just and too generous to revive the past in judgment against me. I was honored with the communication of your sentiments on the 17th of April, 1829; and, on the day next following, I wrote* to the Governor, expressing my regret that our offices should have been drawn into any difference, and my earnest hope that we should co-operate on all future occasions in that spirit of candor and cordiality, which had been so impressively enjoined in your despatch. His Excellency in reply* was pleased to express a corresponding disposition on his part; and, from that moment, I have

* Note 160.

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by F. Forbes
to R. Darling.

considered our differences at an end. It has been my study to preserve the best understanding with the Governor; and I am not aware of any circumstance, which has since occurred, to disturb it. I have supported every act of His Excellency's administration, so far as it has fallen within my province. His Excellency has done me the kindness to acknowledge my services in the Legislative Council; and, in proof of the aid I have afforded him, I would respectfully refer to the numerous and important laws, which have been passed within the present year; laws, which would reflect credit upon an older Colony. And, if some of those laws have armed this government with larger powers than are known to any other portion of His Majesty's dominions, I would confidently appeal to them as a practical instance of my readiness on all occasions to support every measure, which may tend to the security of His Excellency's government and the safety and happiness of His Majesty's subjects. It is extremely painful to me, Sir, to speak thus of myself. Had I the honor to be personally known to you, Sir, I trust that it would be rendered unnecessary. But, as that is not my good fortune, I would most respectfully beg permission to refer to a parting testimonial of the last Governor of this Colony, Sir Thomas Brisbane, who had the honor to serve under your command, and whose testimonial will have the greater weight, as it was written after his embarkation on the eve of his return to England, and under circumstances when His Excellency could be influenced by no other motive towards me than that of a spontaneous desire to express his true and grateful sentiments. I hope, Sir, that you will excuse me for saying so much on this subject. It is one of the deepest interest to me. And I place my trust in your high and delicate sense of what is due to character, to make every allowance for the earnestness and perhaps the irregularity of this appeal.

Transmission
of letter from
Sir T. Brisbane.

With sentiments of the highest consideration and deference,

I have, &c.,

FRANCIS FORBES.

[Sub-enclosure No. 1.]

COPY OF A LETTER FROM SIR THOMAS BRISBANE, K.C.B., LATE
GOVERNOR OF NEW SOUTH WALES.

On board The Mary Hope,

My dear Sir,

Sydney Cove, 28 Novr., 1825.

I am most anxious, amidst bustle and confusion, to devote a few minutes of the last evening I shall pass in this Colony to give vent to those feelings of grateful obligation, I owe you for a long course of valuable, important and disinterested services, rendered me on many occasions, in which I stood as much in need of such assistance as you have uniformly and unceasingly given me; the impressions, resulting from which, have been so indelibly engraven upon my heart, that neither time nor space can impair, far less obliterate them. It is to me a remarkable fact that, throughout the course of a pretty long life, I have never yet considered myself under the same degree of obligation to any human being; neither have I ever entertained the same esteem and regard for any person, as I feel towards yourself. This I ascribe as much to your character and talents, as to the sense of obligation I am under to you for those services. All I ask in return is that you will, on some

Testimony by
Sir T. Brisbane
to services of
F. Forbes.

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—
Testimony by
Sir T. Brisbane
to services of
F. Forbes.

future occasion, in some shape or other, afford me an opportunity of testifying the sincerity of these expressions, by calling upon me in any way you may imagine I can render either yourself or your family a service; as, be assured, no gratification will be more pure or more genuine to me, than the reflection of serving you or them. Believe me, with kindest regards to Mrs. Forbes, and with unfeigned esteem and regard, ever most faithfully and sincerely,

Yours,

THOS. BRISBANE.

The Honorable Chief Justice Forbes, etc., etc.

[Sub-enclosure No. 2.]

Minute of
proceedings *
on motion for
habeas corpus
to discharge
Jane New from
factory.

MINUTE of the Proceedings in the Supreme Court of New South Wales, on a Motion for a Habeas Corpus to discharge the body of Jane New, a Prisoner of the Crown, from the Factory at Parramatta. Extracted from the contemporaneous Note Book of James Dowling, Esqre., one of the Assistant Judges of the court, vol. 15, fol. 93.

First Term, 10th Geo. 4th.

Wednesday, 18th March, 1829.

PRESENT:—Forbes, C. J.; Stephen, J.; Dowling, J.

Ex parte Jane New.

Mr. Stephen had on a former day in this term obtained a Writ of Habeas Corpus to bring up the body of Jane, the wife of James New, from the female Factory at Parramatta, where it was alleged she was unlawfully detained.

The Prisoner was this day brought into court, and the writ of Habeas Corpus and return thereto read.

Other documents and papers were read.

The principal circumstances of the case admitted on both sides were these: The Prisoner had been tried* and convicted before Dowling J. at the last criminal session of a capital felony. It appearing afterwards that her conviction had proceeded upon a Statute not in force in this Colony at the time the offence was committed, the Judges were of opinion that her conviction was void. The prisoner had been originally convicted of felony at the Chester Sessions, and ordered to be transported from England for 7 years, and was accordingly transported to Van Dieman's land. After her conviction in this colony was declared void, the Sheriff, by the direction of the Governor, removed her from the common gaol at Sydney, as a prisoner of the crown, to the factory at Parramatta. Whilst the prisoner was a transported felon at Van Dieman's land, the Lieutenant Governor of that Settlement assigned her to James New, a free subject there residing, and allowed her to marry him. The prisoner was afterwards permitted to accompany her husband to Sydney, and, whilst residing here, she committed the offence of which she was afterwards erroneously convicted. Before she was removed to the Factory at Parramatta, His Excellency the Governor of New South Wales revoked the assignment executed by the Lieutenant Governor of Van Dieman's Land of the prisoner to her husband, under the 9th sec. of the Stat. 9 Geo. 4th, c. 83, Under these circumstances.

* Note 161.

Mr. Wentworth and Mr. Stephen now moved, on the part of the husband James New, that the prisoner Jane New be discharged and delivered over to her husband and master, on the ground, first, that the Governor of this territory had no power under the 9th section of the Statute to cancel the assignment to a master of any prisoner of the crown, except for the purpose of granting a temporary or partial remission of the original sentence; and secondly, that at all events he could not cancel the assignment of a prisoner, who had been transported from England to Van Dieman's land, that being a separate and independent Colony not within the government or jurisdiction of the Governor of New South Wales; these points were urged at some length.

Mr. Attorney General (Baxter) and Mr. Solicitor General (Sampson) appeared on the part of the crown, and contended that the Governor of New South Wales had the absolute right to cancel the assignment to a master of a prisoner of the crown, without reference to the remission of the original sentence. It is admitted that the prisoner now before the court is a transported felon, whose sentence is unexpired, and therefore she cannot be discharged, if the Governor may revoke her assignment under the 9th Section of the New South Wales Act. After pressing this point at some length, "I am instructed" (said the Attorney General) "to pray the decision of the court upon this point, not so much for this particular case as to guide the discretion of the executive government in other cases now under consideration."

Forbes, C.J.: May not this case be disposed of on another point? Is it necessary that we should give any opinion upon the effect and meaning of that important section, involving as it does so many consequences? It is a question of considerable delicacy, and we wish to avoid the discussion of it unless in a case where no other question arises.

Mr. Attorney General: I apprehend the question is necessarily involved in this case; and, although your Honor suggests that there is another point on which the case may be disposed of, yet I must respectfully press for the decision of the court upon the general question in order to guide the discretion of the executive government. It has been considered a doubtful point, and for the guidance of the government it is most desirable that the matter should be set at rest.

Forbes, C.J.: Then, in that point of view, and understanding that our decision is for the purpose of informing the government of our views of the clause, and guiding its discretion in other cases, we shall take the matter into consideration, and give our opinion upon it on an early day, although we think, as at present advised, that the case may be disposed of on another point.

Curia advisare vult.

On the 21st of March, 1829, the court delivered its opinion,* which is already in possession of the right honorable the Secretary of State.

I certify that the above is a correct minute in substance of what took place in Court, when the Case of Jane New was brought under consideration.

JAMES DOWLING,

An Assistant Judge.

20th July, 1830.

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Minute of proceedings on motion for *habeas corpus* to discharge Jane New from factory.

* Note 161.

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GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 47, per ship Australia; acknowledged by
Viscount Goderich, 8th January, 1831.)

Sir, Government House, 9th August, 1830.

Proposal
to cancel
employment of
L. E. Threlkeld.

I do myself the honor to transmit for your information the accompanying Copy of a Letter addressed to me by Mr. Hankey, Treasurer of the London Missionary Society, respecting the discontinuance of Mr. Threlkeld,* who had been employed for some time by that Society with a view to his acquiring the Language and Civilizing the Natives of the Colony.

Reference
to Revd.
W. G. Broughton
and executive
council.

I was induced, previously to bringing the Matter before the Council, to consult Archdeacon Broughton and to refer Mr. Hankey's Letter with one which I had received from Mr. Threlkeld for his opinion, and I have now the honor to transmit for your information the accompanying Copy of a Letter, which the Archdeacon addressed to me on the subject, together with a Minute of the Proceedings of the Executive Council to whom it appeared proper to refer the matter. It will be seen, by the minute of Council, that it has been deemed advisable under the Circumstances pointed out to continue Mr. Threlkeld, subject to your approbation, for a period of five Years at a Salary of £150 per annum, with an allowance for Clothing and Rations for four Convicts, which will Amount to about £50 more.

Renewal of
engagement
recommended.

When the Condition of the Aborigines is considered, and the progress which Mr. Threlkeld has made in acquiring their Language, I trust, Sir, you will agree with the Council that it would hardly be consistent with feelings of common Humanity or with what we owe to these people in particular to abandon them altogether, in order to save an Expense so inconsiderable with reference to the object. I must at the same time confess, though concurring with the Council, that it is incumbent on the Government to exert itself in their favor, that I am not sanguine as to the success of the Measure now recommended.

I have, &c.,
RA. DARLING.

[Enclosure No. 1.]

MR. W. A. HANKEY TO GOVERNOR DARLING.

Sir, London, 18th August, 1829.

Reluctance
in writing
letter.

Much as we feel in addressing Your Excellency on the subject of our present Letter, we should be still more reluctant to do it, could we conceive that we are likely to occasion you as much pain in receiving our communication as we ourselves experience in making it.

Aboriginal
mission at
Lake Macquarie.

Your Excellency is necessarily acquainted with the history and proceedings of the Mission* at Lake McQuarie undertaken under the auspices of your Predecessor by the Gentlemen, who formed a

* Note 162.

Deputation from our Society (appointed to visit its Stations in the South Sea Islands) during their temporary residence in your Colony, and the appointment of Mr. L. E. Threlkeld to the office of Christian Missionary to the Natives in that part of it.

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—
Aboriginal
mission at
Lake Macquarie.

Although the undertaking was entered upon without our sanction, and, had we been consulted before it was begun, would not have received it, we were unwilling to withdraw from its support, provided the Scale of Expences were found compatible with the already too burthened state of our Finances and the progress of it were satisfactory to our minds.

In both these respects, we are sorry to have to state that our hopes have been greatly disappointed. The Expence has proved incompatible with our other Engagements, and the Conduct of the Individual entrusted with its Management quite unsatisfactory. Our endeavours to regulate his expenditure were treated with disregard and disrespect, till we were under the painful necessity of resorting to the last means of controlling him by dishonoring some of his Bills drawn upon us.

Inability
to meet
expenditure
and to control
L. E. Threlkeld.

The indecorous manner in which Mr. Threlkeld saw fit to resent this Act of protection of the Society by Printing a virulent Pamphlet (charging us in his account with the Expences) and circulating Copies of it in England, as well as in the Colony and amongst the other Stations of the Society, inevitably so far injured all the proper feelings required in the relation subsisting between him and ourselves, that, by a Letter addressed to him under date the 30th of May, 1828, we communicated our resolution to dissolve that relation, offering to defray the Expences of his and his Family's passage to England in case he choose to return thither.

Reasons for
termination of
engagement of
L. E. Threlkeld.

This Letter he acknowledges, but refuses to obey our Instructions, and persists in carrying on the Mission at our Expence by availing himself of a proposition we had in the first instance made (of allowing £250 per Annum if he would limit his Expenditure to that Amount), but which is no longer applicable to the circumstances now existing between us, not to say that Mr. Threlkeld had previously rejected the proposition; so that he has obliged us to add the more peremptory measure of refusing to honor all future Bills except such as may be drawn for the Charges of his Voyage to England, if he prefers returning.

Mission
continued
against orders.

The manner, in which Your Excellency has been pleased to favor this undertaking on behalf of the Natives by granting Laborers and Rations towards its maintenance, renders it incumbent on us to lay these truly painful explanations before you, that the grounds of our withdrawal from the Mission may become known to you through another medium than that of Mr. Threlkeld himself.

Reasons for
report to
R. Darling.

A large loss will, in this issue we feel, be brought on the Society from the Buildings, which Mr. Threlkeld has erected on the Land granted by the late Governor Sir Thomas Brisbane, except so far as it can be relieved by Your Excellency in any arrangement you may judge it expedient to make in reference to it. Our wish naturally is that either the Buildings should be sold for the benefit of the Society, or, if applied to any other purpose, that a reasonable compensation should be made for them. If, indeed, under the Plan of Management supported by the Benevolence of the Colony and under the auspices of your Excellency, the effort in favor of the Aborigines could be carried on, we should in such case cheerfully

Loss anticipated
by society.

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relinquish to any Trustees of the undertaking, who might be appointed, the Claims we possess, it being fully understood that the Society should in future be entirely freed from all Charges.

We greatly lament that the behaviour and proceedings of Mr. Threlkeld have been such as to entirely frustrate the design, so far as we ourselves are concerned, and the more so as he had manifested a spirit of energy and perseverance and made such progress in the Language of the Aborigines as seemed to promise a more prosperous issue than had attended some former attempts of a similar kind. It would afford us satisfaction, should his qualifications and acquisitions for the prosecution of the object under Local direction and Control, unconnected with the Society, be eventually rendered subversive to its attainment.

We have taken the liberty of entering into these details, not with the wish to trouble Your Excellency with our affairs, but to afford you a just view of the case as it stands between our Society and Mr. Threlkeld, and to shew the true grounds as before intimated of our decision relating to him. At the same time, should it tend to promote any Benevolent intentions towards the unhappy Aborigines of the Country, which doubtless exists in the Colony, by placing at Your Excellency's disposal the foundation which has been laid at our Expence, we shall not judge the Money to have been entirely thrown away, though it may be lost as to the Society.

I have, &c.,

W. ALEX. HANKEY,

Treasr. of the Society.

[Enclosure No. 2.]

NEW SOUTH WALES.

EXTRACT from Minute No. 18 of the Proceedings of the Executive Council of the 12th June, 1830.

PRESENT:—His Excellency the Governor; The Venerable the Archdeacon; The Honble. the Colonial Secretary; The Honble. Colonel Lindesay.

“His Excellency The Governor laid before the Council a Letter from the Venble. the Archdeacon on the subject of the Establishment, undertaken and until recently maintained by the London Missionary Society at Lake Macquarie, with a view to form an Acquaintance with the Native languages of this Country, and to attempt the Civilization of its aboriginal inhabitants.”

“It appears that Mr. E. L. Threlkeld has been employed by the Society in prosecuting the object in question, and that he has made considerable progress in the translation of the New Testament.”

“The Council, after a full consideration of the subject, were impressed with a persuasion ‘that the Nation is under an obligation to make an effort for the Moral and religious improvement of the people whose Country we have occupied’; And, the attempt, hitherto prosecuted by the London Missionary Society, being now abandoned on their part, advised with reference to the suggestions of the Archdeacon that the Land formerly set apart by Sir Thomas Brisbane for the accomplishment of this object, and now surrendered, should continue to be appropriated to its original purpose, and that Mr. Threlkeld should be continued to be employed and at a Salary of one Hundred and Fifty Pounds (£150) per Annum, with

Study of native
language by
L. E. Threlkeld.

Recommendation by
executive
council for
maintenance
of aboriginal
mission.

the Rations which he now draws for four Convict Servants; Subject to the approval of the Right Honble. the Secretary of State for the Colonies."

"The Buildings on the Land above alluded to being continued to be used for the purposes they were erected by the Society, it is not necessary, it is conceived, to make them any Compensation on that account."

A true Extract:—E. DEAS THOMSON, Clk. Col.

1830.
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Recommendation by executive council for maintenance of aboriginal mission.

ENCLOSURE R to Proceedings of the Executive Council,
Minute No. 18/1830.

Sir,

Sydney, 3rd June, 1830.

I have the honor to inform your Excellency that I have this day returned to the Colonial Secretary two original Letters, which, by your Excellency's direction, were transmitted to me on the 13th January last, the one being addressed to Your Excellency by W. Alex. Hankey, Esqr., Treasurer of the London Missionary Society, the other by Mr. L. E. Threlkeld, and both having relation to the Establishment undertaken, and till recently maintained by that Society at Lake Macquarie, with a View to form an acquaintance with the Native Languages of this Country and to attempt the Civilization of its aboriginal Inhabitants. In Conformity with the expressed desire of Your Excellency, I have availed myself of the earliest opportunity, afforded after my return from the Visitation in Van Diemen's Land, to investigate the questions embraced in the Letters of Mr. Hankey and Mr. Threlkeld.

Letters acknowledged.

The object, proposed by the London Missionary Society, and for the promotion of which Sir Thomas Brisbane bestowed the Grant of Land at Lake Macquarie, is in my estimation of the first interest and importance. I am impressed with a persuasion that our Church and Nation are under an obligation to make an effort for the moral and religious Improvement of the people whose Country we have occupied; and, as the most promising means of accomplishing this end, reason appears to point out the acquirement of a knowledge of their Language. The attempt hitherto prosecuted by the London Missionary Society being abandoned on their part, I should be much concerned, if it could not be resumed under the patronage and sanction of Your Excellency. I therefore trust that the Land, formerly set apart by Sir Thomas Brisbane and now surrendered, may still continue to be appropriated to its original purpose. In what manner this may be best effected, or what Compensation should be made to the Society above mentioned on account of the Buildings erected by them on the Grant, I have not at present sufficient local knowledge to advise; But I hope to be able to Visit the Lake Macquarie in the Course of the present Year, and I shall afterwards be prepared to lay before Your Excellency such suggestions, as may introduce, in connection with the subject now before me, the general question of civilizing the Aborigines of New South Wales; In the mean time, I have the honor to request that directions may be issued for securing the Land from encroachment and the Buildings from delapidation.

Support of object of aboriginal mission.

Recommendation for continuance of mission.

With reference to Mr. Threlkeld personally, I beg to state to your Excellency, my persuasion that he employs himself diligently in Studying the Native Language and in reducing it to a written form. In this latter object he has succeeded to a considerable extent, and I have no doubt of his being more competently acquainted with

Study of aboriginal language by L. E. Threlkeld.

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these dialects than any other person in the Colony. I have also reason to be satisfied of the accuracy of his statement, that he has proceeded in his translation of the New testament, as far as the 14th Chapter of St. Luke's Gospel.

Proposed
engagement of
L. E. Threlkeld
by government.

As therefore the Work he is employed on is highly important in itself, and such as no other appears equally well qualified to execute, I should propose to Your Excellency that a Salary adequate to his support should be granted to Mr. Threlkeld for such a period as may be deemed sufficient for the Completion of the Gospel, which he is now engaged in translating. As he is in possession of Land, I conceive that, if the sum of one hundred and Fifty Pounds per Annum were allowed to Mr. Threlkeld, together with the Rations which he now draws for four Convict Servants, and if the same were continued for five years from the 1st of January last, he would be enabled to bestow his undivided attention on the work and to complete it within the limited period.

I have also to recommend that it be made a Condition of any allowance, so granted to Mr. Threlkeld, that he should transmit to me yearly for the information of your Excellency a detailed Statement of the progress he has made during the previous twelve Months.

I have, &c.,

W. G. BROUGHTON.

A true Copy:—E. DEAS THOMSON, Clk. Col.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Burrell; acknowledged by
Governor Darling, 29th January, 1831.)

10 Aug.

Sir,

Downing Street, 10 August, 1830.

Request by
S. Bannister
for payment
to J. Norton.

With reference to my letter of the 19th Ultimo, on the subject of the arrears of Salary, which had been claimed by Mr. Saxe Bannister as due to him from his late Office in New South Wales, I am now directed to acquaint you that it is the wish of that Gentleman to have them paid into the hands of James Norton, Esq., of Sydney, or to his Executors. In the event therefore of any salary appearing to be due to Mr. Bannister, Sir George Murray requests you will have the goodness to dispose of it in the above manner.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Australia.)

Sir,

Government House, 10th August, 1830.

Leave of absence
for Revd.
J. D. Lang.

I have the honor to acquaint you that I have granted the Revd. Dr. Lang of the Scotch Church leave to return to England, having represented that this indulgence was necessary to enable him to arrange the affairs of his Church.

Revd.
J. McGarvie
to act.

Mr. McGarvie, the Minister employed at Portland Head, has been appointed to officiate at Sydney in the place of Dr. Lang,

and will receive at the rate of £150 per Annum, being Half of the Salary allowed for Dr. Lang, the Doctor retaining the other Moiety according to the established rule.

The Salary, attached to the Situation of Mr. McGarvie of £100 per annum, will of course not be drawn while he acts for Dr. Lang.

1830.
10 Aug.

Salary
for Revd.
J. McGarvie.

I have, &c.,

RA. DARLING.

P.S.—You will recollect Dr. Lang as the subject of a representation* lately made by Deputy Commissary General Wemyss.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 71, per ship *Florentia*; acknowledged by Governor Darling, 31st January, 1831.)

Sir,

Downing Street, 11 August, 1830.

11 Aug.

With reference to my despatch No. 82 of the 12th of January, 1829, in which you were informed that an Expedition had been fitted out from this Country with the view of taking possession of, and forming a Settlement at Swan River on the Western Coast of Australia, I have now the satisfaction of acquainting you that the accounts, which have been received from that quarter, are of a very satisfactory nature, both as regards the present condition of the New Settlement and its future prospects.

Reports from
settlement at
Swan river.

In the Instructions† communicated to Captain Stirling, prior to his departure from this Country, his attention was directed to the expediency of inducing the Settlers to select their Lands, South of the Swan River rather than to the Northward, with a view to the occupation of the Country in the direction of King George's Sound; and it appears expedient, in furtherance of this object, that the Military force, which must still be stationed there, should be placed under the orders of the Officer Commanding the Troops at Swan River.

Lands to be
selected.

Command of
military force.

As, from a communication which I have had upon this subject with the General Commanding in Chief, it appears that the 39th Regt. (a detachment of which now forms the Garrison at King George's Sound) will not be called upon to proceed to the East Indies before a period of two years, it is proposed to leave this Detachment for the present at that Station, placing it under the Orders‡ of the Officer Commanding the Troops in the Swan River Settlement, until the period for the embarkation of the 39th Regt. for India shall approach, when that detachment will be withdrawn and be replaced by one of the 63d Regts., a part of which is already employed in that quarter. Detailed Instructions, however, will be forwarded to you upon this subject by the

Arrangements
re distribution
and command of
military.

* Note 164.

† Note 165.

‡ Note 166.

1830.
11 Aug.
Supplies for
detachment at
King George's
Sound.

General Commanding in Chief, And I will only further observe that, as soon as the arrangements connected with this measure shall have been carried into effect, it will rest with Lieutt. Governor Stirling, in concert with the Officer Commanding the Troops at Swan River, to take care that the Detachment at King George's Sound be provided with all such supplies as they shall require.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 72, per ship Florentia.)

12 Aug.
Transmission of
correspondence
with
J. Stephen, jr.

Sir, Downing Street, 12 August, 1830.

I have the honor to transmit to you copies of a correspondence, which has passed between this Department and Mr. John Stephen since his arrival in this Country, and which has arisen out of circumstances connected with his examination before the Council,* and subsequent departure from New South Wales.

Proposal by
J. Stephen, jr.,
to lay case
before
parliament.

The only remark, I conceive it necessary to make upon these letters, is elicited by Mr. Stephen's last communication of the 22d Ultimo, by which you will perceive that he intends to lay the representation of his case before Parliament; And, as it will therefore be desirable that I should be in possession of every information connected with it, you will have the goodness to acquaint me whether any fresh circumstances have transpired in the Colony with reference to the accused party; and you will forward to me with as little delay as possible any details upon this subject, which may have come to your knowledge.

I am, &c.,
G. MURRAY.

[Enclosure No. 1.]

UNDER SECRETARY HAY TO MR. J. STEPHEN, JR.

Documents for
inspection.

MR. HAY presents his compliments to Mr. John Stephen, and, with reference to his interview with Mr. Hay on the 30th Ult., acquaints Mr. Stephen that the Documents connected with his case, which he will be permitted to see, will be shewn to him by Mr. Short any Day on which it may be convenient to Mr. Stephen to call at the Colonial Office.

Downing Street. 3d April, 1830.

[Enclosure No. 2.]

MR. J. STEPHEN, JR., TO UNDER SECRETARY HAY.

Sir, 24th April, 1830.

Request for
salary as
commissioner
of lands.

I beg leave most respectfully but earnestly to request that, according to the Government Regulation prohibiting Civil Officers from receiving more than half the amount of the Salary of any appointment held subject to confirmation, I may be allowed to receive the other moiety of the Salary of Commissioner of Crown

Lands, to which Office a Gentleman has been named during my suspension, from the date hereof. An allowance of this nature was made to Dr. Douglass.

1830.
12 Aug.

Request for salary as commissioner of lands.

I feel the more confidence in soliciting this favor from a firm and solemn conviction of the injustice done me by General Darling, which I am sure must appear evident on the face of his own Documents. I would not at this time have made the application, but from the failure of my resources to a large amount by the return of a dishonored Bill.

I have, &c.,

JOHN STEPHEN, JUNR.

[Enclosure No. 3.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

MR. HAY presents his compliments to Mr. John Stephen, and, in compliance with the request made by him to Mr. Hay, begs to enclose copies of the Minutes of the Executive Council of New South Wales, relative to the case of Mr. John Stephen.

Transmission of minutes of executive council.

Downing Street, 27th April, 1830.

[Enclosure No. 4.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir, Downing Street, 30th April, 1830.

Having laid before Secretary Sir George Murray your letter dated the 24th Inst., I am directed to acquaint you that he cannot authorize the issue to you of any part of the Salary of the office, which you held under the Government of New South Wales, until you shall have exculpated yourself from the charges which formed the subject of the Enquiry, which took place before the Executive Council in New South Wales, with the proceedings of which you have already been made acquainted by desire of the Secretary of State.

Refusal to issue salary.

I am, &c.,

R. W. HAY.

[Enclosure No. 5.]

REPLY of Mr. John Stephen, Junr., to Charges preferred by General Darling.

Sir, Joy's Hotel, 17th May, 1830.

Having received a Copy of the Minutes* of the Executive Council of the Colony of New South Wales dated the 23d of June, 1829, which contains the grounds on which my suspension from office rests, I have most respectfully but most earnestly to entreat the patient attention of the Right Honorable the Secretary of State to the refutation which I have humbly but confidently to submit.

Replies by J. Stephen, jr., to charges by R. Darling.

Before proceeding to the direct matter of discussion, I have to remark that the whole evidence adduced before the Council is that of Prisoners in confinement or convict Constables. Opposed to this, I have to offer testimony, which cannot be received with discredit; and, as the whole case must entirely rest upon the documents laid before the Secretary of State, I have little doubt as to the result.

Character of evidence before council.

A brief statement of the circumstances, which transpired previously to the meeting of the Council, will be necessary to prove to the Secretary of State the unprecedented situation in which I was placed when summoned before them, which I trust will amply justify my conduct on that occasion.

On the morning of the 19th June, being informed that some Constables had entered my premises in the Country and taken from

Premises searched by constables.

1830.
12 Aug.

Interview of
J. Stephen, jr.,
with F. Rossi.

thence sundry papers, and that the Land Lord of the House, Amos Crisp, was in custody at the Police Office, I went there accompanied by a professional friend. On seeing the Superintendent of Police, Captain Rossi, in the office, I demanded the return of such papers as had been taken from my room, but Captain Rossi refused, declaring his intention of *referring* the matter to the Governor. He informed me *privately* there was a strong suspicion that my servant Mrs. Dixon was Mrs. New, a Prisoner, who had escaped from Custody. I immediately tendered an affidavit in which I offered at once to produce Mrs. Dixon, and thus *prove a negative*; and called upon him to do his duty, and, if there were any thing like suspicion against me of harbouring a prisoner, to proceed directly to the charge. He declined to go on with the investigation; stated that he should transmit the papers to the Governor; but refused to allow my affidavit to accompany them. Vide appendix A.

Request for
resignation as
magistrate and
commissioner
of lands.

On the 22nd of June, Mr. McLeay communicated to me His Excellency's desire that I should immediately withdraw my name from the Magistracy, and resign my situation as Commissioner of Lands, "with which," said the Colonial Secretary, "I advise compliance *instantly* to save yourself from public Exposure." I replied that "I courted Enquiry the most public into my conduct, but that I certainly should not comply with the Governor's and his wishes with respect to retiring from my office."

Summons to
appear before
executive
council.

The following morning I was summoned before the Council. And here I cannot but point out, to the particular attention of Sir George Murray, the fact of my having been already condemned by two out of four of the Council; the absence of the Chief Justice, whose casting vote might have been in my favor, and the improper conduct of the Governor and Council in having taken the case out of a Court of Justice, where only lay the power to investigate the matter, as is specially directed by Act of Council.

Charges
preferred
against
J. Stephen, jr.

From the proceedings of Council, which bears the signature of General Darling only, are deduced five charges against me, to which I will reply in the order they arise.

- 1st. "That my answers were irrelevant, and that no more direct answers could be obtained from me."

Irrelevancy
of answers.

How far this assertion is borne out, the copy of my examination must testify; but it is rather singular, if *such were the impression of the Governor at the time*, that no question was repeated, nor was an explanation required of any answer given by me. It was the first time in my life that I was subjected to such an ordeal. I endeavoured to be as explicit as possible, and, if I failed, it was not from intention but embarrassment, and a knowledge that I was already condemned for an offence of which the council had not the honesty at once to accuse me.

- 2nd. "Exercising an authority I did not possess as a Magistrate in granting a Certificate of Freedom to Jane New, under the fictitious name of Mrs. Dixon, the identity of these persons being satisfactorily proved."

Illegal issue
of certificate
of freedom.

In the first part of this paragraph, the council have displayed their ignorance of the Colonial Law, which makes it *imperative* on Magistrates to grant such Certificates (vide appendix B, being extract of Act of Council No. 3 of 1825); with regard to the second part, which states that Mrs. New and Mrs. Dixon were the same person, "*the identity being satisfactorily proved*," I sincerely trust

that Sir George Murray will not permit so false an assertion to be made without closely investigating the proofs, which have "satisfied" the Council as to the identity.

1830.
12 Aug.

The circumstance of the two Certificates being found in my room appears to be their only "proof of identity."

As this may require some explanation at my hands, I beg to submit the following:—on the 1st May, 1829, James New the husband requested that I would return him the affidavits left with me as to his wife's Freedom. This I refused to do without an order from the Counsel, who had delivered them into my Custody; but I signed a certificate stating that she became free on the 27th April, then passed, "as *appeared* from Affidavits left with me." After writing and handing him this paper, I wrote another for my servant Mrs. Dixon, who was then in Sydney purchasing some necessaries to take to the cottage in the country, which I gave to her in the course of the same day before she left Town. This certificate is dated by some mistake on the 10th of May.

Issue of
certificates of
freedom by
J. Stephen, jr.

About a week or eight days after, Mr. James New returned me the certificate, stating that he should require it no further. Being at the time on Horseback, just starting for the Country, I put the Certificate thus returned into my pocket. The Bag (or side pocket as it is *ingeniously* called by the constable), in which this small piece of paper was found, was lent to me by Crisp's Daughter for the purpose of keeping my percussion Caps in, when I went out shooting. On emptying my pocket when I quitted the Cottage on the 17th June, I gave Crisp's Daughter the Bag, and handed to her the several articles as I took them from my pocket, which consisted of a few Copper Caps, this piece of paper—the nature of which I did not at the moment recollect, two Bank Notes to pay her Father, and a Tooth which I had preserved for its singularity. This Bag Crisp's Daughter placed in *her Trunk*, which she had removed into my Room, during my absence, and had added to the contents a couple of Dollars and some other Silver (vide Appendix C).

Explanation
re certificate
for J. New.

The other Certificate was found in Mrs. Dixon's work Box on the Table in my room.

3rd. "having held communications with the prisoner Jane New, after the escape from the Factory without giving information to the Police."

This is another base assertion without the least shadow of truth; so far was the contrary the fact that, when the Husband acquainted me that he was about to quit the Colony, I instantly informed the Police.

Denial of
communication
with J. New
after escape.

The Government are perfectly aware that steps were in consequence immediately taken to ascertain his intentions with respect to his Wife, and all his papers were minutely inspected before he sailed.

4th. "Abusing the authority vested in me as Registrar by usurping the power only exercised by the Governor in furnishing Jane New with a certificate, stating that she became free on the 27th April, having at the time a public Document actually filed in my office shewing that she was tried in 1824 and sentenced to seven years' transportation."

Abuse of
authority
as registrar.

I have shewn, in a former part of this statement, that even as a Magistrate I was compelled by Law, if required, to Grant a

1830.
12 Aug.

Practise *re*
issue of
certificates
by registrar.

Certificate of Freedom. As Registrar of the Supreme Court, there was scarcely a day during the Sessions of the Criminal Court, but that some prisoner was discharged by Proclamation, either being acquitted or no charge preferred against him. I was invariably called upon to grant a certificate according to the evidence adduced on the trial or other testimony of the Prisoner so discharged being Free or Bond. The Superintendent of Convicts would *in no case* admit a prisoner into his Barracks after trial *without* such a Document from me. I may safely say I have granted many dozens of such certificates, both as to Freedom and Bondage, and my conduct was never before questioned.

As to the Document alluded to being the proof of Mrs. New's conviction, etc., I am rather surprized that any reference should have been made thereto; it was a false and mutilated Document, contradicted by four Affidavits, and, although filed, I am certain that no credit was attached to it. A Wrong Ship was mentioned, by which she was stated to have arrived, and the year of conviction had been erased, which an exposure to the light made evidently, as subsequently was remarked by the Bench of Judges, 1822 and not 1824, which former year accorded with the affidavits.

Moreover it was not an original Indent of Conviction, neither did it purport to be the Copy of any Document of authority. I was therefore justified in Certifying that "it appeared from affidavits filed with me" that Jane New became free on a day then past.

It was not a positive assertion of her being free, and was only given to testify the fact that certain affidavits were in my possession on which her claim to freedom rested.

5th. "Refusing to produce the Affidavits as to Jane New's having become free."

The word of an Individual opposed to the grave assertion of an Executive Council must be received with great discredit. I however do most solemnly assert that this charge is totally untrue.

When asked by the Council by whom the affidavits were made, I was under the necessity of referring to the signatures, *and, in the presence of the Council*, I drew these Documents from my pocket to enable me to reply to the question. *General Darling at the time* asked me what papers they were, and I answered "*the original affidavits.*" These several affidavits will be found in appendix marked D, numbers 1, 2, 3, 4 and 5.

Having briefly adverted to the several charges emanating from the proceedings of Council, before I enter into my defence more fully, it will be necessary to notice an inuendo of General Darling, made with a view to strengthen the case against me, but which is totally devoid of any foundation. He insinuates that I was instrumental to Mrs. New's first escape, and that I conveyed Mrs. New from Sydney to the House wherein she was discovered. His Excellency states that my improper interference, as appears by the Sheriff's letter, was the cause of her effecting her escape. It is necessary here that I should most strongly protest against the measure, adopted by General Darling on two occasions, of having (as appears from the papers furnished me from the Colonial Office, being the *first intimation* I had of the circumstance) a private enquiry into matters which affected my reputation, without ever having afforded me an opportunity of reply. On the occasion

Refusal to
produce
affidavits.

Denial of
charge.

Allegations *re*
connivance
in escape of
J. New.

alluded to, my conduct was perfectly open and regular, and it met with the approbation of the Judges. The fact was simply this: When the Court had delivered their opinion that Mrs. New was illegally confined, I was ordered by the Chief Justice to prepare an Order of Court specially for her detention for the purpose of transmission to Van Diemen's Land. On going out of Court to my private room to write this order, I met Mrs. New in the Rotunda, surrounded by eight Constables, and bleeding at the head from the effects of a blow from one of their Staves. I certainly remarked in passing that it was strange it should require so many men to secure one female, and, asking for the constable in whose actual charge Mrs. New was, I directed him to wait for the order. The conversation between the Sheriff and myself was merely casual; and I cannot but observe that his letter on the subject is very inconsistent. I had to meet Mr. McLeay that day on other business; and as I was going down to his office, the Sheriff requested me to mention the case to him as to the peculiar Order of the Court: on doing which, Mr. McLeay desired that I would send the order down to him, together with the woman.

On my return to Court, I duly made the order as directed by the Chief Justice, which I gave to the constable, with the directions of the Colonial Secretary to take her down to his office; and I returned to my duty in Court, where, in about half an hour afterwards, I was informed of Mrs. New's escape.

The remark, said to be made by "*Mr. Stephen*" of "*New, take care of your Wife.*" was made by my Brother, who was employed as Counsel in the cause, and who was going down to the Supreme Court office. The constable especially stated, in his examination, that this remark was uttered by my *Brother*, and not as unhand- somely insinuated *by me*. In the examinations respecting this particular matter, there is this distinction especially marked. I am spoken of as *Mr. John Stephen*, whilst my Brother, who is my Senior, is called *Mr. Stephen*.

Just preceding the observation quoted, the constable says that, on Mrs. New's escape, her Husband observed, perhaps she is gone to see "*Mr. Stephen on business*"; when almost instantly Mr. Stephen appeared. This must *of course* have alluded to her Counsel, and not to me, with whom she could not have had any business.

As respects the accusation of my having conveyed Mrs. New to the House where she was discovered, the report rests solely on the assertion of the most notoriously abandoned Prisoner in the Factory, Mrs. Fraser, whose profligacy is notorious over the Colony. Upon no other occasion would this infamous woman's word have been allowed to make the slightest impression. It amounts after all to secondary evidence "*that she had heard so.*" An affidavit, which I had considered it necessary to make contradictory of a rumour that I had assisted in Mrs. New's escape, General Darling had personally assured me, was perfectly satisfactory.

This affidavit* is appended to the minutes of Council.

Notwithstanding that I might safely rest solely on the papers which General Darling has transmitted, and defy any proof to be deduced from them of my having committed any offence worthy of the punishment inflicted upon me, I am yet willing to shew how utterly devoid of foundation are General Darling's charges, and how illegally and irregularly have those charges been investigated and unjustly decided upon.

1830.
12 Aug.

Particulars
detailed by
J Stephen, jr.,
in reply.

* Note 165.

1830.
12 Aug.

Alleged denial
of impartial
inquiry.

I must previously especially draw the attention of Sir George Murray to the fact of General Darling having debarred me of the right of defending myself before a competent Tribunal, a Court of Law. There I should have had a specific charge preferred against me, and been enabled to make my reply without prejudice; I should have had the benefit of questioning the Witnesses; I should not have had to be informed of the nature of my offence "as the questions were put," as is the system pursued by the Executive Council; I should have had an impartial Enquiry into my conduct according to English Law, and the benefit of a fair defence agreeably to British Justice. I beg, Sir, here to state that, in objecting to the competency of the Executive Council and their manner of examination altogether, I was not desirous of evading legal enquiry into any offence in which I was supposed to be implicated. I called upon the Attorney General Officially to prosecute me for any breach of the Law, of which I was charged to be guilty; his reply will be found in appendix marked E.

Testimony to
services as
registrar.

On my quitting the office of Registrar of the Supreme Court, the Judges and Attorney General signed a Certificate in approbation of my conduct during the whole time I acted in that situation, which is annexed, Marked F; and they were perfectly cognizant of every act I had performed with reference to the case now under discussion. To Mr. Justice Dowling in particular, I had occasion to appeal on a matter connected with this business, and I have to request notice to his opinion as to the part I took, marked G.

Identity of
J. New and
F. Dickson.

The next point, to which I shall have occasion to advert, is the question of Identity; and, in remarking on the assertion of General Darling that it was "satisfactorily proved," when he has not the most distant shadow of such proof, I have to beg the attention of Sir George Murray to the illegal proceeding of Captain Rossi in refusing to proceed with the case, when brought before him; and further rejecting my offer to prove the *negative* by producing the Party in accordance with my affidavit, which he had himself signed; see appendix A.

Captain Rossi having refused this offer, and General Darling not having given me an opportunity of making it, I was compelled to adopt the only measure which remained, viz., to send the woman herself before a Notary Public, and procure Supreme Court Affidavits from all the parties who could testify as to the point at issue.

To these Affidavits, I have most particularly to request the attention of Sir George Murray, as they contain the whole statement of my connexion with Mrs. Dixon, and prove most uncontestedly from dates and other minute detail that Mrs. Dixon and Mrs. New could not be one and the same Individual. They are marked H, I, J, K.

In submitting all the various copies of Documents, I beg to observe that the originals are in my possession, ready at any time to be produced, and that I am desirous to give explanation of any point I may have omitted.

Having as briefly as the nature of the case would permit replied to all the several charges, which General Darling has preferred against me, and on which he thought proper to exercise a summary jurisdiction to the great detriment of my pecuniary concerns and to the injury of an untarnished reputation, I beg to state a few

facts to prove to the Secretary of State that something besides a pure love of Justice has dictated some of the proceedings against me.

1830.
12 Aug.

When suspended from the Magistracy, I was Gazetted (appendix L) the unusual number of five times, the utmost number of former notices never exceeding three. I was moreover named as "*Mister John Stephen*," a circumstance which, though most trivial, marked an animus unworthy of a Governor.

Notice of suspension from magistracy.

Although subjected at Sydney to the personal inspection by six constables of my Cabin, Trunks, etc.. I was further insulted on my embarkation by having a Friend's Boat's Crew and myself closely examined (by special order) to ascertain Our Sex. Moreover on landing at the Mauritius, I found that a communication had been made to the Police there, charging me with having harboured the Female Prisoner Mrs. New on board the Ship in which I was a Passenger, and which was accordingly closely searched. I was consequently a proscribed character during the four Months I was detained in that Island.

Search on departure of J. Stephen, jr.

Report sent to Mauritius.

These acts require no comment at my hands. I trust they will make their due impression on the mind of Sir George Murray.

Having now, Sir, concluded my replies to the several charges which General Darling has so unjustly preferred against me: having shewn that there was not the slightest evidence adduced which could convict me of the offence imputed; that the minutes of Council contain bare assertions without proof; that the investigation of the matter was unjustifiably refused before the competent Tribunal by the Superintendent of Police as prescribed by the act of Council, No. 3 of 1826, Sec. 1, and as illegally and improperly entertained by an extra-judicial authority; that my proposal on affidavit to prove a *negative* by producing the suspected Prisoner of the Crown before the Bench of Magistrates was refused; that General Darling had held two secret Inquisitions, in which imputations were made affecting my character without my being made acquainted with the circumstances; that he has most cruelly presumed to give credence to *heresay* evidence of a notorious convict, and that too *not on oath*, who had been repeatedly punished for offences committed in the Colony, and was then even under confinement, in preference to my solemn assertion on affidavit; that General Darling has disingenuously alluded to a remark made by my Brother as having been uttered by me, well knowing that such was not the fact; that he had in the most unusual manner dismissed me the Magistracy and repeated the advertizement beyond the customary number; and that he had subjected me to be insulted by a number of Constables on my quitting the Colony, and had further followed up the persecution by making false charges against me at the Mauritius; I trust that, by the Documents which he has transmitted and those which I herewith submit in answer, the Right Honorable the Secretary of State will satisfy himself as to my Guilt or Innocence, and pronounce his decision accordingly.

Summary of defence by J. Stephen, jr.

In conclusion, I have to remark that copies of the letter of suspension, my letter calling upon the Governor for the grounds of such proceeding, together with the reply refusing to inform me thereof, are subjoined in Appendix marked M, N and O.

Transmission of letters *re* suspension.

I have, &c.,

JOHN STEPHEN, JUNR.

[Appendix A.]

AFFIDAVIT of Mr. John Stephen, Junr., dated 19th June, 1829,
Sworn before Captain Rossi.

(Sydney to Wit.)

JOHN STEPHEN, Junr., Esqr., maketh Oath and saith that he rented Apartments in the House of Mr. Amos Crisp commencing from January last, for the purpose of Country Air and exercise, and also occasionally overlooking some stock, which are under the care of the said Amos Crisp; and that he has been in the habit of riding up there on a Friday, and returning to Business in Sydney on the Sunday evening or Monday following, and occasionally remaining for a longer period.

And this Deponent saith that a female named Dickson was employed by this Deponent in taking charge of the property of this Deponent during his absence from thence.

And this Deponent further saith that he has been informed that several constables named Skinner, Mederith and McNamarra entered the sleeping apartment of this Deponent and ransacked all his goods, and abstracted from thence certain papers the property of Deponent; and further that Mr. McNamarra has been occupying Deponent's Bed and Room in conjunction with the native aforesaid.

And this Deponent lastly saith the aforesaid Female (Dickson) is a free woman, whom Deponent is willing at once to produce.

JOHN STEPHEN, Junr.

Sworn before me this 19th June, 1829.

F. Rossi, J.P. and P.

Superintendent of Police.

[Appendix B.]

EXTRACT from Act of Council No. 3, dated 19th January, 1825,
intituled "An Act to prevent the harbouring of Runaway
Convicts, and the encouraging of Convicts Tippling or
Gambling."

11. Provided always that, if any Householder, Settler or other person, who shall be desirous of employing any Labourer or other Servant, and of ascertaining whether such Labourer or other Servant is at large contrary to the legal Regulations of the said Colony, it shall be lawful for such Householder, Settler or other person to apply to *any Justice of the Peace*, residing within the District where such Labourer or other Servant is engaged or intended to be employed, to enquire into the fact whether such Labourer or other Servant is or is not at large contrary to such Regulations; and such *Justice of the Peace is hereby authorized and required upon such applications* forthwith to cause any such Labourer or other Servant to come before him, and to enquire into such fact as aforesaid; and, if it shall appear to the satisfaction of *the said Justice of the Peace* that such Labourer or other Servant is not at large contrary to the said Regulations, and such *Justice shall grant a certificate to that effect* under his hand to such Householder, Settler or other person, so applying, it shall be lawful for such Householder, Settler or other person to employ such Labourer or other Servant without incurring or being liable to any Fine or Fines as aforesaid.

1830.
12 Aug.
Affidavit by
J. Stephen, jr.

Inquiry by
magistrates re
runaway
convicts.

[Appendix C.]

1830.
12 Aug.

Copy of a letter from Elizabeth Crisp to John Stephen, Junr., Esq., dated 21st June, 1829.

Sir.

On my return home, I mist out of my Box wight cotton Bag, wick contained two 2 Australian Notes 1 pound each, 2 Dollars, a Three shilling peace, a new Sterling Sixpence, and an old english sixpence, and the paper which you gave me. Articles and money taken from E. Crisp.

I remain, Your obedt. Servt.,
ELIZABETH CRISP.

N.B.—This Girl accompanied her Father when he was taken by the Constables on the 17th June to the Goal at Sydney.

[Appendix D.]

AFFIDAVITS on which Certificates of Mrs. New's Freedom was founded.

G.R. No. 1 F.F.
A.

Affidavit re expiration of sentence on J. New by W. B. Carlyle;

In the Supreme Court of New South Wales. { WILLIAM BELL CARLYLE, Surgeon in His Majesty's Navy, being duly sworn, maketh oath and saith that he was Surgeon Superintendent of the Ship Henry, which arrived with Female Prisoners in Van Dieman's Land on or about the Tenth day of February in the year of Our Lord One thousand, eight hundred and twenty five; That Jane Henry, Alias Maria Wilkinson, alias Jane New, was a Prisoner on board the said ship; and that Deponent verily believes that the said Jane New had been confined in Gaol a considerable period before her embarkation, and, according to the best of Deponent's recollection of the original Indents, believes the period of Jane New's Sentence to be almost expired. Deponent further apprehends that, as a *Mistake has been made as to the ship* in which she arrived in the Colony, there may also be one as to the *period* at which she received her sentence.

WM. BELL CARLYLE,
Surgeon, R.N.

Sworn in open Court, the 26th March, 1829.
By the Court.

G.R. No. 2 F.F.
B.

In the Supreme Court, New South Wales. { JANE NEW, being duly sworn, maketh Oath and saith that she this Deponent was married to her present Husband James New on the 24th day of July, 1826, at New Norfolk in Van Diemen's Land; That Deponent was tried at Chester on the 27th day of April, 1822, for receiving a Pelisse, and received sentence of Transportation for seven years; That Deponent was detained at Chester from severe illness for many months, and, having been convicted under the name of Maria Wilkinson, her proper name being Jane Henry, Deponent was subsequently to her discharge placed in the Gaol, and confined there, until ordered to be embarked for Van Dieman's Land by Order of the Secretary of State. That Deponent arrived at Hobart Town in the month of February, 1825,

and by Jane New.

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Affidavit re
expiration of
sentence on
J. New by
Jane New ;

and remained there until October, 1827, when Deponent received permission from the Governor Arthur to accompany her husband to Sydney: And Deponent saith that, on the 27th day of April ensuing, her original sentence of seven years of Transportation will expire. And Deponent saith that, when sent to the Factory from the Gaol on the — day of February last, she was confined in the second class, a place of severe punishment, being deprived of her Shoes and Stocking, and being habited in a coarse Cloth petticoat, and kept at Labour.

her
JANE X NEW.
mark

Sworn in open Court, this 21st March, 1829.
By the Court.

G.R. No. 3 F.F.

C.

by James New ;

In the Supreme Court of New South Wales. { JAMES NEW, of Sydney in the Colony of New South Wales, being duly sworn, maketh Oath and Saith that the statement made as to his Wife Jane New having arrived in "the Brothers" at Van Dieman's Land, and her, the said Jane New, having been convicted in the year "1824" is to the best of his belief eronious, as the Deponent was informed, at the time of his Marriage with his said Wife, at the Secretary's Office in Hobart Town, Van Dieman's Land aforesaid, that the said Jane New had arrived in the Ship Henry, which was long previous to the ship Brothers, and also that his said Wife had only 3 years to serve before her sentence would expire.

his
JAMES X NEW.
mark

Sworn in open Court, the 26th March, 1829.
By the Court.

G.R. No. 4 F.F.

D.

and by
J. Horton.

In the Supreme Court of New South Wales. { JAMES HORTON, late of Hobart Town, Van Dieman's Land, Seaman, being duly sworn, maketh Oath and saith That he Deponent was present at the Trial of Jane New, alias Maria Wilkinson, at Chester in the Spring 1822, at which time he Deponent was acquainted with her; and this Deponent further saith that he is confident as to the season and the year, as Deponent quitted Chester aforesaid in June of that year, and has never since been there.

JAS. HORTON.

Sworn in open Court, the 26th March, 1829.
By the Court.

No. 5.

Affidavit by
F. Finlay re
preparation
of affidavits.

In the Supreme Court of New South Wales. { FREDERICK FINLAY of Sydney, late Law Clerk in the Office of Sydney Stephen, Esqr., being duly sworn, maketh Oath and Saith, that the Affidavits hereunto annexed are in the Hand writing of this Deponent, respectively marked A, B, C, D, and signed with his Initials. And this Deponent further saith that the said Affidavits were duly sworn at the time they bear the date before the Supreme Court respectively. And Deponent lastly saith that the

two marked C and D were drawn in open court, whilst the parties were waiting to swear them, and the two marked A and B were drawn in the office of Sydney Stephen, Esquire.

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FREDK. FINLAY.

Sworn before me, this 29th day of June, 1829.

GEORGE J. ROGERS.

Com. of Sup. Court.

[Appendix E.]

EXTRACT Letter from A. M. Baxter, Esquire, His Majesty's Attorney General, to John Stephen, Junr., Esquire, dated 25th July, 1829, marked private.

My dear Stephen,

Sydney, 25th July, 1829.

It is with the most sincere pain that I find late events have occurred between you and the Governor, which have induced His Excellency to suspend you from the Offices, which you have, with so much credit to yourself and comfort to your numerous friends and Relations, filled in the Colony. I regret this still the more that I am vaguely acquainted with the nature of the offence imputed to you, except from General Report which imputed to you, the harbouring, illegally at large, a Female Prisoner of the Crown, who had escaped from the Female Asylum at Parramatta.

Regret at
suspension of
J. Stephen, jr.

Had there been sufficient legal proof of your having committed so high a Colonial Misdemeanour, I should, in the anxious discharge of my public duty, have brought you before a Court of Justice; but, as no Documents have been laid before me, I am bound to consider the charge not substantiated.

Opinion *re*
proofs of
charges.

[Appendix F.]

CERTIFICATES of Judges and Attorney General.

WE hereby Certify that Mr. John Stephen, Junior, during the period he held the situation of Registrar of the Supreme Court, diligently and assiduously performed the several Duties allotted to him; and, having also acted as Clerk to the arraigns and assize, his attendance in Court during the respective Criminal sittings was punctual and regular, and the Duties, which consequently devolved upon him, were performed to our entire satisfaction.

Testimony to
services of
J. Stephen, jr.

FRANCIS FORBES, C.J.

JOHN STEPHEN,

Judge of the Supreme Court.

J. DOWLING, Assistant Judge.

ALEXR. M. BAXTER, Atty. General.

Supreme Court, 25th May, 1829.

[Appendix G.]

LETTER from Mr. Justice Dowling to John Stephen, Junior, Esquire, dated 13th January, 1829.

My dear Sir,

13th/29.

I can answer your very creditable and Gentlemanly Letter, this moment received, only by saying that your application on behalf of the unfortunate Woman alluded to needs no sort of apology,

Testimony from
J. Dowling.

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proceeding, as I am sensible it did, from that goodness of heart to which I shall always bear testimony you possess in the highest degree. With unaffected esteem and regard.

I am, My Dear Sir,

Very faithfully yours,

JAMES DOWLING.

[Appendices H, I, J and K.]

AFFIDAVITS as to the point of Identity.

H.

Affidavit on
point of identity
of J. New and
F. Dickson by
A. Crisp.

In the Supreme Court of New South Wales. { AMOS CRISP, of Swaffham on the Campbell Town Road, Settler, being duly sworn, maketh oath and saith, that, on about the ninth day of March last, a Female named Frances Dickson was brought to Deponent's House by Mr. Hart for the purpose of taking charge of the apartment, rented by John Stephen, Junr., Esquire, of this Deponent. And this Deponent further saith that no other Female except the said Frances Dickson at any time during Mr. Stephen's occupancy was there or took charge of the said apartment or property of Mr. Stephen therein deposited; And Deponent further saith that he has perused the Document hereunto annexed, and that he verily believes the Statement made by the said Frances Dickson therein named is in every respect correct and true. And this Deponent saith that, on the seventeenth day of June last about the hour of twelve at night, his House was entered by three Constables, whom this Deponent knew to be named John Skinner, Frederick Meredith and William Meredith, who stated that they had no warrant or written authority, but had received the orders of Monsieur Captain Rossi, Superintendent of Police at Sydney, to search this Deponent's house. They proceeded closely to examine every part of his premises, even the Room and Bed of his Daughter, a girl of seventeen years of age; And Deponent saith that the said Constables then quitted his own immediate premises and proceeded to the apartment of the said John Stephen, Esquire, and opened the Bed Room door thereof, which had no communication with Deponent's part of the Dwelling, being built on one side of the House and having only one Door, which opened into the Garden; and Deponent further saith that the said constables ransacked the said Mr. John Stephen's Boxes, Carpet Bag, etc., etc., and took from thence sundry papers, stating at the same time their knowledge of the fact that the said Room was Mr. John Stephen's private apartment, and the articles therein his property except the woman's apparel, which Deponent stated to the said constables was partly the aforesaid Mrs. Dickson's and partly his, Deponent's, Daughter's Cloths, who occupied the Room in the temporary absence of Mr. Stephen. And this Deponent further saith that, upon remonstrating with the said John Skinner, Frederick Merideth and William Merideth upon the impropriety of their conduct, they the said constables took this Deponent into Custody, and carried him Prisoner the next morning before the Bench of Magistrates at Liverpool, by whom he was transmitted to the Bench at Sydney, where Deponent arrived on Thursday, the 18th day of June, and was locked up in the Watchhouse. And Deponent further saith that he was not charged with any offence whatever, or called before the Bench of Magistrates at Sydney. But, on Saturday the 20th day of June, the

said Captain Rossi came to the Watchhouse, and ordered Deponent to be removed from thence, and to be confined in one of the Solitary dungeons thereof, where Deponent remained until 10 o'clock on Monday Morning, the 22d day of June following, when Deponent was removed on board the Hulk and put in double Irons, and so kept until the twenty third day of June, when Deponent was taken before the Executive Council, and, after being examined respecting Mrs. Dickson residing at his House, he, Deponent, was discharged by order of the Council, and ordered to make the best of his way home. And Deponent further saith that he has not directly or indirectly done or committed any act contrary to Law or in any way to justify the treatment he has been subjected to, and as is herein detailed, during a residence of upwards of fourteen years in this Colony.

AMOS CRISP.

Sworn before me, this 9th day of July, 1829.

JOHN GURNER, of Sup. Court.

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Affidavit on
point of identity
of J. New and
F. Dickson by
A. Crisp;

I.

In the Supreme Court, { THOMAS HENRY HART of Pitt Street, by T. H. Hart;
New South Wales. { maketh Oath and saith, that, on or about
the ninth day of March last, he this Deponent was requested by John Stephen, Junior, Esquire, to drive a Female to the House of one Amos Crisp, situated on the Campbell Town Road about twenty five miles from Sydney, where he had rented Apartments, and of which the said Female was directed, as a Servant, to take charge, which request of Mr. Stephens this Deponent complied with, as Deponent had to pass the House of Crisp in his road to Deponent's Farm; and Deponent saith that the said Mrs. Dickson was accordingly conveyed by Deponent in the day time from Sydney to the residence of the said John Stephen, Junior, aforesaid. And Deponent further saith that the said Female, whom he so conveyed, was known to Deponent as a Mrs. Dickson, who had eloped from a person for ill usage, with whom she had cohabited as his Wife.

THOMAS HENRY HART.

Sworn this 9th day of July, 1829.

GEORGE J. ROGERS,
Comr. of Sup. Court.

J.

New South Wales, { ON this the sixth day of July, one thousand, and by
To Wit. { eight hundred and twenty nine, before me, F. Dickson.
John Raine of Sydney in the Colony of New South Wales, Notary Public, by Royal Authority duly admitted and sworn, personally came and appeared Frances Dickson of Sydney aforesaid, who declared that she is a free Woman, having been borne in this Colony, and that she never did any Act to deprive her of her liberty; and the said Frances Dickson did further declare that she was living with a Man resident in Sydney aforesaid as his Wife, but was obliged to separate from him and conceal herself in consequence of ill usage. And the said Frances Dickson did declare that she was recommended to John Stephen, Junr., Esquire, in the month of March last to take care of his wearing apparel and other his property in the apartments the said Mr. Stephen had rented of one Amos Crisp on the Campbell Town Road about twenty five Miles from Sydney; And that she the said Frances Dickson was

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taken to the house of the aforesaid Amos Crisp on or about the ninth or tenth day of March last by Mr. Hart of Pitt Street, by the direction of Mr. Stephen, where she remained until Wednesday the 17th June ulto., when, between the hours of twelve and one at night, she was awoke by some persons coming into the House, and imagining that her reputed husband had discovered her, she ran away from the premises and returned to Sydney where she now remains. All which the foregoing I have this day entered in my public Journal of Declarations at the instance and request of the said Frances Dickson. As Witness my hand and seal of Office, the day and year first above written.

JOHN RAINE (L.S.) Not. Pub.

Witness:—D. POOL, Solr., etc., Sydney, New South Wales.

Description
of F. Dickson.

I hereby further Certify that I have also noted the description of the said Francis Dickson, which is as follows:—

Dark brown Hair; Hazel Eyes; Fresh Complexion; About 5 feet six or seven high; About 21 years of age.

Witness:—D. POOL

JOHN RAINE (L.S.).

K.

Affidavit by
J. Raine on
point of identity
of J. New and
F. Dickson.

In the Supreme Court, } JOHN RAINE of Sydney, Notary Public,
New South Wales. } being duly sworn, maketh Oath and saith,
that he, this Deponent, was in the
Supreme Court on the 21st day of March last, when a female named
Jane New, alias Henrie, alias Wilkinson, was brought up by Writ
of Habeas Corpus before the said Court; and this Deponent saith
that he had on several previous occasions seen the said Jane New,
whereby he is enabled positively to swear that the woman Frances
Dickson, who appeared before this Deponent on the sixth instant
and made the declaration hereunto annexed, is not the said Jane
New, altho' there is a very strong resemblance between the said two
Females. } JOHN RAINE.

Sworn at Sydney, this 9th day of July, 1829.

Before me,

JOHN EYDE MANNING.

Registrar and Commr.

[Appendix L.]

EXTRACT from the Sydney Gazette.

Government Notice.

Colonial Secretary's Office, Sydney, 26th June, 1829.

Notice of
dismissal of
J. Stephen, jr.,
as magistrate.

HIS EXCELLENCY the Governor has been pleased to cause it to be notified that the services of Mr. John Stephen, Junior, as Justice of the Peace of this Territory, have been dispensed with.

By His Excellency's Command.

ALEXR. MCLEAY.

[Appendix M.]

LETTER from Colonial Secretary to John Stephen, Junr.,
Esquire, dated 26th June, 1829.

Sir, Colonial Secretary's Office, 26th June, 1829.

I have received the commands of the Governor to acquaint you that His Excellency has felt it necessary, with reference to the

subject of your Examination before the Executive Council on the 23d instant, to order that you be suspended from performing the duties of your Office as Commissioner for apportioning the Territory until the pleasure of the Secretary of State shall be known; And further that your services as Justice of the Peace shall be dispensed with.

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Suspension of
J. Stephen, jr.,
as commissioner
of lands.

I have, &c.,

ALEXR. MCLEAY.

[Appendix N.]

LETTER from John Stephen, Junior, to His Excellency Lieut. General Darling, dated 2d July, 1829.

Sir, York Street, Sydney, 2d July, 1829.

The Colonial Secretary having informed me that he had received your Excellency's Commands to acquaint me "that Your Excellency had felt it necessary to suspend me from performing the Duties of my office as Commissioner for apportioning the Territory, until the pleasure of the Secretary of State shall be known; And further that my services as Justice of the Peace will be dispensed with"; I take the liberty to request that you will be pleased to direct that I may be informed of the grounds of this act of Your Excellency towards me.

Request for
reasons of
suspension;

As I am totally ignorant of any just cause for such a proceeding, I trust that this reasonable and just request may be granted to enable me to meet the question on fair grounds with your Excellency before the Right Honorable the Secretary of State.

At the same time, I beg that Your Excellency will order that the Testimonial, signed by the Judges and Attorney General on my quitting my office as Registrar of the Supreme Court and which I lately transmitted for your Excellency's perusal, may be returned to me.

for return of
testimonial;

And lastly may I solicit the favor of your Excellency transmitting this letter to accompany any representations, which Your Excellency may have thought fit expedient to address to the Secretary of State in reference to the subject of my suspension.

and for
transmission
of letter.

I have, &c.,

JOHN STEPHEN, JUNR.

[Appendix O.]

LETTER in Reply from the Colonial Secretary to John Stephen, Junr., Esqr., dated 4th July, 1829.

Sir, Colonial Secretary's Office, 4th July, 1829.

I am directed by the Governor to inform you, in Reply to your letter of the 2d Instant addressed to His Excellency, that he *must refer you to the subject of your Examination before the Executive Council of the 23d of last month for the grounds of your suspension from office, which will fully enable you to prepare such explanation as the case admits of* for the information of the Secretary of State.

Reference to
examination
before executive
council.

I am further directed by His Excellency to return you the Document, which you have called for, and to inform you that your letter will be forwarded as you desire with His Excellency's Report.

Requests
complied with.

I have, &c.,

ALEXR. MCLEAY.

[Enclosure No. 6.]

MR. JOHN STEPHEN, JR., TO UNDER SECRETARY HAY.

Sir, Gray's Inn, 20th May, 1830.

Application by
J. Stephen, jr.,
for payment of
salary.

On the 24th Ultimo, I did myself the honor of addressing you to request that, agreeably to the Colonial Regulation, I might be allowed half the amount of my Salary until the question might be decided as to my suspension; the Reply of the 30th Ultio. informed me that Sir George Murray refused to Grant the issue of any portion of the Pay of my office, until I had exculpated myself from the charges which General Darling had preferred against me.

In the event of my defence proving, which I humbly submit will be the case, perfectly satisfactory to the mind of the Secretary of State, I shall be entitled to the full allowance, as also to be reimbursed the very heavy expences to which I have been so unjustly subjected.

Request for
advance.

I beg, Sir, to acquaint you that, in consequence of the distressed state of the Colony, I was unable to procure other than Private Bills to pay the costs of my visit to England, which Bills to the amount of £530 have been dishonored. I am, therefore, under the painful necessity of once more appealing to the consideration of Sir George Murray for some advance to meet my Current expences, more especially as, pending the present enquiry into my conduct, I have declined the acquaintance of all relations and friends to whom I might otherwise apply for assistance.

I have, &c.,
JOHN STEPHEN, JUNR.

[Enclosure No. 7.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir, Downing Street, 27th May, 1830.

Refusal of
request.

Having laid before Secretary Sir George Murray your letter of the 20th Instant, in which you repeat the application, which you made on the 24th Ultio., to be allowed half the amount of the Salary of your late office, I am directed to acquaint you that suspension from office necessarily implies suspension from its Emoluments, and Sir George Murray can therefore hold out no hopes to you of any advance.

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

[Enclosure No. 8.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir, Downing Street, 7th June, 1830.

Replies to
charges
acknowledged.

I have to acknowledge the receipt of your letter of the 26th Ultimo, containing your reply to the different charges preferred against you by the Governor of New South Wales, the Documents connected with which were at your own request forwarded to you by this Department.

Refusal to
reconsider
suspension.

The accusations thus urged against you, together with your answers thereto, having been duly brought under the notice of the Secretary of State, who, after a careful examination of the papers, has directed me to acquaint you that he does not perceive any circumstances, alleged in defence of your conduct, to induce him to relieve you from your present state of suspension, to which your refusal to consider yourself amenable to the examination of the

executive Council, and your subsequent abrupt departure from the Colony, have justly subjected you. If therefore you have any view to re-employment under the Colonial Government, there is no alternative left to you but to return to the Colony, and there report yourself to the Governor as ready to submit to that course of examination into the facts of the case, which your Character stands in need of in order to be cleared from the imputation which at present attaches to it.

I am, &c.,

R. W. HAY.

1830.
12 Aug.

Necessity for
J. Stephen, jr.,
to submit to
inquiry.

[Enclosure No. 9.]

MR. JOHN STEPHEN, JR., TO UNDER SECRETARY HAY.

Sir,

Joy's Hotel, 7th June, 1830.

In looking over the Documents furnished me by direction of Sir George Murray, my attention was drawn to the signature of a *Mr. Anderson* to proceedings* of a Committee of Enquiry respecting the escape of Mrs. New from the Penitentiary of Parramatta. This circumstance led me to refer to a correspondence, which passed between that Gentleman and myself, and I do myself the honor to submit copies of that correspondence (Nos. 1 and 2) to Sir George Murray, together with the Affidavit (No. 3), which I subsequently made, in order that the Secretary of State may perceive the unjust treatment, to which I have been subjected in relation to the matter, which forms the grounds of General Darling's conduct towards me.

Transmission of
correspondence
with
M. Anderson.

I do this, Sir, with the more confidence, as it will prove that I have been on all occasions desirous of an open investigation into the several imputations, which His Excellency has made against my Character. And, altho' Mr. Anderson has given me a direct answer to the question I demanded of him, a question which arose from a Report vaguely repeated to me, yet I consider that the *suppressio veri* evinced in his reply will shew the unwillingness of that Gentleman to allow me to clear myself of the very charge of which General Darling has now availed himself to justify his measures.

Desire for an
open inquiry.

I would beg leave to add that, on the *6th April*, it will be observed Mr. Anderson sat on a Committee of Enquiry when a Woman, named *Frazier*, says that she was informed by Mrs. New that I had assisted her to escape from the Constable on the 21st March; on the *13th April*, I called upon Mr. Anderson to state whether or not he had asked *Mrs. New* that question; and his answer *dated 17th*, simply denies the fact of having used my name in any communication with *that* Woman. This evasion I trust will be noticed as an Act of great injustice towards one, who was seeking to clear himself from a false and malignant aspersion.

Evidence at
inquiry re
escape of
J. New.

I trust, Sir, that I may be favored with a copy of the Minutes of Executive Council, No. 24 of 1829, which have reference to this subject.

I have, &c.,

JOHN STEPHEN, JUNR.

[Appendix No. 1.]

Sir,

York Street, Sydney, 13th April, 1829.

I feel myself under the unpleasant necessity of calling upon you for an explanation of a circumstance, which has just been communicated to me. Your denial on the one hand or avowal on the

* vide Enclosure D.D. to proceedings of Exec. Council Minute No. 24 of 1829.

1830.

12 Aug.

Request for
confirmation
or denial of
statement by
M. Anderson.

other of the grounds, on which you have acted in the matter, is what I am strictly entitled to demand, and I trust that no delay may take place in your reply.

It is stated that you called on a Female in the Factory named New to state whether I had not assisted in her escape from the custody of the constables on the 21st March last, adding that "the Government were anxious of ascertaining that fact, and that they would reward her if she confessed."

This communication has been made to me by my Brother, Mr. Sydney Stephen, who received the information from Mr. New, his client, who states that there were Witnesses present when you thus addressed his Wife.

DR. ANDERSON, Parramatta.

I am, &c.,

JOHN STEPHEN, JUNR.

[Appendix No. 2.]

General Hospital, Parramatta,

Friday night, 17th April, 1829.

Sir,

I have to reply to your letter of the 13th Instant respecting my having called on a female in the Factory of the name of New to state whether you had not assisted her in her escape from the custody of the Constables on the 21st of March last.

Without admitting for a moment your title to demand any explanation of the kind, I beg to say that your name was never either mentioned or alluded to in any communication, I might have had with the woman in question.

And, with reference to your request for an early reply, I have to add that your letter was only delivered to me this evening.

I am, &c.,

M. ANDERSON.

[Appendix No. 3.]

In the Supreme Court, }
New South Wales. }
JOHN STEPHEN, JUNR., Registrar of the
Supreme Court, being duly sworn, maketh
oath and saith, he did not either directly
or indirectly aid, abet or assist in the escape from custody of
Mrs. New on the 21st day of March last. And further that
Deponent did not know or suspect any intention on her part to
make an escape from custody.

JOHN STEPHEN, JUNR.

Sworn before me, this 9th day of April, in the Year of our Lord
1829.

JOHN GURNER,

Commr. of Sup. Court.

[Enclosure No. 10.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir,

Downing Street, 9th June, 1830.

I have laid before Sir George Murray your letter of the 7th Inst., in which you have been induced to transmit copies of a correspondence, which had passed between yourself and a Mr. Anderson, in consequence as you state of having observed that person's signature to be affixed to the proceedings of a Committee of Enquiry, respecting the escape of Mrs. New from the Penitentiary of Parramatta; and I am directed to acquaint you in reply that the Secretary of State does not consider it necessary to make any observation on the correspondence, to which you have thus called his attention.

I am, &c.,

R. W. HAY.

Statement by
M. Anderson.

Affidavit by
J. Stephen, jr.,
re escape of
J. New.

Correspondence
acknowledged.

[Enclosure No. 11.]

1830.
12 Aug.

MR. JOHN STEPHEN, JR., TO SIR GEORGE MURRAY.

Sir,

Gray's Inn, 15th June, 1830.

I have had the honor to receive a letter from Mr. Hay, under date the 7th Inst., stating that you are "not disposed to relieve me from my present state of suspension, to which my refusal to consider myself amenable to the examination of the Executive Council, and my subsequent abrupt departure have justly subjected me, and that there is no alternative left me but to return to the Colony and there report myself to the Governor as ready to submit to that course of examination into the facts of the case, which my character stands in need of in order to be cleared from the imputation which at present attaches to it."

Refusal to
reconsider
suspension.

Whilst expressing my acknowledgements for the tacit admission of the charges preferred against me by the Governor of New South Wales not being proved, I cannot but feel regret that he should be justified and I condemned upon such grounds as formed no part of accusation against me. The minutes of Council had reference to a particular Offence, to which General Darling informed me, by letter dated 4th July, 1829, that I was solely required to address my defence for the consideration of the Secretary of State. In compliance with such intimation, consequently, I submitted that description of evidence, which only was left me to satisfy your mind of the injustice of my suspension.

Evidence
submitted by
J. Stephen, jr.

With respect to the second ground upon which you have been pleased to consider my suspension just, namely, my abrupt departure, I have humbly to observe that it was the consequence and not the cause of the act of my suspension. That act preceded my departure upwards of a month, and I consider that the unnecessary delay of even one day, where my honor and reputation might have been at stake, would have been construed by my harsh accuser as evidence of my guilt, and with my friends have created an impression to my prejudice. I would not, Sir, have traversed so immense a distance with the mere object of re-instatement to an office, the Emoluments of which barely produced a comfortable subsistence even with my other resources. But I returned to the country of my Friends and relatives to convince them of my integrity by that acquittal at your hands, which the *ex parte* misrepresentations of a Governor demanded, which only could be counteracted by the arbitration to which the question was referred.

Reasons for
visit to
England.

My return, therefore, to the Colony for the purpose of submitting to a re-examination would be inflicting upon me the pain of a dreadful suspense, and subjecting me to a proceeding not probable to conduce in its result to my justification, as, from a knowledge of General Darling's character, I could little expect the reversion of his judgment, since such reversion would be a self conviction of his impetuosity and injustice.

Objections to
return to
colony.

But, Sir, the Office which I lately held in New South Wales being altogether discontinued, and conceiving myself justly entitled to expect employment in His Majesty's Service, in consequence of the sacrifices I have made at the suggestion of the late Lord Liverpool with that view, and my relinquishing my prospects in the King's Household, wherein I held appointments previously to accepting Office abroad, I trust I may be allowed to solicit a situation in some

Request for
colonial
appointment.

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other Colony. This may be deemed I should hope an alternative, to which I may look with confidence of success, as I feel that whatever other may be open would be disadvantageous in me to pursue.

I have, &c.,

JOHN STEPHEN, JUNR.

[Enclosure No. 12.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir, Downing Street, 28th June, 1830.

I am directed by Secretary Sir George Murray to acknowledge the receipt of your letter of the 7th Inst., and to acquaint you in reply that he can hold out to you no expectation of further employment under this Department, excepting upon the terms communicated to you in my Letter of the 7th of this month.

I am, &c.,

R. W. HAY.

[Enclosure No. 13.]

MR. JOHN STEPHEN, JR., TO UNDER SECRETARY HAY.

Sir, Gray's Inn, 1st July, 1830.

I beg to acknowledge the receipt of your letter of the 28th Ultimo, acquainting me of the peremptory direction of the Right Honorable the Secretary of State for the Colonies for my return to New South Wales. In declaring my earnest desire to adopt any course that may leave me ever so distant a chance of obtaining that justice, which I have so unsuccessfully sought by a precarious voyage round the world, I bow with submission to the Mandate in the hope that means may be afforded me of carrying that object into effect. Those means involve two considerations, viz.: the Tribunal to which my conduct is to be again referred, and the pecuniary allowances to be made in reimbursement of my Claims amounting to £1,146 5s. 2d.; on these points I have to entreat the honor of an early interview with Sir George Murray.

I have, &c.,

JOHN STEPHEN, JUNR.

[Enclosure No. 14.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir, Downing Street, 3d July, 1830.

In reply to your letter of the 1st Instant, I am directed by Sir George Murray to observe that, if you refer to the communication which was made to you on the 28th Ult., you will find that neither does that nor any other letter, which has been addressed to you from this Department, contain any "peremptory directions" whatever for your return to New South Wales; it must be entirely in your Own option to go back to the Colony or to remain here; and the Secretary of State merely pointed out the former course as the only one that he considered was open to you with a view to obtaining a release from your suspension from this office. Under these circumstances therefore, and after all the explanations which have taken place, Sir George Murray does not think it necessary to enter into any verbal discussion with you upon the merits of your case; and he desires me to request that whatever further observations, you may choose to make, may be brought under his notice in a written form.

I am, &c.,

R. W. HAY.

Refusal of
appointment.

Request for
interview prior
to return to
colony.

Proposal for
return of
J. Stephen, jr.,
to colony.

[Enclosure No. 15.]

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MR. JOHN STEPHEN, JR., TO UNDER SECRETARY HAY.

Sir,

Gray's Inn, 6th July, 1830.

In reply to your Letter of the 3d Instant, acquainting me that Sir George Murray is unwilling to have any verbal communication "with me, but that whatever further observations I may choose to make must be brought under his notice in a written form." I have to submit an explanation of the various reasons, which induced me to solicit that interview which he has declined.

Reasons for
request for
interview.

I was anxious in the first place to shew him that, altho' my return to the Colony was not "Peremptorily directed" *literally*, yet, in consideration of my peculiar situation, it was by your letters of the 30th April and 7th and 28th June rendered a compulsory measure. My chief object in visiting England was to clear my character from the imputations which General Darling might have attached to it through the statements, transmitted to Sir George Murray, the particulars of which His Excellency refused to furnish me in the Colony. Had there been the most distant probability of obtaining my object by remaining in Sydney, I should have justly merited the harshest censure by adopting the course I have most reluctantly pursued. But, Sir, when General Darling informs me that the whole matter is *referred home* for the decision of the Secretary of State, and His Excellency requires me, by letter dated 4th July, 1829, to submit my reply to his charges to the *same quarter*, I would humbly ask what other course could I pursue? I submit that General Darling's conduct cannot be justified by the Documents he has transmitted, and further that my refutation of every inference he has drawn is clear and most conclusive. Why then am I not to receive an immediate acquittal, and thus be enabled to meet my Family and Friends on that footing, which nothing but an exculpation by Sir George Murray can produce? Supposing that I decline further employment in the Colony, am I to be thus stigmatized thro' life, because I may be unwilling to risk a voyage round the world to seek Justice from my Accuser? I feel confident that, on reconsideration, the Secretary of State must feel convinced that his decision for my return to New South Wales "and report myself (if I am desirous of further employment) to General Darling as willing to submit myself to an examination into the facts of the case which my character stands in need of" (as directed in your favor of the 7th June) is an alternative, which makes my return *imperative*, and such directions "*peremptory*"; a reinstatement to Office is a minor consideration.

Secondly, I was anxious by a personal interview to substantiate my claim to the pecuniary demand which I have made against his Majesty's Government, amounting to £1,146 5s. 2d. As it would be necessary that some portion of this sum should be allowed to enable me to meet the heavy expenses, to which I have been subjected and must still further incur, to carry the directions of Sir George Murray into effect (being unquestionably desirous of removing every stigma from my character), I did not wish to create any delay by unnecessary correspondence. A few minutes' conversation would have satisfied his mind of the Justice of the demand and the cogency for its liquidation.

This subject was the more requisite to be noticed, to meet the observations, made in your letter of the 30th April last, "that no

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Reasons for
request for
interview.

portion of my Salary would be allowed until I should have *exculpated* myself from the *charges, which formed the subject of the enquiry* which took place before the Executive Council." Having I trust most irrefutably complied with that Instruction by my letter of the 17th May last, I cannot but conclude that I shall succeed in my application for reimbursement of the Pay, etc., of which I have been deprived. Indeed after the statement, in your reply of the 7th June, "that Sir George Murray is not induced to relieve me from the present state of suspension, to which my *refusal to consider myself amenable to the Examination of the Executive Council*" and my "*subsequent abrupt departure* have justly subjected me," I cannot but consider "*my exculpation from the charges, which formed the subject of the enquiry.*" as complete and satisfactory, so far as I have been called upon to justify my conduct; my suspension at the present moment rests upon grounds, which formed no part of the original accusation against me.

I was lastly desirous of seeing the Secretary of State in reference to my Communication of the 12th Dec., 1829, previous to my departure from England, to satisfy him that I was unwilling to make any statement which I had not the power fully to substantiate.

Having thus been called upon to submit any observations, which I was desirous of making in a written form, I have to request the favor of being informed whether I shall be allowed any portion of my pay and Expences in coming to England and returning to New South Wales; and also the nature of the Instructions, which will be forwarded to General Darling with the view of affording me satisfaction for the injuries I have sustained through his proceedings.

I have, &c.,

JOHN STEPHEN, JUNR.

I beg the favor of an early reply.

[Enclosure No. 16.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir,

Downing Street, 16th July, 1830.

I have received and laid before Secretary Sir George Murray your letter of the 6th Inst., and I am directed to acquaint you that, as he sees no reason to alter his former decision in regard to your case, he must refer you to the letters, which you have already received from this Department on the subject.

With respect to the pecuniary claim, which you have since brought forward in reimbursement of your expences in proceeding to England, the Secretary of State desires me to inform you that he must decline to authorize any payment to be made to you on that account, or to afford you any pecuniary assistance in your return to the Colony.

I am, &c.,

R. W. HAY.

[Enclosure No. 17.]

MR. JOHN STEPHEN, JR., TO UNDER SECRETARY HAY.

Sir,

Gray's Inn, 22d July, 1830.

Your letter of the 16th Inst., in reply to one which I had the honor of addressing you on the 6th, has duly reached.

As this communication deprives me of all further hope of succeeding in the object of my return to this country, viz., to procure redress against the arbitrary conduct of Lieut. General Darling

Request for
advance and
copy of
instructions to
R. Darling.

Letter
acknowledged.

Refusal of
pecuniary
assistance.

Letter
acknowledged.

through the appeal made to the Right Honbl. The Secretary of State, I am compelled to adopt a proceeding, which is the only alternative left in my power.

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Driven to a measure solely by the cruel necessity of the case which I would fain have avoided, it becomes my last duty to that Department, which has denied me justice, to give respectful notice of my intention to bring the subject under the consideration of the ensuing Parliament.

Proposal to submit case to parliament.

My reputation having been deeply injured, my means of support debarred, and my domestic happiness destroyed by a most unparalleled act of infamous oppression, I trust an ample excuse will be allowed for my thus throwing myself on the House of Commons for protection and support.

A copy of the Petition which will be presented, I shall have the honor shortly to submit.

I am, &c.,

JOHN STEPHEN, JUNR.

[Enclosure No. 18.]

UNDER SECRETARY HAY TO MR. JOHN STEPHEN, JR.

Sir, Downing Street, 26th July, 1830.

In acknowledging the receipt of your letter of the 22nd Instant, I am directed to acquaint you that Sir George Murray does not conceive any further reply to be necessary.

Letter acknowledged.

I am, &c.,

R. W. HAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 49, per ship Australia.)

Sir, Government House, 12th August, 1830.

I do myself the honor to transmit the Annual Estimates in Original of Stores, etc., required for the use of this Government, together with Copy of a Letter from the Deputy Commissary General, accompanied by the Report of the Board appointed to revise and prepare the Accompanying Abstracts for transmission.

Transmission of estimates for stores.

The Board has entered so fully and minutely into all the various points requiring attention that I shall forbear taking up your time by following up their remarks by any observations of my own, further than respectfully to urge that their recommendations may be considered and attended to.

Report by board.

It will be seen that due attention has been paid to the suggestions of The Board of Ordnance, respecting the Classification, etca., of the Articles supplied under the direction of that Board, and that every possible care has been taken to simplify the Estimates and reduce the demand.

As the Stores now applied for are not likely to arrive here before the Year 1832, it has been suggested by The Board that they should be considered as the Supplies for that Year. But it

Stores for year 1832.

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is particularly recommended that care be taken that they arrive in proper time, so as to prevent the necessity of purchasing on the spot inferior Articles at an advanced price.

Necessity for
priced invoices.

The very great inconvenience, which is still continued to be felt from the want of *Priced Invoices* being sent out with the Stores, is again pointed out.

I have, &c.,

RA. DARLING.

[Enclosures.]

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

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 50. per ship Australia.)

Sir,

Government House, 12th August, 1830.

I do myself the honor to transmit for your consideration the accompanying Copy of a Letter addressed to me by the Revd. Mr. Marsden, who has recently returned from a Visit made on the part of the Church Missionary Society to New Zealand, containing some particulars of an outrage committed by the Crews of some Vessels employed in the Whale Fishery and of the Sanguinary Consequences which resulted from it. The Conduct of the Men, employed in the Whalers as might be expected, is at all times extremely licentious and frequently attended with Acts of outrage to the Natives. These Men feel they are beyond the limits of Control,* and the Masters of the Ships I apprehend are generally as profligate as their Men.

I am of opinion, after the best consideration I can give the subject, that stationing a Small Armed Vessel there, commanded by an officer of His Majesty's Navy possessing a Competent Authority, would, as suggested by Mr. Marsden, prove the best remedy for the evils which exist.

It would further have the effect of checking in a very important degree the escape of Convicts from hence, there being no doubt that they are frequently taken off by the Vessels proceeding thither, and are conveyed thence by those which put in for supplies and are in want of Hands.

It occurred to me, on first considering the matter, that it might answer the purpose proposed, if an officer were stationed at the Bay of Islands in the Character of Resident, with a few Troops to enforce regularity on the part of the Whalers; but the object would perhaps be better effected by the measure suggested by the Revd. Mr. Marsden. It is true that the Ships of War, sent from India to this Station, visit New Zealand; but their stay there is so short, it is impossible they can be of any use.

Transmission
of letter
from Revd.
S. Marsden.

Outrage by
whalers in
New Zealand.

Proposal for
naval vessel in
N.Z. waters.

Suggested
appointment of
resident.

The object proposed can only be effected by the presence of a controlling power constantly on the Spot, possessing the means of visiting Vessels on their arrival and of enforcing regularity.

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I beg to add that I have consulted Mr. Marsden and the Revd. Mr. Yates, a Gentleman of the Church Missionary Society established at New Zealand, and, though neither of them appears to be an Advocate for sending a Detachment of Troops there, they both agree in opinion that it would not be objected to or be at all disagreeable to the Natives. The policy of the measure must, however, depend on Circumstances, of which I have no means of judging. I should at the same time observe that the Communication between this and New Zealand has become very frequent and appears to be rapidly increasing. I understand there are occasionally from fifteen to twenty Ships and other Vessels in the Bay of Islands and sometimes thirty, during the season when the Whalers put in to refit and obtain supplies. One or two of the Merchants of this place have made Establishments there, and are building Vessels of a large and useful description. The Timber of the Islands is well suited to the purpose, and Flax, which it is understood is highly estimated in the English Market, can be procured to any extent.

Proposed
military
station.

Increase of
trade with
New Zealand.

It may not, Sir, be improper to remark, though I am not called on to interfere in the affairs of New Zealand, that the Church Missionary Society appears to have gained an ascendancy over the minds of the Natives, which cannot fail to promote the objects of the Mission and might if necessary be rendered available to other purposes.

Influence of
missionary
society on
natives.

I have, &c.,

RA. DARLING.

[Enclosure.]

REVEREND SAMUEL MARSDEN TO GOVERNOR DARLING.

Parsonage, Parramatta.

May it please Your Excellency, 2nd August, 1830.

I have taken the liberty of Communicating the following Circumstances to Your Excellency.

Having obtained permission from The Venerable The Archdeacon to visit the Missionary Stations at New Zealand belonging to the Church Missionary Society, I sailed from Port Jackson on the 16th of February, and anchored in the Bay of Islands on the 8th March; on my arrival, I found the whole of the Inhabitants around the Bay in the utmost alarm, a Battle having been fought two days previously between the Neighbouring Tribes, at a settlement on the east Side of the Bay named Korakika, two Miles distant from the Missionary Station on the West side; in this contest above 70 were killed or wounded, the Bodies of the Conquered Men who were Killed were lying on the Beach, and those of the Chiefs had been taken away by their Friends, while the Wounded were carried to the Missionary Station.

Visit of Revd.
S. Marsden to
New Zealand.

Battle between
tribes at Bay
of Islands.

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Proposed
renewal of
hostilities.

Attempts at
conciliation.

On Landing, I was informed by the Chiefs and the Missionaries that Messengers had been despatched in all directions to summon the Allies of the hostile parties, and that several thousand Men were expected to join the two Armies in two or three days to renew the Contest.

I conceived it was a matter of the first importance to bring about a reconciliation between the Hostile Chiefs before Their Friends arrived, and therefore had a consultation the same Evening with some of the Chiefs along with the Missionaries, who were both anxious to prevent more bloodshed; it was resolved that on the following day we should visit both Armies, which we did and stated the object of our Mission.

The Chiefs wished to know what satisfaction we would give them for the Loss of Their Friends, who had been Killed in the Battle, as the War originated wholly with the Europeans; we replied it was not in our power to do more than to represent the bad conduct of Mr. Brin to his Owners and prevent his return; And Contended his bad conduct was no reason why they should continue to kill one another, and leave their Children Orphans and their Wives Widows. They admitted the force of this argument, but still contended for satisfaction from the Europeans, as they were amenable for the Conduct of the Masters of their Vessels, and said, if Mr. Brin returned to the Bay, they would take payment from him themselves; their discussion continued for several Days.

I may here notice that the Proprietor of the Settlement, where the Battle was fought, had defeated his opponents and Killed several of their Chiefs, while none but Common Men were killed on his part.

I may here observe that this Settlement is the most valuable spot in the Country for Trade, as the Harbour is safe and convenient for Shipping, and where they generally Anchor.

As a Condition of Peace, the party, who had been conquered, required the Settlement to be surrendered up to them, as a Compensation for the Loss of Their Chiefs who had been killed. This at length was acceded to, as there was no alternative but either to risk another Battle, which would have been very destructive, or to give it up. As soon as this arrangement was settled, the Allies of the Parties began to return to Their respective Homes.

During the whole period of our negotiation, large Bodies of Armed Men were daily arriving to join their respective Friends; but we did not allow more than two Chiefs from each party to accompany us in our visits to the Camps, in order to guard as much as possible against any Act of violence being committed on either Side during the discussions, until peace was restored.

Having stated the circumstances which occurred, I shall now refer to the cause of the War. The Chiefs of both Parties, as well as the Missionaries, informed me that Mr. Brin, Master of one of the Whalers, several of which were at that time in the Bay, was the sole cause of the Public disturbance. The Revd. Henry Williams told me Mr. Brin had fifty Native Women on board his Vessel, among whom there were three young Women, daughters of Chiefs belonging to the Districts. Some difference took place between these young Women and the Head Chief's Wife; it was said that Mr. Brin espoused the cause of his favorites and urged the Natives to Murder the Head Chief; as soon as this was known to the Natives belonging to the Chief, they would allow no Supplies to go

Hostilities
caused by
Europeans.

Importance of
settlement.

Surrender of
settlement as
condition of
peace.

Arrival of
armed
reinforcements.

Cause of
hostilities.

on Board Mr. Brin's Vessel in consequence of his bad conduct to them. Mr. Brin became very violent and wrote to the Masters of all the Vessels, stating that he deemed it necessary that they should bring their Ships nearer Shore, hoist their Colours and fire upon the Natives; they all refused to Comply with his request; Mr. Brin immediately weighed his Anchor and put to Sea, after kindling the flame of War among the Natives on account of the Women that had been on board.

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The Masters of the Whalers were much alarmed lest the Natives should proceed to acts of violence and fire upon the Ships; a Boat belonging to one of them happened to be on the Beach with the Master, when the Natives began to fight; the Chief's Wife and Daughter ran to the Boat in order to escape on Board; as soon as they got into the Boat they were fired upon, and the Young Woman was shot dead by her Mother's Side; one of the Masters had loaded his Guns with Cannister Shot to be ready to fire upon the Natives. Mr. Davis, a Catechist, happened to go on Board at the time and entreated the Master not to fire upon the Natives, unless they should fire upon him; The Masters of the Ships were much alarmed, and all their Supplies were Stopped until peace was restored.

Alarm amongst
masters of
whaling vessels.

From what I have stated, Your Excellency will judge what might have taken place, if the angry feelings of the Natives, excited by the Death of their Friends and the violence offered to Their Women, had not been appeased.

Your Excellency is aware there is no legal authority, Civil, Military or Naval, to restrain the bad conduct of the Masters and Crews of those Ships, which put into the Harbours of New Zealand, nor to notice their Crimes however great; and, from the great Quantity of Arms, Powder and Ammunition, now in the Possession of the Natives, there is much reason to apprehend that they will at some period redress their own wrongs by force of Arms, if no remedy is provided to do them justice.

Absence of
control over
visiting vessels.

I am of opinion that it would not be advisable to form at New Zealand a Military Establishment, as the Soldiers would be too much exposed to temptation from the Native Women; a small Armed King's Vessel with proper Authority would be the most likely to prevent much mischief, as she might visit all the Harbours into which the European Vessels enter. The Whaling Vessels do not Come into the Bay of Islands, until the Season on the Coast is over. About March, they put in for Water and Provisions; when they have obtained their Supplies, they either return home, or go to the Northward to fill up in the Winter Season.

Objections
to military
station.

Proposal for
naval vessel in
N.Z. waters.

I may further observe from the Constant Communication between New South Wales and New Zealand, it will be impossible to prevent the Convicts from making their Escape to these Islands, where they Commit every Crime, until an opportunity offers for them to return to Europe or America, which is not difficult for them to meet with from the Number of Vessels which put into the different Harbours; these Runaway Convicts would be easily apprehended by a King's Vessel, whereas at present they go where they like, and none can interfere with them; these evils will encrease with the encreased Communications, if no Legal check is put to them; having made the above observations, I respectfully submit them to Your Excellency's Consideration.

Runaway
convicts in
New Zealand.

And have the honor to be, &c.,

SAMUEL MARSDEN.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 51, per ship Australia; acknowledged by
Viscount Goderich, 26th December, 1830.)

Sir, Government House, 12th August, 1830.

I have the honor to transmit for His Majesty's Most gracious approbation and allowance a Conditional Pardon granted to Nicholas Nerkenny, who came forward in consequence of an offer of Pardon held out in the accompanying Advertisement to any Prisoner of the Crown, who should give information of any of the Parties concerned in the attack and plunder of Mr. Adair's House by a Band of Armed Robbers.

The circumstances of the Robbery being of a peculiar Nature, it was considered of importance to discover the Parties, which was effected by the information of Nerkenny; two of the Individuals immediately concerned having been apprehended and executed in Consequence.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 52, per ship Australia; acknowledged by
Viscount Goderich, 10th March, 1831.)

Sir, Government House, 12th August, 1830.

The Amount of the Charges made by the different Officers and Persons employed in attending the Circuit or Adjourned Courts, as Communicated in my Despatch of the 8th October last, No. 108, appearing to require revision, I was induced to bring the subject under the Consideration of the Executive Council, when it was proposed, that the Superior Officers (not meaning the Judges, with whose Charges I have not interfered) should be allowed Two Pounds a day each during their absence from Sydney.

The Officers included under this head are, The Attorney General, Crown Solicitor, who is occasionally employed instead of the former Officer, and Sheriff.

An allowance of Thirty Shillings per diem is made to The Registrar of the Supreme Court, Clerk of Arraigns, and Deputy Sheriff, when proceeding instead of his Principal. And an allowance of Twenty Shillings per diem to the Clerk of the Attorney General or any other Clerk, who may be necessarily employed on the Circuits.

It having been deemed expedient to appoint Courts of Request, to be held at Bathurst and Maitland in addition to the places at which Courts were held when Mr. Commissioner Therry received his Appointment, the Council judged it reasonable that

Conditional
pardon for
N. Nerkenny.

Revision of
allowances
to officials
attending
circuit courts.

Travelling
expenses for
R. Therry.

he should be allowed Two Pounds per diem for Travelling Expences, when employed at the two Stations above mentioned, that is, Bathurst and Maitland.

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I beg to point out that, in recommending the above Sums, the Council did not consider that they were Sufficient to Cover the Expences to which the several Individuals would be subjected, when travelling and absent from Sydney; but the Council were of opinion, as these Officers receive Salaries, which probably were fixed with reference to their occasional employment out of Sydney, that the Government could not reasonably be expected to pay the whole of their Expences on those occasions.

Principle adopted in fixing allowances.

I have been desirous to give this explanation, that you may determine, Sir, as to the principle which the Council has acted on; but which (the Council being unacquainted with the Rules usually observed in such Cases) may be erroneous.

It may be proper to state that those Gentlemen generally complain of the insufficiency of the Allowances now fixed; and I beg to enclose two Letters, one from the Attorney General, the other from the Crown Solicitor on the subject, who have hitherto charged at the rate of Six Guineas a day each during the period of their absence.

Complaints *re* insufficiency of allowances.

I have, &c.,

RA. DARLING.

P.S.—In communicating your Instructions to me on the foregoing points, I request to be furnished at the same time with directions as to the Course to be pursued in regulating the Allowances to the Judges.

Instructions required *re* allowances for judges.

R.D.

[Enclosure No. 1.]

ATTORNEY-GENERAL BAXTER TO COLONIAL SECRETARY MACLEAY.

Sir, Attorney General's Office, 27 July, 1830.

In reply to your letter of the 29 June, stating that His Excellency with the advice of the Executive Council had ordered a rate of allowance for travelling Expences to be made to me, the Sheriff, the Commissioner of the Courts of Request, and other Law Officers, when absent from Sydney on Public Duty.

Complaint by A. M. Baxter *re* insufficiency of allowances.

I have the honor respectfully to state, for the information of His Excellency the Governor and the Executive Council that I conceive the sum allowed to be inadequate to the Travelling Expences and Contingencies incident to my High Office as Attorney General of this Colony on the Circuits, where Charges of every description are excessive.

I take the liberty to annex what I consider a moderate computation of the said expences in the hope that His Excellency the Governor will again take the matter into his consideration.

I have, &c.,

ALEX. M. BAXTER, Atty. Genl.

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Estimate of
expenses by
A. M. Baxter.

[Sub-enclosure.]

<i>Circuit Expences.</i>		£	s.	d.
Horses and Coachman per day		2	0	0
My own Table per day		1	10	0
Clerk and Mounted Police		1	0	0
Contingencies		0	10	0
Total per day		£5	0	0

A.M.B.

[Enclosure No. 2.]

[A copy of the letter from Mr. W. H. Moore is not available.]

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Australia.)

My dear Sir,

Sydney, 12th August, 1830.

Proposal *re*
monitresses
in female
transport ships.

It has been suggested by Mrs. Fry as desirable to send out free Women of good Character to act as Monitresses, to the extent of three or four in every Ship bringing out Female Prisoners. It would certainly prove very beneficial in other respects, if a proper description of Women were selected, as, if fit for the situation of Servants, they would be sure of obtaining employment on their arrival and be a great accomodation to the Inhabitants. It is not intended they should receive any thing for their services on board beyond their provisions during the Passage, with perhaps a few Pounds not exceeding ten in hand on landing, as a means of subsistence until they could find places; but the latter is not mentioned by Mrs. Fry. I understand she would very willingly look out for Women of a proper description, if the measure be approved of; and she appears to think there would be no difficulty in procuring them on the above terms.

I beg you will understand I have made the Communication in this shape to relieve you from the necessity of noticing it, should Govt. not be disposed to entertain it.

I remain, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 53, per ship Australia.)

Sir,

Government House, 13th August, 1830.

I find I have omitted putting up with my Despatch of the 9th inst. No. 46, transmitting the reply of Chief Justice Forbes to your "Separate" Letter, dated the 30th of January last, the accompanying Letter from Mr. Justice Dowling, which I intended to have done, as it relates to the same subject.

I have, &c.,

RA. DARLING.

13 Aug.

Transmission
of letter from
J. Dowling.

[Enclosure.]

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MR. JUSTICE DOWLING TO SIR GEORGE MURRAY.

Sir, New South Wales, 10th July, 1830.

On the 4th instant, I was honored with the perusal of a copy of your despatch of the 30th of January, 1830, addressed to His Excellency Lieutenant General Darling, together with the enclosed "paper" drawn up by Mr. Under Secretary Twiss, under date the 1st of December, 1829, relative to the construction given by the Judges of the Supreme Court to the 9th Section of the New South Wales Act, 9th Geo. 4th, c. 83, in the case of a female convict named "Jane New," on the 21st March, 1829.

Despatch
acknowledged.

I venture to presume, from the context of your despatch, and from the considerate manner in which allusion is made to the share I took in the proceeding, that I might not be expected to trouble you, Sir, with any formal explanation upon the subject.

Whatever may be the degree of blame attributable to the Judges in this transaction as a Body, in candour and justice to my learned colleagues I think I ought not to shrink from my just proportion of it.

I trust, therefore, you will, Sir, bear with me in truly and honestly but most respectfully stating the circumstances, under which I was induced to join in an opinion upon a question not absolutely necessary to the decision of the case then before the Court, only because there was another point, on which it might have been and was in fact determined.

Explanation *re*
decision in case
of Jane New.

When the case in question was first brought on, the Attorney and Solicitor General rested their case solely upon the right of the Governor to cancel the assignment of Jane New to her husband under the provisions of the 9th section, notwithstanding she had been originally transported to Van Dieman's Land and there assigned to her husband by the Lieutenant Governor of that Settlement. The other Judges and myself, feeling that this was a question of great importance, and then for the first time raised in the Colony, were anxious to avoid the discussion of it on the return to a writ of Habeas Corpus, and therefore intimated to the Attorney and Solicitor General that there was another point upon which the case might be disposed of without agitating that question. We were then distinctly informed by the law officers that it was the express wish of the Colonial Government that we should then settle the question, and intimate our opinion upon the point for the guidance of His Excellency The Governor in several other cases under the consideration of the Executive department. Whether these learned persons had really instructions to this effect, we were not at liberty (I venture to presume) to enquire; but, giving full credit to Gentlemen in their high official station (as I humbly conceive we were bound to do), we were prevailed upon (I confess much against my own inclination) to go into the subject solely for the reason urged by the law officers.

Reasons for
opinion in case
of Jane New *re*
power to revoke
assignments.

In the consideration of this part of the case, I must own for myself that I derived very little assistance from the Bar in guiding my judgment, not that I mean to insinuate anything invidious of the learning, capacity, and zeal of the Gentlemen to whom the case on the part of the crown was entrusted. I venture, however, to

1830.
13 Aug.

Reasons for
opinion in case
of Jane New *re*
power to revoke
assignments.

affirm with great truth and solemnity that my learned brethren and myself entered upon the subject very reluctantly.

At the conference, however, between us, the matter was fully gone into and discussed in all its bearings for the purpose of arriving (as I certainly was most anxious of doing) at a sound and safe construction on broad and general grounds. Being myself the junior Judge and having been in the Colony scarcely more than twelve months, I felt constrained to defer in some respects to the greater experience and, I must say, more mature judgment of my seniors, the first of whom had been a Judge of considerable reputation for many years in other Colonies as well as this, and the second was my senior by twenty years in point of age and fifteen in professional standing at the Bar. The Chief Justice had this superior advantage that (as I understood) he was the original framer* of the New South Wales Act 4 Geo. 4, c. 96, on the basis of which the present Act 9 Geo. 4, c. 83, in most of its provisions is founded, and was, as I apprehended, more conversant with the intentions of the Legislature than I could be supposed to be. Notwithstanding these considerations, I had doubts on my own mind upon the subject; but, distrusting my own judgment after hearing the opinions of my learned colleagues, I yielded my assent to their view of the question; but, in delivering my opinion publicly, I expressly reserved to myself the right of reconsidering the subject in any subsequent case in which the question might be fairly, distinctly and directly raised, in order that, if I had fallen into any error, that error might be corrected. Most assuredly I should studiously have forborne giving any opinion whatever upon the point, did I not conscientiously and honestly believe, from the declaration of the Attorney and Solicitor General, that the local Government, from doubts entertained by itself, was desirous of having an intimation of the opinion of the Court for more abundant caution in order to guide its discretion in other cases.

Reservation
of right to
reconsideration.

I have now, Sir, candidly and honestly stated the circumstances under which I was induced to take part in the judgment pronounced by the court in the case referred to.

Since then, the question has not, that I am aware of, been brought forward in so distinct and substantive a shape, as that we could judicially pronounce the same or a different opinion from that intimated in the case adverted to.

Doubt removed
by opinion of
counsel.

Whatever distrust I may at first have felt of my own humble judgment in this matter, it is now satisfactorily removed by the clear and decisive opinion of His Majesty's Attorney and Solicitor General, transmitted for the guidance of the Judges in future cases. Should the question ever again come directly and distinctly under discussion in the Supreme Court, the opinion thus communicated cannot but be received and acted upon with that respectful deference, to which it is so justly entitled.

It is a consolation to my mind to learn from your despatch to General Darling that you will not allow yourself to suppose that any of the Judges had permitted his judgment to be swayed by the desire of that popular applause, which the expression of the opinion alluded to might bring along with it.

Could a person in your high station have any just reason for believing or suspecting that any man in the situation of a Colonial

* Note 170.

Judge had betrayed his trust for so unworthy a purpose, I freely own that there is but one recommendation, which could be made to His Most sacred Majesty upon such a subject.

1830.
13 Aug.

The short experience I have had of this Country (now little more than two years) would put any man in my situation sufficiently on his guard against the baleful influence of such a motive, even if he were not restrained by that paramount sense of duty, which he owes to His Majesty and to the high office to which he had the honor of being appointed by his gracious Master.

Independence
of judgment.

It was my untoward lot to arrive in the Colony at a very critical juncture, and under circumstances little calculated to afford much comfort or ease to a new Judge in the discharge of his most anxious and laborious duties. Those unfortunate differences (now happily adjusted), which had arisen on points of public service between the Governor and the Chief Justice before my arrival, were not composed until your despatch of the 30th August, 1828, reached the Colony about the middle of April, 1829. During the interval between the time I took my seat on the Bench, viz., on the 1st March, 1828, until the present hour, my time and attention have been incessantly employed in the public service. The Supreme Court has constantly been the scene of most difficult, painful and disagreeable discussion, independently of the immense mass of general business constantly arising in a territory of such wide extent, and amongst a population remarkably prone to litigation.

Conditions on
arrival of
J. Dowling.

How I have comported myself in my vocation, it would be unbecoming in me to say any thing. It certainly has been my ambition to sustain in His Majesty's Service that character, which I had borne for so many years in my profession in Westminster Hall, and upon the force of which *solely* was I recommended by my Lord Goderich as a fit person for my honorable office. Should General Darling be appealed to on this subject, I shall fearlessly abide by the judgment of his upright, honorable and discerning mind.

Principles of
conduct of
J. Dowling.

I am sincerely concerned to have trespassed so long on your valuable time; but I respectfully hope that I shall stand excused for feeling some anxiety upon matters, so important to the humble individual, who has the honor of subscribing himself with perfect respect,

Sir, &c.,

JAMES DOWLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch per ship York.)

Sir,

Downing Street, 16 August, 1830.

16 Aug.

This letter will be delivered to you by Mr. Bugendas, a young German Artist, who is about to travel through a great part of the new World, and who has been strongly recommended to me by the Chevalier de Newmann, Secretary to the Austrian Embassy at this Court. At his request, I beg leave to introduce Mr. Bugendas to you, and to recommend him to your attention and civilities.

Letter of
introduction
for Bugendas.

I am, &c.,

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 54, per ship Gilmore; acknowledged by
Viscount Goderich, 23rd March, 1831.)

Sir, Government House, 17th August, 1830.

Transmission
of report *re*
clergy and
school estates.

I have the honor to transmit for your information, as required by the 39th Clause of the Charter, a Report of the Trustees of Clergy and School Lands from the 1st of March, 1828, to the 28th of February, 1830.

Request for
instructions *re*
revocation of
charter.

I beg to add that it is very desirable that the Instructions, which I have been led to expect for the revocation of the Charter, should be sent out as soon as circumstances may permit, as the proceedings with respect to the Church and School Establishments have been suspended since the receipt of your Despatch of the 25th of May, 1829, No. 113. I have, &c.,

RA. DARLING.

[Enclosures.]

Enclosures.

[*These were:—*

- (1) Report of Proceedings of Trustees of Clergy and School Lands, 1st June, 1830.
- (2) Schedule of Lands granted to Trustees of do.
- (3) Bye Laws of Trustees of do., 2nd June, 1830.
- (4) Rules for Male Orphan School.
- (5) Rules for Female Orphan School.
- (6) Plan for regulating King's Schools.

Copies of the first five will be found in a volume in series VII, and of the last on page 357 et seq. in this volume.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

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

18 Aug.

Sir, Government House, 18th August, 1830.

Alleged forgery
of letter by
J. Stephen, jr.

I beg to apologise for again adverting to the subject of your Despatch of the 14th December, 1829, Marked "Separate." I do so, as I perceive I omitted to Notice in my reply of the 10th of June last a circumstance, which I think will at once satisfy you that the Letter, which Mr. John Stephen stated he had received from his Cousin and read to Mr. McLeay, must have been forged by himself.

You observe in your Despatch [*here followed a quotation of the third paragraph of the despatch dated 14th December, 1829; see page 283*].

Circumstantial
evidence in
proof.

I am sure, Sir, you will excuse my expressing an opinion that Mr. John Stephen's silence on the subject furnishes something very like proof that he himself actually forged the Letter in question, as it is almost impossible that he could have received a Letter of the nature of that alluded to without mentioning the

Circumstance, when writing to his Cousin (whether he believed it to be genuine or not), by whom he supposed it had been addressed to him. The fact is his Letter of the 14th of April was forwarded through me, which related to the information said to have been received from his Wife of my intended recall; and, not being aware that I had also written Home on the subject of the Letter from his Cousin, he would not of course, having fabricated it himself, allude to that Letter. No further proof of the facility, with which Mr. John Stephen writes in the Names of others, can be required than is shewn by his letter of the 4th April, 1829 (a Copy of which I had the honor to transmit to you with my Letter of the 9th of that Month), in which he professes to give an Extract from the Letter, he said he had received from his Wife, wherein it is stated, "that Dr. Douglas has just left me. He goes to Ireland to-morrow. He told me that Despatches were preparing at Downing Street for a New Governor for Sydney, who would sail in a very short period."

1830.
18 Aug.

Circumstantial
evidence in
proof.

It is evident his Wife could not have made any such Communication; but, coupling his assertion that he had received it from her with the circumstance of the letter stated to have been written to him by his Cousin and produced about a Month before, there cannot I think exist any doubt that both were forgeries of his own, shewing at the same time how indefatigable he was in following up his object. But, even supposing that the Letter from his Cousin was not forged by him, what can be said of the Extract of that from his Wife. That at least must have been a fabrication of his own, as there is evidently not a word of truth in it. Besides, what strengthens the belief of the former being a forgery of Mr. John Stephen is that his Brother Alfred, the Solicitor General at Van Diemen's Land, denies having forwarded it, though Mr. John Stephen said he had received it from him, or having any knowledge of it whatever, as you will have been informed by Lieut. Governor Arthur.

I would not, Sir, have troubled you again on this subject, had I not understood lately that Mr. John Stephen was busy in procuring affidavits relative to the case of *Jane New*, previous to his departure from this. I have, therefore, been Anxious that you should be fully informed of his Character, which it is painful to observe is as profligate as the worst of those whom he has sought to support it by their Depositions. He affected to write familiarly to his cousin in his Letter of the 14th of April, 1829, because he conceived it desirable that that Letter should be forwarded through me; but, if I am not misinformed, it is long since all intercourse has ceased between them.

Reasons for
writing
despatch.

I have, &c.,

RA. DARLING.

1830.
20 Aug.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 73, per ship York.)

Sir, Downing Street, 20 August, 1830.

I have to acknowledge the receipt of your dispatches of the dates mentioned in the margin* in reference to the Instructions,† which you had received from me for placing the Agents of the Australian Company in immediate possession of 500 Acres of Land at New Castle, comprising the old Government Coal Mines, and allowing them such a further allotment as they should desire near to New Castle within the amount of 2,000 Acres, formerly promised to the Company in that Neighbourhood.

The arrival of Sir W. E. Parry, who has been invested by the Australian Company with the sole management of their concerns in New South Wales, will no doubt have brought to a satisfactory conclusion many points pending between the Company and the Local Government, and the question connected with the transfer to the Company of the Coal Mines (with the full and special Instructions which you have received) has, I trust, proved the least difficult of the points which you had to adjust.

Although, from the tenor of the communications received by me from the Company, some unnecessary delay seemed to have occurred in placing their Agents in possession of 500 acres of Land at the Coal River, I beg you to understand that I am most perfectly satisfied that this delay did not originate with the Local authorities; whilst the information which you have now transmitted will afford His Majesty's Government such useful details, in regard to the situation of the Coal Pits, as will prevent further difficulties in deciding upon the case, should any discussions between this Department and the Company be unfortunately revived in consequence of any further misunderstanding upon the subject.

The Charts, appended to your dispatch No. 142 of the 27th of Decr., 1828, shew that 500 acres at New Castle, including the old mines, will shut out the Town from the water except by one narrow avenue, and that the remainder of the 2,000 acres can be only taken from the Land hitherto reserved for the Town. Under these circumstances, it is impossible for His Majesty's Government, consistently with the Public interests, to acquiesce in the Company obtaining more than a *proportion* of the Grant of 500 Acres in that particular situation. I have perceived no disposition on the part of the Directors of the Company to claim a larger tract than will give them the necessary facility in working the Mines and in shipping the Coal extracted therefrom; but, as

* *Marginal note*.—No. 142, 27 Decr., 1828; "Separate," Same date. † Note 171.

Transfer of
coal-mines to
A.A. company.

Settlement
of points by
W. E. Parry.

Exoneraton
of R. Darling
from delay.

Inconvenience
of proposed
grant at
Newcastle.

the 500 Acres were not expressly promised in one continuous tract, and as it was provided, when the agreement, communicated in my dispatch of the 31 of July, 1828, was made, that the Company should only have a fair proportion of water frontage, the effect of the Instruction of the above date, vizt., of cutting off the greater part of the Town from the River, with the exception of the Streets leading to the Wharf, could not, as apprehended by you, take place, even if the Directors of the Company had advanced any such pretensions. After allotting therefore to the Company such portion of land comprising the Coal Pits, as shall be necessary for the working of them and for the convenience of the Company in pursuing their operations, you will grant the larger proportion of the 500 acres separate from that which must include the Mines, and will further allot to them a Grant out of the Land hitherto reserved for the Town (which you state to be sufficiently extensive for the purpose) to such an amount as may be necessary to make up the 2,000 acres, which were promised to the Company in that quarter, although it does not appear to have been intended, when the Instructions with regard to the 500 acres were first issued, that the Company should be placed in possession of Land in both of those Situations.

I am, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship York.)

Dear Sir,

Downing Street, 20th August, 1830.

With reference to the Instructions of the Secretary of State of this day's date upon the subject of the Land, which it has been decided that the Australian Company shall receive at New Castle with a view to the working of the Coal Mines, I have received the directions of Sir George Murray to explain to you, lest any further misunderstanding should arise in regard to frontage, that he is disposed to make every concession to the Company in this respect, which may be consistent with propriety. Should therefore no serious objection arise to the granting these advantages to them, you will understand that you have the Secretary of State's authority for attaching to the smaller Grant, that is to say the Land comprising the Coal Pits *situated between the Town and the Water*, a frontage consisting of not less than 200 yards in length for the accommodation of Ships coming to load Coals at the present Wharf or Wharfs to be erected for that purpose, and for attaching a frontage of not less than 300 yards for the Shipment of Coals to the larger Grant,

1830.
20 Aug.
Instructions
re land grant
at Newcastle.

Instructions re
water frontage
for grants to
A.A. company.

1830.
20 Aug.
Probable site
of larger grant.

which the Company's Agent will select, to make up the whole quantity of 2,000 acres. This larger grant will probably be chosen by the agent of the Company, West of the Town of New Castle; and, as he will be guided in his choice by the fitness and facilities of such Land for mining purposes, it will of course be in strict accordance with the spirit of your Instructions to give him the utmost Latitude of selection, of which circumstances will admit.

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

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 74, per ship York.)

21 Aug.
Approval of
proclamation
re land titles
in town of
Sydney.

Sir, Downing Street, 21 August, 1830.
I have received your despatch No. 75 of the 23rd of June, 1829, enclosing a Proclamation, which you had issued for settling the Titles* to allotments of Land in the Town of Sydney.

Although I should have been glad, had you transmitted to me more complete information upon the subject to which this Proclamation relates than is supplied by the papers with which it is accompanied, yet I do not see any sufficient reason to question the propriety of the measure to which you have resorted with the view of determining the titles of such Lands and of regulating future grants of the same nature, and I have therefore to signify to you my approbation of the step which you have thus taken.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 75, per ship York.)

22 Aug.
Proposal re
compulsory
assignment of
female convicts.

Sir, Downing Street, 22 August, 1830.
I have the honor to acknowledge the receipt of your despatch No. 130 of the 30th of Decr., 1829, in reply to mine of the 18th of February, in which I recommended, as a means of facilitating the disposal of the Female Convicts (in assigning whom a difficulty was understood to exist), that every Settler should be compelled to receive one Convict Woman for every two or even three Convict Men, who were assigned to them.

As it appears from the observations which you have offered upon this subject, that the means, which I had proposed for diminishing the number of unassigned Females, would afford but a temporary relief, whilst many inconveniences were to be apprehended, I abstain from urging the experiment further upon your consideration; and it affords me infinite satisfaction to

* Note 4.

find that the measures, which you had previously adopted for promoting the assignment of the Female Prisoners, had so far reduced the number of Women confined in the Factory, as to relieve you from any further Embarrassment on their account.

I am, &c.,

G. MURRAY.

1830.
22 Aug.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship York.)

Sir,

Downing Street, 23 August, 1830.

23 Aug.

I am directed by Secretary Sir George Murray to transmit herewith for your information the copy of a letter and its Enclosures from the Secretary of the Treasury upon the subject of the complaints contained in your letter of 14 of October, 1829, As to the irregular manner in which supplies of Stationery were forwarded for the use of the Departments of Government at New South Wales; and I have further to transmit to you a copy of a letter from the Colonial Agent in reference to your observations so far as they apply to the Stores furnished by him for the same service.

I am, &c.,

R. W. HAY.

Transmission
of reports *re*
requisitions.

[Enclosure No. 1.]

MR. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 14 June, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to transmit to you, for the information of Secretary Sir George Murray, with reference to your letter of the 30th of April last, the enclosed Copy of a letter from the Comptroller of the Stationery Office, relative to the mode in which Supplies of Stationery are forwarded for the use of the Government Departments at New South Wales, and I am to acquaint you that the Stationery, referred to as sent to Van Diemen's Land, was ordered in pursuance of the Requisition transmitted in Mr. Horace Twiss's letter of 2nd March, 1829.

I am, &c.,

J. STEWART.

[Sub-enclosure.]

MR. J. CHURCH TO MR. J. STEWART.

Sir,

Stationery Office, 25 May, 1830.

I have the honor to acknowledge the receipt of your letter of the 18 Inst., enclosing the Copy of a Letter from Mr. Hay and an Extract of a Letter addressed by Genl. Darling to Mr. Twiss, reporting the irregular manner in which supplies are sent out for the use of the several Departments of Govt. at N. S. Wales, and representing the serious inconvenience, which is occasioned by *invoices* not being sent out with them, and desiring me to report to the Lords Commrs. of H.M. Treasury whether any delay takes place in sending the Stationery to Tooley St., after the same is ordered by the Board.

Report *re*
shipment of
stationery.

1830.
23 Aug.
Report re
shipment of
stationery.

I beg leave to acquaint you, for the information of their Lordships, that, as the Stationery sent out to N. S. Wales in the year 1829, would not have arrived at the date of Genl. Darling's Despatch to Mr. Twiss, and as no order whatever was sent to this office for Stationery in the year 1828, Genl. Darling's report must refer to the Stationery sent from this office in 1827.

On the 24 April of that year, a very large order was received from the Treasury and was packed in 50 cases, and these were sent from day to day as they were packed from this office to Tooley St., the first case being delivered at the Depot on the 16 May, and the last on the 5 June of the same year; and I humbly submit to the consideration of their Lordships that, as this order was not merely for such articles of Stationery as are kept in the store of this office, but for various account Books which required to be ruled and bound for the occasion, no unnecessary delay occurred in sending the Stationery to Tooley St., after it was ordered by the Board.

I Beg further to observe with reference to *Invoices* that an Invoice in duplicate is made out at this office, and sent with each case to the Depot specifying its contents; and that one Copy is returned to this office, signed by the Storekeeper of the Depot in acknowledgement of the receipt of the case, and the other, as I understand, is forwarded by him to the Party to whom the case is addressed.

With reference to Mr. Burnett's Letter to Mr. McLeay, dated Hobarts Town, 22 Sept., 1829 (a Copy of which was enclosed in Mr. Hay's Letter) stating that a supply of stationery had been received there, and that, as it was addressed to the Lieutt. Govr. of Van Dieman's Land and corresponded very nearly with the supply that had been ordered and was expected, it was supposed to be intended for that Settlement;

I have the honor to acquaint you that it was intended for Van Dieman's Land and was sent in conformity to your Letter of 30th March, 1829.

I have, &c.,

J. CHURCH, Comptroller.

[Enclosure No. 2.]

MR. E. BARNARD TO UNDER SECRETARY HAY.

Sir,

No. 2 Little Charles Street, 14 August, 1830.

Letter
acknowledged.

I have the honor to acknowledge your Letter of the 3rd inst. relative to the explanation required by you on the 30th April last respecting the complaint of Governor Darling that my annual accounts as Agent have not been transmitted, and also on the subject of the irregular manner in which the supplies are forwarded to New South Wales and Van Diemen's Land from this Country.

Accounts of
Colonial agent.

On the first subject, I have the Honor to state for the information of Secretary Sir George Murray that my annual Statement was regularly forwarded to the end of 1826; and the account for 1827 was only delayed in the hope of being able to send it, after it had passed the Commissioners of Colonial Audit, in which state I considered it would be more satisfactorily transmitted; and I did not anticipate any inconvenience from the delay, as I have always advised the Governor of all Issues on account of Salaries and advances, and as I have transmitted the Bills for Stores as well as

advice of all Monies received on account of the Colony. Finding however that, in consequence of the want of answers to the Queries transmitted to New South Wales on the account of the Veteran Companies that I could not get the account passed, and after waiting the repeated arrivals of Letters from the Colony without any notice of the Queries in question, I transmitted, in the month of July, 1829, the account for 1827, with that of 1828, copies of which have been again forwarded this year with that of 1829. As I was aware that, on the separation of the Governments of New South Wales and Van Diemen's Land, it would be desirable to keep distinct accounts, I without waiting for any suggestion from the Colony or any other Instruction on the subject have kept them separate since the 1st of January, 1828.

1830.
23 Aug.
—
Accounts of
colonial agent.

On the second subject, vizt., the delay in sending out the Supplies and the want of advice respecting them, I beg to state that I always apply for Tonnage as soon as they are ready for Shipment; but, in some of the requisitions, where the Articles are numerous and the quantities large, it is not possible to procure them immediately, particularly in the case of some of the Surveying Instruments for which large demands have been made.

Practise in
complying with
requisitions.

The Stationery, to which Governor Darling particularly alludes in his Letter to Mr. Twiss of the 14th October last, has always been sent without delay, and the Bills sent with the Letters of advice as soon as possible, as explained in my Letter to Mr. Twiss on the 7th December last, in reply to the Statement made by Lieutt. Governor Arthur in his Letter to Mr. Twiss of the 31st December, 1828; but, as I am never informed of the Name of the Vessel on board of which any Stores are to be shipped, and do not receive any notice, after my application to The Colonial Department for Tonnage, until I obtain the Shipping receipt from the person, who has supplied and shipped the Articles, I am unable to write to the Governor and send an account of the Expenses until the whole business is completed.

Shipments of
stationery.

As to the complaint made in Mr. Burnett's Letter to Mr. McLeay of the 22nd September, 1829, about the Stationery in the Georgiana and the want of proper advice and the Articles sent not corresponding with the requisitions, I am entirely at a loss to account for such a complaint for the following reasons:—

First that I did not send any Stationery in the Georgiana;

Second that I wrote to Lieut. Governor Arthur on the 11th November, 1828, giving due advice of all articles shipped on board of that vessel, to which I received a reply dated 1st May following, of which the enclosed is a Copy, acknowledging the receipt of the Articles as well as my letter of advice.

I forbear to make any other comments upon the justice of the complaints made in Mr. Burnett's Letter; but I beg to submit for the Information of Secretary Sir George Murray the Copy of one I received from Lieut. Governor Arthur, dated 14th May, 1829, acknowledging the account and Invoice for Stationery shipped on board the Sovereign, and inclosing a Statement of the Board of Survey upon the deficiency of the Articles as compared with the Invoice sent.

I have, &c.,

EDWD. BARNARD.

1830.
24 Aug.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 76, per ship York; acknowledged by
Governor Darling, 12th April, 1831.)

Sir, Downing Street, 24 August, 1830.

With reference to my dispatch No. 21 of the 21st of April last, in which I transmitted one received from the Board of Treasury upon the subject of the pay and allowances of Lieutt. Colonel Morisset, whilst acting as Superintendent of Police in New South Wales, I have now, at the request of the Lords Commissioners, to call your attention to the enclosed Extract of the Report of the Comptrollers of Army Accounts, which it appears, by some oversight, was not transmitted in their Lordships' former letter respecting the Pay and allowances of persons belonging to the Police and Gaol Establishments at New South Wales; and I request that you will cause a detailed Statement, as therein required, to be forwarded to that Board.

I am, &c.,

G. MURRAY.

[Enclosure.]

EXTRACT from the Report of the Comptrollers of Army Accounts,
dated the 4th March, 1830.

"We further recommend with reference to the first of our Reports above cited, wherein we stated to Your Lordships that we were without the means of checking the Pay and Allowances of Persons belonging to the Police and Gaol Establishments of New South Wales, that the Colonial Secretary of State be now requested to cause your Lordships to be furnished with a detailed Statement of all such Pay and Allowances, and of the respective rates thereof, as approved and fixed for each of the different Appointments."

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Gilmore.)

1 Sept.

Sir, Government House, 1st September 1830.

Submission of
petition *re* trial
by jury for
transmission
to England.

It may be proper to advert to the circumstance of the Petition, lately forwarded to the Secretary of State on the part of the Inhabitants of this Colony, praying for "Trial by Jury and a Representative Legislature," not having been transmitted through me in the usual manner as the head of the Government. The fact is, the Petition* was sent to me without any previous communication from the Committee, with a Letter from Mr. Francis Stephen, the Clerk, requesting I would forward it by the Dunveigan Castle, which sailed the following morning. Considering that this was not a decorous or respectful course of proceeding, I desired the Colonial Secretary to return the Petition, and inform Mr. Stephen that I could not receive such a Document from a Subordinate Agent of the Committee. Sir John

* Note 172.

Jamison, who was extremely ill at the time, and obliged to leave Sydney, has since come forward to explain and apologise for the irregularity of the proceeding. It is in itself of no importance; but I trust the Secretary of State will concur with me in thinking that it would have been derogatory to my Station to have received the Petition of the Colonists from the Clerk of their Committee.

I have, &c.,

RA. DARLING.

1830.
1 Sept.

Submission of
petition *re* trial
by jury for
transmission
to England.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch per ship Gilmore.)

My dear Sir, Government House, 1st September, 1830.

I have been favored with your Private Letter of the 29th of March last, forwarding by desire of Sir George Murray the copy of a Letter, which Lieut. Colonel Dumaresq had written to You when in England, respecting Judge Stephen. As the agitation of this matter could not fail to be attended with unpleasant consequences here, and as the circumstances, recently reported* of the observations made by the Judge in open Court, may render any further proceedings unnecessary, I have been induced to suspend for the present taking any steps in this Matter, trusting that the Secretary of State will not disapprove of my having done so, when he considers the reasons which have influenced me.

I remain, &c.,

RA. DARLING.

Suspension
of action *re*
intemperance
of J. Stephen.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 77, per ship Lady Harewood.)

Sir, Downing Street, 15 September, 1830.

15 Sept.

With reference to my dispatch No. 66 of the 23d of July last, in which I communicated to you the appointment of Mr. Kinchela to succeed, at a reduced salary, Mr. Baxter as Attorney General of New South Wales, I have the honor to acquaint you that I have, in consideration of the heavy expence which Mr. Kinchela will incur in conveying himself and his family to the Colony, consented to allow him to receive one moiety of his salary from the date of his embarkation, and have directed Mr. Barnard to advance to him the sum of Two hundred pounds on account thereof. I am aware that this will occasion a double payment on account of the same Office, but the expence will be ultimately compensated by the reduction which has taken place in the future salary of the Office of Attorney General of New South Wales.

I am, &c.,

G. MURRAY.

Advance of
salary to
J. Kinchela.

1830.
16 Sept.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 78, per ship Lady Harewood.)

Sir, Downing Street, 16 September, 1830.

Transmission
of statute *re*
transfer of
convicts.

With reference to the concluding paragraph of my despatch No. 16 of the 6th of April last, respecting the transfer of Convicts between the Colonies of New South Wales and Van Diemen's Land, I have the honor herewith to transmit to you for your information and guidance a copy of the Statute 1 Gul. 4, cap. 39, the 1st, 2nd and 3d Sections* of which have settled the Law on that subject, both prospectively and retrospectively.

Alterations in
statutes due
to death of
George IV.

I also transmit for your information a copy of the Statute 1 Gul. 4, Cap. 71, which obviates a doubt respecting the construction of the Act abovementioned, and several other Acts of the last Session of Parliament in which the words "His present Majesty," though correctly used when the Statute passed the two Houses of Parliament, became inaccurate by the Demise of the Crown before the Royal Assent was given. I am, &c.,

G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Lady Harewood.)

17 Sept.

Sir, Downing Street, 17th September, 1830.

Services of
T. Murray in
army.

With reference to my letter of the 15th Feby., 1828, in which I transmitted to you a Statement of the services in the Army of Mr. Terence Murray, late Paymaster to the 48th Regiment, who proceeded as a Settler to New South Wales, I am directed by Secretary Sir George Murray to enclose to you the accompanying copy of a letter from the Military Secretary to the General Commanding in Chief, together with its enclosures, conveying Lord Hill's opinion that the three years, during which Mr. Murray acted as Paymaster to the 2d Brigade of Foot Guards in the Peninsula, should be added to his services to entitle him to an exemption from Quit Rent; and I am to acquaint you that Sir George Murray authorises your including the period in question in Mr. Murray's term of service in the Army.

I am, &c.,

R. W. HAY.

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY TWISS.

Sir, Horse Guards, 2 Sept., 1830.

Transmission
of letters.

In reference to my letter of 12th Feby., 1828, addressed to Mr. Hay, containing a statement of the services of Mr. T. Murray, late Paymaster to the 48 Regt., I am directed by the Genl. Commanding in Chief to transmit the accompanying letter from that Gentleman with its enclosures, and to request that you will be pleased to lay the same before Secretary Sir G. Murray for his

* Note 174.

favorable consideration, with the intimation of Lord Hill's opinion that, as Mr. Murray acted as Paymaster to the 2d Brigade of Foot Guards in the Peninsula from the year 1811 to the 25 Decr., 1814, those three years should be added to his Services to establish his claim to the exemption of Quit Rent under the Regulations contained in the Genl. Order of the 8 June, 1826.

1830.
17 Sept.

Extension of
term of service
of T. Murray.

I have, &c.,

FITZROY SOMERSET.

[Sub-enclosure No. 1.]

MR. T. MURRAY TO LORD FITZROY SOMERSET.

Sydney, New South Wales,

10th of March, 1830.

My Lord,

I have the honor to enclose the Certificate of Messrs. Greenwood, Cox and Co., that I acted as Paymaster to the 2nd Brigade of Guards from the year 1811 to December, 1814, as also my Commn. as Paymr. of the 48th Regiment from the year 1815, until I was allowed to sell out in 1828.

Service claimed
by T. Murray
for exemption
from quit rent.

I wrote for these Documents to establish my claim to the exemption of Quit Rent, for the period I would be entitled by the Regulations,* which issued from the Horse Guards, dated 8th June, 1826.

When I received these (this Certificate and Commn. from Messrs. Greenwood, Cox and Co.), I submitted them to the consideration of His Excellency Lieut. Genl. Darling thro' his Military Secretary, whose reply I also enclose; and, in conformity with his instructions, I now finally submit to your decision.

I have, &c.,

TERENCE MURRAY.

The Question is, whether I am to obtain credit for Service in the Army, while I was Paymaster to the Guards in the Peninsula?

[Sub-enclosure No. 2.]

MR. T. DE LA CONDAMINE TO MR. T. MURRAY.

Sir, Mil. Sec. Office, Sydney, 4th February, 1830.

Having submitted to the Lieut. General Commanding the Forces your Letter of the 21st Ultio., I do myself the honor to acquaint you in reply that an official notification having been received from the Secretary of State, by which it appears that the date of your first Commission in the Service is the 2d November, 1815, His Excellency cannot receive any private Certificate, which is at variance with a public document; and it will be necessary for you to obtain the authority of the General Commanding in Chief, if you desire to establish a Claim to Services antecedent to the date above mentioned.

Necessity for
further proof
of additional
service.

The Enclosures to your Letter of the 21st Ultimo are herewith returned.

I have, &c.,

T. DE LA CONDAMINE, Lt.,

A. Mil. Secy.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lady Harewood.)

Sir, Downing Street, 18 Sept., 1830.

18 Sept.

The Secretary at War having applied to be informed of the annual amount of the Salary and Emoluments, which Dr. Moran receives whilst holding the temporary "appointment for

* Note 175.

1830.
18 Sept.
Report required
re F. Moran.

contracting to supply medicines and medical attendance to a Detachment of Mounted Police and Prisoner Gangs in the District of Wallis's Plains," and also the date of Dr. Moran's appointment, I am directed by Secretary Sir George Murray to request (as your correspondence does not contain the information) that you will furnish me with the particulars required by the Secretary at War. I am also to request that you will report the reasons which have induced you to create the situation in question.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Lady Harewood.)

19 Sept.
Correspondence
re supplies of
stores and
stationery.

Sir, Downing Street, 19th September, 1830.

With reference to my letter of the 23d Ultimo, I am directed by Secretary Sir George Murray to transmit for your information a copy of a letter, and of its Enclosure, which has been received from the Secretary of the Treasury upon the subject of the complaints, contained in your letter of the 14 of Octr., 1829, as to the irregular manner in which supplies of Stores and Stationery were forwarded for the use of the Departments of your Government.

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

[Enclosures.]

[Copies of these letters are not available.]

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 79, per ship Lady Harewood.)

20 Sept.
Additional
advance to
J. Kinchela.

Sir, Downing Street, 20 Sepr., 1830.

With reference to that part of my dispatch No. 77 of the 15th Instant, respecting the advance of Two hundred Pounds to Mr. Kinchela, I have the honor to acquaint you that I have since been induced to authorize the Colonial Agent to make to Mr. Kinchela a further advance of one hundred Pounds, to enable this Gentleman to defray the Fees chargeable upon the issue of his Commission as Attorney General.

Land grants
for J. and
J. B. Kinchela.

Mr. Kinchela being desirous of procuring a portion of Land* in the Town of Sydney for the purpose of building thereon, and also a Grant of Land to his Son Mr. James Butler Kinchela, I have to request that you will afford Mr. Kinchela such facilities towards the attainment of his wishes, as you may deem consistent with the existing Regulations.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 55, per ship Gilmore; acknowledged by
Viscount Goderich, 24th March, 1831.)

1830.
20 Sept.

Sir, Government House, 20th September, 1830.

I have the honor to acquaint you, in reference to my Despatch of the 9th of August last, No. 47, that Your Despatches, repeating your directions that the strictest economy should be observed in the public Expenditure, having been received previous to the arrangement reported in the above Despatch being carried into effect, respecting the Establishment at Lake Macquarie for the Civilization of the Aborigines, I have, in consequence of the Communication above referred to, delayed acting on the measure proposed and shall not proceed in it unless I receive your Authority to do so.

Instructions received *re* economy.

Suspension of action *re* aboriginal mission.

2nd. I avail myself of this opportunity of transmitting for your consideration the Copy of a letter, addressed to me by the Archdeacon, pointing out the want of accommodation in the Churches of Sydney, by which a very large proportion of the Inhabitants are prevented attending Divine Service. The Archdeacon has gone so fully into the subject as to render it unnecessary for me to enter upon it. But, concurring with him as I do that additional accommodation is urgently required, I had agreed as a temporary measure to his Renting a Building, to be used as a Chapel, and to the employment of a Clergyman who happened to be here at the time; But, in consequence of the arrival of the Instructions above alluded to, I informed the Archdeacon it was not in my power to sanction the Measure, and it has accordingly been abandoned.

Want of accommodation in churches at Sydney.

3rd. I beg to add that Mr. Broughton is now engaged, agreeably to the Suggestion conveyed in your Despatch of the 25th May, 1829, No. 113, in endeavouring to ascertain whether the Inhabitants will come forward in bearing a portion of the Expense of erecting an Additional Church in Sydney.

Inquiry *re* proposed new church.

I have, &c.,

RA. DARLING.

[Enclosure.]

ARCHDEACON BROUGHTON TO GOVERNOR DARLING.

Sir, Sydney, 19th June, 1830.

1. The degraded state of morals, which unhappily characterizes too great a proportion of the Inhabitants of this town, has unquestionably forced itself frequently upon the attention of Your Excellency, as it must upon that of every observant person. Nor have I any greater doubt of your entertaining a persuasion that effectual amendment can be expected only from an increase of religious principle, which we cannot reasonably hope to witness without an adequate provision of the means of religious instruction.

State of morals in Sydney.

1830.
20 Sept.

Deficient means
of religious
instruction in
Sydney.

Profligacy in
district called
the Rocks.

Increase of
petty offences
on Sunday.

Resorts of
criminals.

Deficient means
of religious
instruction.

Estimated
Protestant
population.

2. The duties of my office having particularly directed my attention to this subject, I have been impressed from my first arrival in this Colony with a very strong sense of the deficiency of such means, as at present afforded to the mass of the inhabitants of Sydney. Nevertheless I considered it more advisable and becoming to forbear making any representation, until a residence of some Months should enable me to speak upon the subject with the confidence derived from more extended personal experience.

3. The circumstance of my having become resident in a part of the Town, adjacent to the haunts of the most vicious and degraded part of the Community, has afforded me ample opportunity of observing the extent to which vice and profligacy prevail in that Class, by which the District called the Rocks is chiefly inhabited. The picture, which I have to present to Your Excellency, I can with certainty affirm is not overcharged, as it is derived from my own observation in passing frequently through this Quarter of the Town; and I have much evidence, as well as the probability of the circumstance itself, to assure me that the same irregularities prevail in other districts. The scenes, which fall under my notice, convince me that the greatest proportion of these persons are living in ignorance or disregard of all religion whatever; that prostitution, adultery, drunkenness and theft are their habitual occupations, and the only difference, which I have found to exist between the Sabbath and other days, is that, the people being then all at home and unemployed, there is a greater prevalence than ordinary of all sorts of disorder and wickedness. In confirmation of this remark, I would refer Your Excellency to a recorded fact, which I am aware has already fallen under Your observation, that the number of charges brought before the Superintendent of Police for drunkenness and riotous conduct is on Monday Mornings generally three fold greater than on any other day of the week. I am satisfied that these remote quarters of the Town, as at present circumstanced, not only afford a place of retreat and security for the perpetrators of almost every violation of the Laws, but are a very hot bed of Crime, in which it springs up and comes to maturity more rapidly than any Regulations of Police will ever be effectual to put down. Penal restraints can never keep pace with the offences to which they should apply, unless an improvement can be effected in the people themselves; and for that improvement, we must look to an increased sense of religion among them as the only effectual agent.

4th. Noticing in the next place the means provided for affording them this Instruction, so important to themselves and to the Community to which they belong, I find those means so disproportionate, that it can excite no surprise if multitudes of those, who originally came hither on account of their Crimes, have not only shewn no symptom of amendment but have been confirmed in their former habits of vice, if they have not even plunged more deeply into iniquity.

5. The number of Protestant inhabitants in Sydney may be stated in round numbers at 8,000, exclusive of the Garrison. Of these, a very small proportion are of the Presbyterian persuasion, and frequent that Church. The Wesleyan Methodists have a somewhat larger number of Adherents, and occupy two Chapels. If from the entire population, we subtract 800 persons on both these accounts unitedly, there will still remain 7,200 Protestants. From these

again are to be taken 723 Protestant Convicts in Government employ in Sydney and its neighborhood, for who accomodation is provided in the Churches. Of the remaining 6,477 persons, it may be collected from the population Returns that 1,400 are Children under 12 Years of Age. The entire number therefore, for which it is requisite to provide Church accomodation, is about 5,000.

1830.
20 Sept.

6. Comparing then the necessities of the place with the means which we possess of meeting them, I observe that the Churches* in Sydney, exclusive of the Galleries set apart for the Military and for the prisoners of the Crown, may be capable of containing at the utmost 1,200 persons; and as Service is performed in each Church twice every Sunday, 2,400 persons might have an opportunity of attending once only in the day. We have around us therefore at the lowest computation 2,600 persons utterly destitute of any opportunity of attending the Public Worship of God. The evil, which most impresses itself upon my apprehension, is that the numbers thus excluded comprise the poor, the ignorant, the vicious and the degraded; precisely that class of the population which it is most desirable to bring within the reach of an influence, whereby they may be gradually led to amend their lives. If it be estimated that, in the two Churches of Sydney, there are so many altogether as one hundred free and open Sittings, which persons of this class coming to the Service might occupy, it is, I am sure, a most liberal computation; and it is therefore not surprising that they in general shew so little disposition to attend.

Want of accomodation in churches at Sydney.

7. There are other points of view, very striking, in which the subject may be regarded. The prisoners, we have seen, are provided with accomodation for regular attendance at Church, and do so attend; but, the instant that any one by good behaviour obtains a Ticket of Leave, he enjoys that advantage no longer, and I am doubtful whether under existing circumstances it could be extended to them, the number of Protestants holding Tickets of Leave in Sydney being 450. In point of fact, although by the "Government Order of the 1st January, 1827," it is provided that Ticket of Leave Men, who habitually neglect to attend Divine Service, shall be deprived of their Tickets, I am informed on the best authority that very few of these ever trouble themselves to comply with the Regulation. Even the Children educated in our Schools, upon ceasing to belong to them, must also cease to be members of the congregation of which they have been trained to form a part; for, on quitting the seats provided for the accomodation of the Scholars, they find no others vacant to which they may resort. Thus at the most dangerous Crisis of their lives, on the verge of puberty, they are cast off from that regular attendance on Public Worship, to which they have been habituated, and in which they require at that period to be more than ever confirmed.

Want of room for ticket-of-leave men;

and for children after leaving school.

8. With every disposition on the part of Your Excellency and of His Majesty's Government to resort to such measures as may most effectually remedy these evils, such measures, I am aware, cannot be brought into immediate operation. They must include the building of one additional Church at least, and the enlargement if not the rebuilding of one of those now standing. Much consideration and the preparation of many plans and estimates would be necessary, before I could venture to bring so extensive an Undertaking under Your Excellency's notice, or be able to present it in a sufficiently digested form. But as a temporary measure, until more

Necessity for erection of new church and enlargement of old one.

1830.
20 Sept.

complete arrangements can be made, as the most economical and at the same time the most effectual resource, which suggests itself to me for the supply of our immediate urgent necessities in respect to additional Church accommodation, I have the honor to submit the following.

Proposed lease of building for temporary chapel.

9. At a short distance from the Northern extremity of Prince Street, and therefore in the immediate neighbourhood of the Rocks and of the increasing numbers of the lower class, who are settling on the shore of Darling Harbor, there is a large unoccupied Stone Building, which might be fitted up at a moderate expense as a temporary place of Worship, capable of accommodating 300 persons in free sittings. The proprietor would be willing to let it to the Government for that purpose. The greatest difficulty would be that of obtaining a Clergyman to officiate, as the two Chaplains employed in Sydney have already so considerable a share of duty, as to render it quite impossible that any assistance should be rendered by them. I beg however to state to Your Excellency that a Gentleman, who has been admitted by the Bishop of London to Deacon's Orders for the Colonies, the Revd. Mr. Sharpe, has recently arrived in Sydney, and I think it probable might be willing to officiate in the Place of Worship, which I am proposing to establish. It would be my anxious wish to make every personal exertion in carrying this design into effect, and to discharge such parts of the duty as from his want of full Orders the gentleman, above alluded to, is not competent to perform. This arrangement I have the honor to propose only as temporary, and to subsist until His Majesty's Government, induced as I trust they will be by this Statement of our urgent wants, shall sanction the erection of Churches more adequate in number and dimensions to the extent of the population, and shall nominate the Clergymen by whom the duties of the same shall be discharged.

10. I have further to request that, if the proposition which I have now the honor of submitting, shall meet with Your Excellency's approval, directions may be given to the Director of Public Works to inspect the Building in question, and to ascertain its perfect stability and security for the reception of a Congregation, at the same time preparing and submitting to Your Excellency an Estimate of the expense, which will be required to adapt the same for the performance of Divine Service.

I have, &c.,
W. G. BROUGHTON.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Gilmore.)

My dear Sir, Government House, 20th September, 1830.

Letters received from W. H. Moore.

I have intended, from time to time, bringing under Your Notice the letters which Mr. Moore is in the habit of addressing to the Government, he himself being one of its Officers, and leaving you to judge whether they are written in a style becoming his situation.

His letter of the 22d April last has been already transmitted officially, and is on the subject of an Arrangement which it was

found necessary to make in consequence of the extravagant nature of the Travelling Expences charged by the Attorney General and himself, when attending the Circuit Courts, being at the rate of Six Guineas a day.

The Letter of the 3d June relates to a Road, which was repaired for the convenience of some Individuals who supplied the Sydney Market, under the supposition of its being a Public Road, the Surveyor, who undertook it on the application of the Individuals interested, having no idea it was on Mr. Moore's Property.

The last Letter of the 15th September is in reference to a Pump, which was put up for the Public Convenience during the time of the severe Draught, when the Inhabitants of Sydney suffered extremely from the want of Water. Even at this time, the Pump is a great convenience to the Town; but, having no wish to enter into a Contest with Mr. Moore, I have directed that it shall be immediately taken down.

These Documents will, I think, serve in some degree to shew the manner in which the Government is likely to be served by its "Crown Solicitor."

I have lately observed, in one of my Dispatches, that the situation of the Government with respect to the Crown Lawyers is humiliating in the extreme. Since that date, a Cause has been tried, which shews this pretty clearly.

Hall, the Editor of the "Monitor," was proceeded against for publishing his Paper, not having entered into the recognizance required by Act of Council,* by which he was subjected to a Penalty of £100 for every Paper so published. The Monitor has regularly come out twice a Week during the last Seven Months, Mr. Hall refusing to enter into the necessary recognizance; and, though the Attorney General has been Constantly urged to proceed for the recovery of the Penalties, the matter has never been brought forward until lately. When it was, the Government lost the Cause, because the Crown Lawyers, who were both in Court, neglected to prove the hand writing of Mr. Hall, or that he was the Printer and Publisher of the "Monitor."

The omission was so obvious that Hall, who personally defended his own Case, immediately availed himself of it, and a verdict was given in his favour. If this was not treachery, it was at least an instance of such gross ignorance or neglect as proves these Gentlemen to be unfit for their situations. The Attorney General's want of Professional Knowledge and his unfortunate propensities may perhaps exonerate him from the former imputation.

1830.
20 Sept.

Excessive charges for travelling expenses.

Repair to road on property of W. H. Moore.

Pump erected at Sydney.

Position *re* crown lawyers.

Prosecution of E. S. Hall for neglect to give recognizances.

Neglect of crown lawyers at trial.

* Note 178.

1830.
20 Sept.

Constitution of
jury at trial.

It is further to be remarked that the Jury was illegally constituted, which, having frequently before occurred, the Attorney General's attention was more than once drawn to the circumstance, and he was particularly desired never to allow a Case, in which the Government might be at all interested, to be brought before a Jury that was not Composed as the Act directs. It also deserves notice that the Foreman of the Jury in this Case, Mr. Daniel Cooper, an Emancipist, is generally understood to be the Proprietor of the Press at which the "Monitor" is printed. It need hardly be asked, under such circumstances, how the Government can possibly ever succeed in any Legal proceeding; and it will at the same time explain the Cause of the heavy Expences, which have been incurred in obtaining other assistance. One of the Judges observed to me in Conversation, when Mr. Sampson was Solicitor General, that the Crown Lawyers were so ignorant as to be unacquainted with the Common forms of pleading, or the proper manner of bringing a Case before the Court.

Consequences
of inefficient
crown lawyers.

I remain, &c.,

RA. DARLING.

[Enclosure No. 1.]

[A copy of this letter is not available.]

[Enclosure No. 2.]

MR. W. H. MOORE TO COLONIAL SECRETARY MACLEAY.

Sir, George Street, Sydney, 3d June, 1830.

Protest by
W. H. Moore
against road
through
property at
Liverpool.

I beg leave to call your attention again to my Letters of 6th February and 29th March last, respecting the Road made through my Land on the Liverpool Road. I have already given very good reasons for not allowing this Road to remain open, namely, that the longer it continues so the greater difficulty I may have in stopping it, as allowing it to be used as a Public thoroughfare for any length of time may appear an acquiescence on my part to its becoming a common highway. It is now Four Months since I first wrote upon the subject, and the Injustice that has been done me is so palpable that a reference to the Government Charts in the Surveyor General's Office would determine the question in less than so many Minutes.

Mr. Nicholson of the Road Department is anxious I should meet him on the spot in order to point out to him the Road in question; but, though I am willing to acquiesce in any thing that might expedite the Settlement of the matter, I neither see any utility in going to look at it, nor have I leisure to give for that purpose.

I have not been made acquainted with the nature of Mr. Nicholson's first report on the subject, nor do I know what is the nature of the reference that has been made to him. I shall not feel myself at all bound by it, nor will it justify the Government in an act of oppression towards me.

I have, &c.,

W. H. MOORE.

[Enclosure No. 3.]

MR. W. H. MOORE TO MR. JOHN BUSBY.

1830.
20 Sept.

Sir, George Street, Sydney. 15th September, 1830.

It is now going on nearly two years that I have put up with the serious inconvenience of allowing the Pump opposite my Premises to remain there, which I strongly remonstrated against at the time of its erection, and was only induced to submit to from your assurance that it was merely intended as a temporary accommodation to the neighbourhood during the time of a severe drought, and that it would speedily be removed.

Protest by
W. H. Moore re
pump erected
at Sydney.

That crisis has long since passed; but I see no prospect of the nuisance and injury, it is to me and my premises, being abated. That it has very Considerably deteriorated my property I leave you yourself to judge of; and for that purpose I invite you, with any Surveyor you may think proper to name, to inspect the place at any time you will appoint.

As it is not my intention to allow the decision of this matter to remain over longer, I shall commence an Action against you at the expiration of one Month, unless the same be removed prior to that period.

I have, &c.,

W. H. MOORE.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 56, per ship Gilmore; acknowledged by
Viscount Goderich, 30th March, 1831.)

Sir, Government House, 21st September, 1830.

21 Sept.

I do myself the honor to acquaint you, in reference to Your Despatch of the 9th August, 1829, No. 129, that it has been deemed advisable, notwithstanding the opinion formerly expressed of the Mismanagement of the affairs of the Bank of New South Wales, again to deposit a portion of the Public Money in that Establishment. The concerns of this Bank had certainly been very ill conducted; but, as it was considered extremely desirable that there should be two Banks and the Government could lose nothing even in the event of its failure, each Individual Proprietor being responsible to the full Amount of his Property, I was induced to bring the subject under the Consideration of the Executive Council, and I do myself the honor to transmit a Copy of the Minute of its Proceedings on the Subject for your Consideration. I should have Stated that the Money advanced on Loan to the Bank of New South Wales, as reported in my former Despatch,* was almost immediately returned, and that the Bank has perfectly recovered from its embarrassment, which was but temporary; Besides such a Check* has been established as will prevent its getting in arrear without the Knowledge of Government, and no difficulty would be found in withdrawing the Money deposited, whenever it might be deemed necessary, the Amount seldom exceeding £3,000.

Public money
deposited in
bank of N.S.W.

Repayment of
loan by bank.

Supervision
of bank.

I have, &c.,

RA. DARLING.

* Note 179.

[Enclosure.]

EXTRACT from Minute No. 23 of the Proceedings of the Executive Council, on the 15th July, 1830.

PRESENT:—His Excellency the Governor; The Venerable the Arch-deacon; The Hon. the Colonial Secretary; The Hon. Colonel Lindesay.

His Excellency presented for the consideration of the Council a Letter from the Directors of the Bank of New South Wales, representing that the affairs of that Establishment are now in a prosperous situation, and, in proof thereof, enclosing an Abstract shewing its present State. The Directors therefore request that the Government may manifest their confidence in the Institution by again authorising the Colonial Treasurer to reopen an Account at the Bank, and to deposit therein a certain portion of the public monies, as was formerly the case.

“The Council, before coming to a decision upon this Case, were desirous of obtaining more detailed information as to the affairs of the Bank than what is afforded by the Documents now before them; and therefore, recommended that Richard Jones, Esq., the President, and William Lithgow, Esq., one of the Directors of the Establishment, should be examined before the Council upon the subject.”
a true Extract:—E. DEAS THOMSON, Clk. Col.

EXTRACT from Minute No. 24 of the Proceedings of the Executive Council, on the 17th July, 1830.

PRESENT:—His Excellency the Governor; The Venerable the Arch-deacon; The Hon. Colonial Secretary; The Hon. Colonel Lindesay.

“In reference to the proceedings on the 15th instant, relative to the application of the Directors of the Bank of New South Wales that the Governor would be pleased to authorise the Colonial Treasurer to reopen an account and to deposit therein a certain portion of the public monies as was formerly the case, His Excellency, also with reference to the Minute of Council of the 19th December, 1828, relative to the Conditions* upon which the last loan was advanced to this Bank, laid before the Council a Despatch from the Right Honble. Sir George Murray, dated the 9th August, 1829, expressive of the approval of His Majesty's Government of that Loan having been so granted, considering that the Bank would by that arrangement be closed within a short period, without producing the injury and distress, which would have attended the sudden suspension of its payments.

“And His Excellency further laid before the Council the Copy of a Letter, addressed by him to R. Jones, Esq., President of the Bank of New South Wales, on the 16th of March, 1829, in answer to one which he had received from the Directors, requesting that the Bank might be released from the engagement which it entered into to bring its affairs to a close before the end of that year.

“Accompanying the Letter of the Directors, there is a Statement of the Affairs of the Bank on the 15th of last month, by which it appears that the Bank Stock or Capital actually paid amounts to £19,052; that the Bank Notes in circulation amounted to no more than £6,047; while there was in possession of the Bank British Coin and Government Securities to the amount of £6,804; and that the total amount of the engagements of the Bank is only £23,525, while it's assets amount to £43,632.

“The Council having examined Mr. Jones, the President of the Bank, and Mr. Lithgow, the Auditor General of Colonial Accounts, who is also a Bank Director, on the subject of this Statement, it appeared to the satisfaction of the Council from the Evidence of those Gentlemen that, in consequence of a great improvement in the management of this Bank, its affairs are now in a prosperous state; and that, as all the proprietors, amongst whom are many of the most wealthy individuals of the Colony, are answerable for its engagements to the full extent of their property, the Government can run no risk by having a certain portion of the public money lodged in this Bank as formerly.

“The Council fully concur in the view taken by the Governor of the affairs of this Establishment, as fully stated in his Letter of 16th of March, 1829, to Mr. Jones; but, in consideration of its highly improved state, and of the advantage of having two Banks in the Colony, they are of opinion that it is now advisable that Government should afford to this Bank the same advantages as it gives to the Bank of Australia; and, therefore, they recommend that the application of the Directors be complied with; but, in order that the Government may be informed periodically of the actual state of affairs of this Bank, as well as of that of the Bank of Australia, so as to warrant a continuance of the confidence placed in them, the Council recommend, that it should be an indispensable condition of the Treasurer's keeping an Account with them, that a Copy of the Half yearly Statements of the respective Establishments be transmitted to the Governor within one month after the expiration of each half year.”

A true Extract:—E. DEAS THOMSON, Clk. Cols.

ENCLOSURE AA to Minute No. 23/1830 of the Proceedings of the Executive Council.

To His Excellency Lieut. General Darling, Governor in Chief.

Sir, Bank of New South Wales, 15th June, 1830.

We, the undersigned Directors of the Bank of New South Wales, have the honor to represent to Your Excellency that the affairs of that Establishment are now in a prosperous situation, and, as a proof thereof, beg leave herewith to forward an Abstract shewing its present state, the inspection of which will, we trust, satisfy your Excellency that it has surmounted its difficulties and is now enjoying the Confidence of the public.

Under these circumstances, we would venture to solicit that your Excellency would be pleased to manifest the Confidence of Government in the Institution by again authorising the Colonial Treasurer to re-open an account at the Bank, and to deposit therein a portion of the public Monies as was formerly the case.

We beg leave at the same time, in the name of ourselves and the Proprietors, to express our grateful thanks for the aid afforded to the Establishment on former occasions, which so opportunely and essentially contributed to relieve the pecuniary Embarrassments, not only of the Bank but of the Community at large; and, while we should deeply regret that any proceeding, arising out of the last loan to the Bank, should now operate against the renewal of the Confidence of Government, we would avail ourselves of the opportunity of assuring Your Excellency that such proceeding did not by any means originate in the slightest disrespect of the

1830.
21 Sept.

Consideration
by executive
council re
proposed public
account in bank
of N.S.W.

Request by
directors for
reopening of
public account
in bank of
N.S.W.

1830.
21 Sept.

Government, or want of readiness to meet its wishes at the time, but was the unavoidable result of circumstances which it was not in our power to control.

We have, &c.,

RICHARD JONES.	R. WARDELL.
T. G. PITMAN.	WILLM. HUTCHINSON.
P. DE MESTRE.	DANL. COOPER.
WM. LITHGOW.	JAMES CHISHOLM.
JAS. B. BETTINGTON.	

Abstract of
balance-sheet
of bank of
N.S.W.

DR. THE BANK OF NEW SOUTH WALES, 15TH JUNE, 1830.		CR.	
	£ s. d.	£ s. d.	
Bank Stock subscribed	19,052 17 8	British Silver, Store receipts,	
Bank Notes in Circulation ...	6,047 0 0	Treasury bills etc.	6,804 7 6
Deposits	17,044 3 0	300 bills receivable	30,607 12 9
Profit & Loss—Discounts etc.	1,191 13 9	Mortgage deeds	6,220 8 0
Sinking Fund	375 6 0	Cost of Office goods & Fur-	
Dividends	146 8 0	niture	513 4 8
Unclaimed Dividends.....	288 4 6		
	<hr/>		<hr/>
	£44,145 12 11		£44,145 12 11

ENCLOSURE BB to the Proceedings of the Executive Council,
Minute No. 23 of 1830.

Sir,

Government House, 16th March, 1829.

Reply to request
by bank for
release from
conditions of
loan.

I have received from Messrs. Savage and Bettington, Directors of the Bank of New South Wales, a representation on the part of the Bank, with reference to the Loan made by the Government on the condition, amongst others, that the Bank should close its concerns at the end of the present year. Having given the subject my best consideration, and being sincerely disposed to promote every Institution which is likely to benefit the Colony, I must observe that I cannot discover any thing in their representation which would Warrant the Government in releasing the Bank of New South Wales from the engagement* it has entered into.

I will not close this communication without adverting to some of the more prominent points in the Letter of the two Directors. The first is: the circumstance of the two Directors being incompetent as is *now* stated to enter into any engagements, except such as are strictly of a pecuniary nature. I must confess it appears to me extraordinary that this should not have been discovered before, the President having formally accepted the Terms on the part of the Bank, when one Instalment of the Loan was advanced (a Second having been afterwards applied for), and the Proprietors having been twice assembled for the purpose of Considering the terms of the Loan, which it is understood were fully discussed and agreed to by a large Majority.

With respect to the state of the Establishment, speaking of it technically as a Bank, it would be unsatisfactory as it would be unavailing to enter into the subject under present circumstances. I have, however, much satisfaction in believing that the Proprietors generally possess ample means to meet all their engagements, and that under an improved System of Management they will be enabled to do so without any material inconvenience to themselves.

In considering the causes, which have operated to the prejudice of the Bank as stated by the Directors, no one can more sincerely lament the *first* than I do, the failure of two successive Crops, which it is evident must have affected more or less every Establishment and every Individual in the Colony. As to the *Second*: "The

Reasons alleged
for difficulties
of bank.

* Note 179.

discredit, which influential and interested Individuals have endeavoured to excite as to the State and Management of the Bank." It is much to be regretted that the Directors generally should themselves have contributed so largely to the evil, of which they complain, by depositing their Money in another Bank, as such a proceeding could not fail to operate in a very important degree to the prejudice of the Establishment under their immediate direction.

With respect to the *third* cause assigned in the Letter of the Directors, "the influence of the unfavorable opinion of the Government, as Manifested by the Stipulation of bringing its concerns to a close." I confess I am at some loss to comprehend how the Stipulation, alluded to, could have been the *Cause*, when it was not exacted until after the Bank had applied to the Government for Assistance in Consequence of the deranged State of its Finances.

I might add that, so far from the embarrassment of the Bank being attributable in any degree to the Measures of the Government, it is a fact generally known that the Government made no distinction between the Bank of Australia and the Bank of New South Wales, the Colonial Treasurer having been directed to make his Deposits equally between the two Banks, which arrangement was continued, even after the embarrassed State of the Bank of New South Wales was formally announced to the Government, And, until the Government found that a Meeting of the Bank Proprietors was called to consider the Terms of the Loan, a Loan which had been already accepted by the written engagement of their President, and one Instalment actually received by the Bank.

When the Directors state that the conditions of the Loan have very much injured the Credit of the Bank, it is impossible they could have compared the State of their Coffers at the time their Letter was written with their exhausted condition, when they applied to Government for assistance. They were then destitute of Money. The Countenance and assistance, subsequently rendered by the Government, appears to have had the effect of restoring Public Confidence as at the time of their former embarrassment in the year 1826, and their Chest is now replenished with British Coin.

The inconvenience, anticipated by the Directors in bringing the affairs of the Bank to a close, will not, I am glad to think, be so great as they appear to apprehend, for, although to effect a complete Liquidation of its affairs by the end of the present year, it might be necessary to enforce the payment of outstanding Bills to the Amount of £37,000. I have ascertained, on examining the Abstract of the Bank Accounts and the List of Bills in possession, that these Bills are drawn or accepted principally by Parties who are Proprietors, and that the whole Amount including even the outstanding Notes of the two former Banks (a large proportion of which is supposed to be either lost or destroyed) for which the Bank would have to provide is under £18,000. If means be found to pay off this sum, and there is still a period of Nine Months and a half to elapse before the Bank is required to close its concerns, the remainder of the Bills (a large proportion of the Drawers or Endorsers being Proprietors) might I conceive be allowed to lay over, until they could make some arrangement for their mutual accommodation, so as to ensure the recovery of their Capital.

I will take the opportunity of stating, before closing my letter, that I perfectly concur in opinion with the Directors as to the advantage of two Banking Establishments in this Colony. They

1830.
21 Sept.

Reasons alleged
for difficulties
of bank.

Effect of loan
by government
to bank.

Alleged
difficulties in
liquidation.

Advantage of
two colonial
banks.

1830.
21 Sept.

Principles
necessary in
new bank.

would Act as a Check on each other, and not only prevent excessive Discounts, but tend to keep down the rate of Interest. The embarrassment of the Bank of New South Wales is, I conceive, principally to be attributed to its Connexion with the two Establishments,* on whose ruins it was founded. To ensure a firm foundation, any New Bank, which may be formed, must be totally independent of the present Bank. It should not assume any of its debts, or admit as Dealers any Individuals of doubtful means. It should however be upon a liberal Plan, open to all Classes, and not recognise any principle of exclusion. It appears to me that an Establishment so constituted is much to be desired; and I have no doubt that the Government would be disposed to afford such an Establishment every encouragement, which might be necessary and it could consistently extend to it.

I have, &c.,

RA. DARLING.

True Copies:—E. DEAS THOMSON, Clk. Col.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 57, per ship Gilmore; acknowledged by
Viscount Goderich, 23rd March, 1831.)

22 Sept.

Sir, Government House, 22d September, 1830.

Transmission
of statement
re trade with
New Zealand.

It has occurred to me, with reference to the subject of my Despatch of the 12th of August last, No. 50, that you might be desirous of being informed more particularly with respect to the Trade between this Port and New Zealand. I accordingly do myself the honor to transmit for your information the Copy of a Statement, which has been furnished at my desire by the Collector and Comptroller of Customs, shewing the Number of Vessels, which have entered from and cleared out for New Zealand between the 1st of January and the 14th of August last, as also the description, quantities and Value of the Articles Imported and Exported in the said Vessels.

It appears that many of the English Whalers, which do not touch here, go to New Zealand for refreshments and to refit, and that American Vessels frequent that place in Numbers, where they are free from restraint and obtain the supplies which they require at the Expense of a few Muskets and a little Ammunition.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

Summary
of shipping
trading with
New Zealand.

AN Account shewing the Trade between this Port and New Zealand specifying each Quarter from the 1st January last to this date, under the following Heads, Vizt:—

Number and Tonnage of Vessels entered Inwards.

From 1 January to 31 March—Number, 11; Tons, 969. From 1 April to 30 June—Number, 10; Tons, 946. From 1 July to 14 August—Number, 7; Tons, 693. Total from 1 January to 14 August—Number, 28; Tons, 2,513.

Number and Tonnage of Vessels entered Outwards.

From 1 January to 31 March—Number, 8; Tons, 801. From 1 April to 30 June—Number, 13; Tons, 1,321. From 1 July to 14 August—Number, 10; Tons, 1,396. Total from 1 January to 14 August—Number, 31; Tons, 3,158.

* Note 180.

[Enclosure No. 2.]

1830.
22 Sept.

TOTAL QUANTITIES, DESCRIPTION AND VALUE OF GOODS IMPORTED.

Description.	Total		Description.	Total		Return <i>re</i> imports from New Zealand.
	from 1 January to 14 August.	Value.		from 1 January to 14 August.	Value.	
	Quantity.	£ s. d.		Quantity.	£ s. d.	
Flax	500½ Tons ...	12,513 0 0	Seal Skins	4,091	4,480 0 0	
Salt Provisions..	69,136 pounds.	798 0 0	Whale Oil	500 Gallons.	40 0 0	
Lard	3 Cwt. ...	5 0 0	Pigs	75	81 0 0	
Pine Boards and Spars	35,200 feet.....	273 0 0	Curiosities	Sundry	17 0 0	
Potatoes	36 Tons ...	180 0 0	Fishing Lines...	1 bundle	20 0 0	
Maize	40 bushels.	10 0 0				
					£18,426 0 0	

TOTAL QUANTITIES, DESCRIPTION AND VALUE OF GOODS EXPORTED.

Description.	Total		Description.	Total		Return <i>re</i> exports to New Zealand.
	from 1 January to 14 August.	Value.		from 1 January to 14 August.	Value.	
	Quantity.	£ s. d.		Quantity.	£ s. d.	
Bread.....	203½ Cwt. ...	260 0 0	Slops.....	Sundry packs.	458 0 0	
Bricks	7,000	10 5 0	Staves	3,400	300 0 0	
Beer	730 Gals. ...	75 0 0	Woolleens.....	1,426 yards ...	104 0 0	
Cedar.....	1,793 feet.....	33 0 0	Rice	2,540 pounds.	21 0 0	
Cheese	335 pounds.	14 0 0	Rum & Whiskey	2,429 Gallons.	424 0 0	
Flour	87,992 do	787 0 0	Brandy and Gin	1,607	300 0 0	
Shingles	24,970	25 0 0	Sugar	7,149	138 0 0	
Cartouche Boxes	142	39 0 0	Tea	1,696	115 0 0	
Corks	30 Gross ...	7 0 0	Tobacco	5,062	310 0 0	
Earthen & Glass Ware	Sundry packs..	75 0 0	Horned Cattle.	2	10 0 0	
Flints	12,000	18 0 0	Blankets	78 pair	76 0 0	
Groceries	Sundry packs..	44 0 0	Iron	8 Tons ...	152 0 0	
Gunpowder	11,052 pounds.	862 0 0	Linen	2,700 yards ...	220 0 0	
Hardware.....	Sundry packs..	639 0 0	Cutlasses.....	50	15 0 0	
Muskets.....	2,120	2,938 0 0	Leather manu- factured.....	Sundry packs.	67 0 0	
Rope	80 Cwt. ...	220 0 0	Wine.....	120 Gals. ...	18 0 0	
Salt.....	249 Cwt. ...	51 10 0	Sundries not enumerated			
Tobacco pipes..	65 Gross ...	26 0 0	above.....		297 0 0	
Salt Provisions..	87 Cwt. ...	200 0 0				
Shot	836 pounds.	8 0 0				
Water Casks.....	260 Tons ...	235 0 0				
					£9,591 15 0	

M. C. COTTON, Colr.
BURMAN LANGA, Contr.

Custom House, Sydney, 14th August, 1830.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 58, per ship Gilmore; acknowledged by Viscount Goderich, 25th March, 1831.)

Sir, Government House, 23d September, 1830.

23 Sept.

I have had the honor to receive your Despatch of the 6th of April last, No. 9, on the subject of Colonel Snodgrass's application for an Allotment of Ground in the Neighbourhood of Sydney, for the purpose of erecting a House thereon as a residence, and expressing your regret, First, that I had not accompanied the application with such observations as would have enabled You to decide upon it, as you have no means of judging whether it would be consistent with the Public Interests to grant his request; Secondly, Expressing a wish to be informed whether such applications are usual, and whether any inconvenience would result to the Colonial Government from a Compliance in

Despatch acknowledged *re* application by K. Snodgrass.

1830.
23 Sept.

this Case (and Thirdly) or, in the case of other "applications from Officers holding Employments of a Civil or Military Character, with a View either to the accommodation of their Families, or to the investment of Funds upon Building speculations."

In reply to the *first* point, I beg to observe that, Understanding it to have been contrary to the rule laid down, which is fully explained in Your Despatch of the 1st of November, 1829, No. 159, on the Subject of Colonel Snodgrass's Application for a *Grant of Land*, that *officers on full Pay or while holding any Military Employment* should be allowed to receive Land, it did not occur to me that any observations of mine on the subject could be necessary, supposing, as I did, that His Majesty's Government had come to the determination that they should not be allowed Land, on due consideration of the Consequences which either had or might result from a contrary course. I felt at the same time that I could not decline forwarding Colonel Snodgrass's application, as he appeared to think it would, if forwarded, be complied with.

Secondly, I beg to observe that such applications, that is, for Building allotments, from officers in the Military Service are not usual. Those Officers are aware that, under the existing regulations, they could not be complied with. But I do not conceive, in the case of Colonel Snodgrass, who is on half Pay and may be considered more or less to have retired from the active duties of his profession, that any inconvenience could result to the Colonial Government from a Compliance with his request. The inconvenience or injury to be apprehended in any such case is, in my opinion, to the Military Service.

As to the *third* and more general question: I am of opinion that it is a proper and necessary indulgence in the case of *Civil Officers* to permit their receiving Building Allotments for the erection of Residences for their Families, but not for the investment of their Funds upon Building Speculations. The former, if properly enforced, could lead to nothing injurious. The latter, if countenanced, would, I have no doubt, prove highly detrimental both to the public Service and to the Individuals themselves. I am fully borne out in this observation by the fate of those who have received Land; generally speaking, their expectations have been disappointed, and many are now suffering from the effects of pecuniary embarrassment. It therefore appears to me that the Civil Officers should be allowed a Building Allotment for the erection of a Residence for their Families, but for no other purpose, and a Grant of Land to such an extent as might be sufficient for a Dairy and no more, two or three Square Miles at the utmost.

Prohibition of land grants for active military officers.

Applications unusual.

Special circumstances in case of K. Snodgrass.

Recommendation of building allotments for civil officers.

Restrictions proposed.

In proposing this restriction, I am aware that Individuals cannot be prevented purchasing Land at private Sales, or entering into Speculations for the improvement of their fortunes as they hope. But I think the Government should in no way be instrumental to their entering into such Speculations.

1830.
23 Sept.

As to the Military, I mean Officers pursuing their profession, I am clearly of opinion they should not be allowed to receive Land either for Building or any other purpose. I would at the same time give them every indulgence, when they retire from the Service, Conceiving that they are a very desirable description of Settlers for this Colony.

Objections to
land grants for
active military
officers.

I beg to remark here that the Case of the Civil Officers, entering into Building Speculations, had attracted my attention previous to its having been called to the subject by your Despatch, and I consulted the Executive Council upon it in Consequence.

Building
speculations by
civil officers.

The Harbour Master had erected a Wharf for Heaving down Vessels on the Ground on which his House stands. In his situation, it appeared to me that his being in the immediate possession of such an Establishment was particularly objectionable and he has been required, in consequence, to Lease the Wharf as he cannot dispose of it, being so contiguous to his House, and to make Oath, which he has done, that he has no interest at present in the Wharf directly or indirectly, further than the rent which he receives for it. It is only just to Mr. Nicholson to State that this proceeding was in no way intended to impeach his public conduct, as there is no reason whatever to doubt his integrity.

Wharf erected
by J. Nicholson.

It was then considered whether public officers could be prevented entering into private Speculations, when the Council, feeling it would be difficult if not impossible to prevent by any regulations here their entering into such speculations, could only recommend, if His Majesty's Government considered it necessary, that it should be made a condition of the appointment of all Civil Officers that they should not enter into any speculation whatever.

Restriction
proposed on
speculations by
civil officers.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 59, per ship Gilmore, acknowledged by
Viscount Goderich, 23rd March, 1831.)

Sir, Government House, 24th September, 1830.

24 Sept.

I beg leave, in reference to my Despatch of the 11th January last, No. 2, on the subject of the Department of Roads and Bridges, to point out the advantages, which would result

1830.
24 Sept.

Proposed
employment
of P. Simpson.

Adverse report
on arrangement
of road
department.

from the continuance of Mr. Percy Simpson, for whose employment the removal of Assistant Surveyor Abbott to Van Diemen's Land (applied for by his Memorial* lately transmitted) would afford an opportunity without adding to the Establishment.

I have gone so much at length into the arrangement of the Road Department in my Despatches of the 20th August, 1829, No. 98, and of the 11th of January last, No. 2, above referred to, that I have but little to add, further than my Conviction from the experience of Nine Months that the present arrangement is infinitely less efficient than the former and more expensive.

The establishment of two Surveyors, as proposed for the Roads, is so totally inadequate that the Duties could not possibly be carried on with that Number. In the Surveyor General's report, which accompanied my Despatch of the 11th of January last, he proposed the employment of five Assistant Surveyors as Necessary for the several Roads. He now states that a Sixth is indispensable, which is the Number that was employed, including the Principal Surveyor, under the former arrangement; and I am satisfied that a smaller Number than Six would be inadequate to the common duties of the Department.

Recommendation for
employment of
P. Simpson
and Lambie.

You will perceive, Sir, by the Surveyor General's report, which accompanied my Despatch of the 11th of January last, that he recommends that Mr. P. Simpson, the person alluded to at the commencement of this Letter, and Mr. Lambie of the Road Department should be continued. He now urges this from a better knowledge of their qualifications. Mr. P. Simpson is a practical Engineer and is very beneficially employed in making the Road on each side of the Hawkesbury, which River passes between two Mountains, and the Construction of the Road is difficult.

Mr. Lambie is a scientific Man, and was employed under Mr. Adam. I considered myself fortunate in obtaining his services for the Road Department, and their loss, I understand, could not be replaced by the Services of any Individual in that of the Surveyor General's.

The Surveyor General has informed me, he does not wish that any more Surveyors should be sent out. In deciding finally with respect to the Road Department, I hope you will forgive my urging the disadvantage of the present arrangement. The Surveyor General in this Colony, where he has more than enough to do in his own Department, should merely lay down the Line of Road, without Superintending or interfering in the details. And I am Satisfied that neither Department will be properly carried on until the two be separated.

I have, &c.,

RA. DARLING.

* Note 181.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 80, per ship Lady Harewood.)

1830.
28 Sept.

Sir, Downing Street, 28 Sept., 1830.

I have the honor to acknowledge the receipt of your despatch No. 21 of the 13th of April last, respecting the Officers of your Government from whom security should be required for the due appropriation of such public monies as may be consigned to their charge, and I have to approve of your suggestions as to the propriety of calling upon the Registrar of the Supreme Court to enter into securities.

Despatch
acknowledged.

Registrar
and clerk of
supreme court
to give security.

Upon referring, however, to the letter from the Chief Justice Forbes, enclosed in your despatch, I deem it expedient that you should also direct the Clerk of the Court to enter into security for the due appropriation of such monies as may, from time to time, be entrusted into his hands, upon the principle that all Public Officers, through whom Public Money may pass, should be required to enter into proper securities proportioned to the amount.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 81, per ship Lady Harewood.)

Sir, Downing Street, 29 Sept., 1830.

29 Sept.

With reference to my despatch No. 59 of the 13 of July last, I have the honor to acquaint you that I have appointed Mr. Thomas Balcombe to be a Draftsman on the Establishment of the Surveyor General's Department of New South Wales, in the room of Mr. Docker, whom you had found it necessary to dismiss from the service.

Appointment
of T. Balcombe
as draftsman.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 82, per ship Lady Harewood.)

Sir, Downing Street, 30 Sept., 1830.

30 Sept.

I have the honor to acknowledge the receipt of your despatch No. 24 of the 16th of April last, requesting authority for charging in the Public Accounts the sum of £69 0s. 8d., being the amount of costs and damages awarded against Mr. Joshua Thorp in the employment of the Colonial Government, for a trespass in endeavouring to establish a right of Road through the Petersham Estate. In conveying to you my sanction for the charge in question forming an item of Expenditure in the Public Accounts of the Colony, I feel it incumbent upon me, however reluctant I may be, to desire that you will take an early opportunity of pointing out to Major Mitchell the expence, which has

Approval of
payment of
costs awarded
against
J. Thorp.

1830.
30 Sept.
Preparation of
charts under
T. L. Mitchell.

thus resulted to the Public from the inaccuracy of the documents, furnished by the Surveyor General's Department to the Law Officers of the Colony, which I trust will have the effect of inducing him to direct more attention in future to the careful examination of such charts as may be prepared under his superintendence.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch per ship Gilmore.)

Sir, Government House, 30th September, 1830.

Increase of
salaries of
civil officers.

Augmentation
of public
departments.

Practise of
economy.

The Instructions conveyed in the Despatch of the 10th April last, No. 20, founded on the objectionable manner in which the Salaries of the Civil Officers have been increased from time to time, and the view which the Secretary of State appears to have taken generally, as I gather from other Communications which I have had the honor to receive from him, of the Proceedings of this Government with regard to the augmentation of the Public Departments, have induced me to address myself to you as the least objectionable course, entertaining no doubt that I shall succeed in satisfying Sir George Murray that every possible attention on my part has been paid to œconomy, and that, if I have erred, it has been in endeavouring too rigidly to carry into effect the Orders addressed to me from Home, when satisfied from local Circumstances that they could not be acted on here without serious injury to the Public Service.

Increased
expenditure due
to change in
control of road
department.

In proof of this, I might instance the Arrangement respecting the *Road Department*. The object was œconomy; but the reverse was the result.

Officers of the Surveyor General's Department are now employed, whose Salaries on an Average amount to £250 a Year each, while the largest Salary of the Assistant Surveyors of Roads was £150, some received only 5s. a day.

The Officer, employed under the Surveyor General to carry on the duties, receives about £330 including an Allowance for 2 Horses, and the Salaries of the Officers of that Department increase £20 every Year, while the attention of the Surveyor General, who seems injudiciously anxious to do every thing himself, is so much occupied with the Road Branch, that, to say the least, the more immediate duties of his Office cannot be attended to in the same degree as if that Department had not been placed under his Superintendence.

There is, therefore, no Saving of Expence, although the late Surveyor of Roads was allowed £600 a Year. His sole and undivided attention was directed to the Roads, which would furnish

even the most active Man constant employment, while the Surveyor General has the duties of another still more extensive and more important Department to attend to. I am satisfied that the extent of the inconvenience could not have been seen, when the Order was sent out, any more than the inadequacy of two Assistant Surveyors, the Establishment fixed by the Secretary of State for the Road Department under the new Arrangement.

1830.
30 Sept.
Increased expenditure due to change in control of road department.

Neither could it have been adverted to at the time that there are *three great Roads** in progress, extending from 100 to 200 Miles each, passing over Mountains, besides the numerous Roads already established in the County of Cumberland; or that the Average number of Men employed is 1,500, who, in order to avoid Expence, are superintended by Convicts like themselves.

One Assistant Surveyor, therefore, is certainly the very least that could be employed on each line of Road.

I hope to be excused, if I enter more into detail than may appear necessary. My object is to satisfy the Secretary of State that every Arrangement has been made with due attention to local circumstances, and that I am as anxious to observe a strict and just œconomy, as His Majesty's Government can be to enforce it. It will not, I trust, be considered unbecoming in me to point out the inconveniences, which may arise from measures that are incompatible with local circumstances, and which in effect add to the Public Expenditure.

I cannot, perhaps, instance this more strongly than in the Case of the Roads.

Fifteen Hundred Men, being under punishment, are necessarily maintained at the Expence of the Government, and, as the most advantageous way of employing them, they are placed on the Roads.

Convicts employed on roads.

The Extent of Road taken altogether, on which these Men are employed, is not less than Six Hundred Miles, and two Assistant Surveyors only have been allowed for their Superintendence. The Overseers are Convicts like the Labourers, and are as little interested in the progress of the Work, while, if these Parties were properly superintended, they would perform *ten times* the Work they do at present. I am therefore compelled to observe that the effect of the restrictions imposed is the very reverse of what is intended. The same observation applies to the "Department of Works" and all others, in which Artificers and Labourers are employed. I have shewn in my late Communications that there are no Individuals in the Colony equal to undertake Contracts, and that whatever is to be done must still be done by the Government. The Establishment of the Department of Works

Inability to introduce contract system.

* Note 40.

1830.
30 Sept.
Department
of works.

is necessarily extensive. I mean as respects Convict Mechanics; but, from the want of a proper Superintendance, they comparatively do nothing.

Alterations
in colonial
conditions.

There is one Superintendent in Sydney, where there are nearly 200 Workmen employed, with a proportionate number of Labourers, on perhaps a dozen different Works. The manner, in which Establishments of this nature are superintended at Home where the Mechanics work for their Bread, will afford some means of judging what is necessary in this respect. Here, they have no motive, and their object is to tire out those, who are placed over them, in which they generally at length succeed, knowing, as they do, that they have not the means of coercing them. It must besides be recollected that the Colony is rapidly extending. Establishments, which might have been sufficient a Year or two ago, are not so at present. Prisoners, from the number now in the Colony, daily become free, and these Men occasion infinitely more trouble than when in a state of Bondage. In addition to which, Convicts are sent out in much larger numbers than formerly.

Increase of
departments
due to increase
of transports.

Last year for example, 3,664 arrived, while, in the Year 1826, the first Year of my Administration, 1,823 only were received. Is it possible then that the same Establishments should answer? The Police, and every Department having any thing to do with the Convicts, urgently require to be augmented, and surely, when the Mother Country is relieved from the evils which would be occasioned by the presence of such a Mass of Criminals, it is not too much to expect that it should afford the necessary means of restraining them.

Justification of
augmentation
of salaries and
establishments.

Having said so much in explanation of the former Arrangement for the Conduct of the Road Department, which insufficient as it was, will appear, I think, to have been more efficient, as it certainly was less expensive than the present, I trust I shall also be able to satisfy you that I have in no case (as it would seem I am supposed to have done) augmented Establishments or added to the Salaries of Individuals without due consideration. The fact is, extraordinary as it may appear, my exertions to keep the Departments and the Salaries of Individuals on the lowest possible scale have been the cause of my appearing to be inconsiderate and troublesome. Instead of proposing their Augmentation at once, so as to render them completely efficient, I was induced from motives of œconomy to do it more progressively; and it has in no case been done, until the Arrear of Business was such as to render it indispensable to the proper Conduct of the Service. In proof of this, I would instance the Arrangement respecting the Salaries of the Clerks in the Colonial Secretary's

Office. On the removal of the Convicts, who were employed at the time of my Arrival, I proposed that the free Clerks, by whom they were succeeded, should commence with £100 a Year; and it was not until I found from experience that no respectable man, qualified for the Situation, could be obtained for that Sum, that I was induced to recommend its being increased to £150; and to this moment, though authorised to appoint three Clerks of the first Class at the rate of £300 a Year, I have not placed one in that Situation.

With respect to the Departments, I assure you that, with perhaps a solitary exception, there is not one which is not so much underhanded as to be totally unable to carry on the business, which it has to transact, and which has now fallen so much in Arrear as to render it impossible ever to bring it up without some considerable additional Assistance.

I have had before me for some months past Applications from, I believe, every Department of the Government but one for more Clerks, from the Colonial Secretary's to the lowest Office in the Government, which shews, though urgently as they are required, that I have not encouraged these Applications. It would be impossible for me to point out the extent of the Arrear of Business generally; but it may be useful to instance the Auditor's Office, and there cannot be a more indefatigable public Servant than Mr. Lithgow, but who, to this day, has not been able to do more than commence the examination of the "Store Accounts" of the Government, and they are consequently Years in Arrear. It has not of course been adverted to at Home that the Heads of Departments are necessarily a good deal occupied in sitting on Boards assembled for various purposes important to the Government.

In alluding to this, I shall perhaps serve a double purpose, first, in shewing that these Officers have extra duties to perform, which must and do interfere materially with those of their more immediate Office; And secondly, by instancing the extent of the *Commissariat Department* employed in Sydney (which has been under investigation for some time past by a Board of Officers in consequence of an Order from the Lords of the Treasury) to shew, if there be any ground for comparison, that the Offices of the Civil Government are not unnecessarily extensive.

Both purposes will be answered then by stating that a Board of Officers has been sitting, not daily but as their duties permit for a considerable time past, to ascertain whether the numerous Individuals employed in the *Commissariat in Sydney* (about 40 Officers and Clerks) are necessary for the Business, which that Department has to transact. The above is nearly equal to the

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Reorganisation
of colonial
secretary's
department.

Insufficient
establishments.

Applications for
extra clerks.

Arrears in
public business.

Extra duties of
departmental
heads.

Inquiry
re staff of
commissariat.

1830.
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whole number of Clerks employed in all the Departments of the Civil Government, and I understand, tho' the Board has not yet closed its Proceedings, that, from the complicated nature of the Business arising from the variety of Establishments which exist here, Military, Marine, Convict in all its ramifications, including the Penal Settlements, etc., etc., widely dispersed throughout this extensive Colony, there is no reason to think, on the strictest Scrutiny, that the Establishment is by any means unnecessarily large.

Dual character
of government.

What then can be said of the Officers of the Civil Government? It is of course the same in all other Departments, the Duties which the Government has to perform being two fold; those which belong to its Civil Character, and those which relate to it as an extensive Penal Establishment.

Problems
of reform.

The question now appears to resolve itself into this: whether the Departments and Establishments are to be left in their present inefficient State or be made more complete, which may be effected at no great Expence, so as to render the present Expenditure effectual?

If the Secretary of State should be disposed to confide in me, he may be assured of my best exertions to accomplish the object in view in the most æconomical manner, so as to turn the present Expenditure to better Account. If on the contrary, he should prefer keeping the details in his own hands, and directing what is to be done in the various Cases as they arise, he may be equally assured of my best exertions to carry his Orders into effect. I hope I have shewn that I am not likely, wantonly, to incur unnecessary Expences; and I have therefore been emboldened, not from a desire to arrogate to myself any undue merit from the experience I must necessarily have acquired here, or from a want of deference to those under whom I am employed, to offer my Services in the manner proposed, which, however, I should rather were not accepted, if it be considered necessary to restrict their exercise.

I am sure the Secretary of State will view my proposition in the light it is intended, which is to promote in an effectual manner the System of æconomy, which His Majesty's Government is so desirous to enforce.

Augmentation
of salaries.

I shall now beg permission to offer some explanation upon that part of the Despatch, in which the Secretary of State observes, "I cannot consent to your taking upon yourself, without sufficient Authority, to Augment the Salaries of Public Officers, however strong may be their Claims." I believe it will be found that I have in *no case* augmented the Salary of an *Officer*, properly so called, of my own Authority.

I have done so only in the case of the more subordinate Servants of the Government. The course, which I have generally observed, is as follows:—In the case of Officers of the higher Classes, who did not absolutely require the addition applied for as a means of immediate subsistence, I have confined myself to the simple transmission of their Applications, leaving it to the Secretary of State to determine as to the expediency of complying with them. I have in very few Cases recommended their Application. In none that I immediately recollect, and in no instance have I encouraged any one to apply. But I have felt that I could not decline complying with the wishes of Individuals that I should forward their Applications, without subjecting myself to the Odium which would result from a belief that I was indifferent to the interests and success of those employed under my Government.

1830.
30 Sept.

Applications
for increases
by superior
officers.

In the case of the Servants of the Government, Clerks and other Persons of that Class, I have occasionally taken upon myself, when I conceived that circumstances warranted it, to make some trifling Addition to their Salaries (as in the case of the Colonial Botanist, the subject of the Despatch to which I am now replying, whose obviously inadequate Salary of £150 was increased to £200 a Year) rather than risk the loss of their Services, or give them any just grounds of dissatisfaction from a belief that they were not sufficiently requited. It must be recollected that the inconvenience, which Men on small Salaries experience, more particularly when married, in waiting 12 or 15 Months until an Answer can be received from Home, is very serious. They get into difficulties, naturally become discontented, and are consequently less useful; so that the small Sum, which is saved by the time of making the reference Home, cannot be accounted clear gain.

Increase of
salaries for
inferior officers.

I am as fully impressed as any Man can be with a sense of the necessity of the strictest œconomy; much, however, depends upon the true and proper acceptation of the term; and I would beg leave to point out, which I do, not without hesitation and deference, that the rules laid down for old established Colonies, subject to little or no change, cannot, without manifest disadvantage to the Public Service, be rendered applicable to a young Settlement of this anomalous character at the distance of 16,000 Miles from the Mother Country.

Rules for old
colonies
inapplicable
in N.S.W.

Some idea may be formed of the rapid Advancement of this Colony by the encrease of the Revenue. In the Year 1825, when I took charge of the Government, the Ordinary Revenue amounted to about £67,000; In the Year 1829 to £95,000; so that, in the course of Four Years, the Revenue has encreased

Increase in
colonial
revenue.

1830.
30 Sept.
Increased
expenditure
due to convicts.

one Half; and, in the same period of time, nearly 11,000 Convicts have arrived, adding in every way to the burthens and Expences of the Government; for, although assigned in the first instance to the Settlers, many of them are soon sent to the Penal Settlements and to work on the Roads, thus rendering it indispensably necessary to add to the Establishments for their superintendance and occasioning at the same time an encrease of Expenditure for their maintenance.

Increase of
business in
court of
requests ;

I would here take leave to instance the Department of the Court of Requests, as one of those which has lately applied for Additional Assistance. When this Court was established in the Year 1824, the Fees received *that Year* amounted to £75. In the *Month* of July last, the latest period to which the Accounts have been made up, they exceeded £140, so that the encrease has been in the ratio of nearly 24 to 1. The Amount of Fees received is, I believe, in all cases a pretty correct Criterion of the extent of the Business which is transacted. I might further instance the rapid encrease of the receipts of the Post Office. In the month of January, 1829, they amounted to £62; in August last to £163; and I should here refer to the Statement contained in Mr. Sheriff Macquoid's Letter, transmitted with my Despatch of the 17th December last, No. 125, shewing the very considerable encrease which had taken place in the business of his Department.

in post-office ;

and in sheriff's
office.

I cannot conclude this subject without pointing out that much additional Business is thrown on the Police and other Departments of the Government by almost every Act of the Legislative Council, which is passed, and this consequently renders the employment of additional means necessary.

Unsatisfactory
position of
R. Darling.

I am sure, Sir, the Secretary of State will not be displeased at my pointing out thus frankly the Situation in which I find myself placed. The Settlers are not satisfied, because I do not attend to their Applications, and appoint Police Magistrates and additional Constables in the distant Districts; and the Officers of the Government appear to think that I am inconsiderately strict in requiring the performance of their duty, without affording them the necessary means to discharge it, while, at the same time, the Government at Home seem to suppose I am adding unnecessarily to the Public Expenditure, so that, while I sacrifice my popularity here from a desire to conform to the views and wishes of His Majesty's Government (no doubt a paramount duty on my part), I do not appear to gain any Credit for my exertions or the Sacrifices I make in its Service.

Having thus endeavoured to correct the impression, which appears to have been received, that I have not acted on that System of Economy, which is necessary under present circumstances,

I trust I have succeeded in satisfying the Secretary of State that I have not been indifferent to the interests of the Public, though I have certainly not attended to my own. It may be supposed that the present is not a convenient moment for bringing my Situation under the consideration of Government, but justice to my Family forbids my delaying it any longer.

You will recollect that, when I was preparing to come out, I applied for a larger Salary. I then conceived it was due to my Station with reference to other Governors in this part of the World, holding the same Military rank as myself. I now think it the more so from the conviction, which every one must feel, that this is the most arduous and laborious Government within His Majesty's Dominions.

It is known that, when I assumed the charge of it, every thing was to be originated; there was not even a form of Government. How I have succeeded even under every possible disadvantage, which it would not be pleasant and may not be necessary to point out in this place, the present State of the Colony affords the best means of judging. In saying thus much as to the result of the performance of my duty, I am actuated by no arrogant or presumptuous feeling. Let the fact speak for itself.

But I hope I may be permitted to draw Sir George Murray's attention to my peculiar Situation, and that it will not be considered indecorous, contrasting it with others. I have now been nearly five Years in this Government, and I assure you I have not done more (if so much) than barely cover the Expences of my Outfit. I have not been in the habit of "pleading Poverty," and I should certainly do it with an ill grace more especially, as I would hope, that my Claims rest on better grounds. But, in stating this fact, I should observe that I am not aware how I could, consistently with my Situation, have lived in a more economical manner, or that I have incurred any Expence, which I could with propriety have avoided.

I certainly had no promise that my Income would be improved; but I expected it. I supposed or at least hoped that the circumstances of this Government would have led to its being placed on a footing, in point of Salary, more similar to the other Governments in this part of the world. The Cape, Mauritius and Ceylon are old established Colonies. This is comparatively young, of perhaps as much importance to the Mother Country as any of them, and, from its complicated Character and other circumstances, is certainly more difficult to conduct, beyond all comparison than any of those I have named. Notwithstanding these facts, the Governor of this Colony is much worse paid than any of the others, while I apprehend it may be proved, deducting

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30 Sept.

Inadequacy
of salary of
governor.

Comparison
with salaries of
governors in
other colonies.

1830.
30 Sept.

Comparison
with salaries of
governors in
other colonies.

the Sums applied to its support as a Penal Settlement, with which the Colony cannot justly be considered chargeable, that it contributes as largely in proportion to the maintenance of its Civil Establishment, as any of the Colonies I have alluded to.

The Governor of one of these receives more than double the Salary of the Governor of New South Wales, while the other two are allowed, one £2,000 a Year, and the other £3,000 more.

Expenses of
living in N.S.W.

I have said nothing of the Expences of this Colony, though I believe that the maintenance of an Establishment here costs much more than in any of the Colonies I have alluded to. There is one point in some degree peculiar, which, perhaps, I may be excused for adverting to in this Place. I mean the necessity I have been under of subscribing, as Governor, to whatever is brought forward for the advantage or improvement of the Community.

Subscriptions
by governor to
charities, etc.

Several Institutions have been founded; the Cases of personal distress have been very numerous; the heads of many families have died, leaving their Wives and Children in a state of destitution. Some of these have been brought under the notice of the Secretary of State, and Government has determined that no Assistance can be afforded them. Thus they have been left to the Charity of the Public, and, in this confined Circle, known as every one's Situation is, could not, consistently either with feelings of humanity or with the Character which the head of the Government should preserve, be permitted to starve. The Governor *is obliged from his Situation* to lead the way in all these Cases. And I have further been under the necessity of subscribing to various Public Establishments, an Expense to which the Governor of no old Colony is subjected, and am now called on, an additional Church being required in Sydney, to set an example to the Inhabitants by a liberal donation for this purpose, the Government having declined to do more than pay a moiety of the Expence. I have no personal feelings of vanity to gratify in these matters. I can but ill afford it; but I am impelled by a sense of Public duty, of what I owe to the Station I hold, and could not decline coming forward on such an occasion without risking that Character which it is the interest of His Majesty's Government every Governor should support. I have been led, Sir, from the nature of the subject of this Communication, to address you at much greater length than I had intended, and I will not conclude without repeating my hope that Sir George Murray will not be displeased with the frankness with which I have spoken on my own Affairs and those of the Government. He will do me no more than justice in believing that I am

equally interested in the success of both, and that I am anxiously disposed to promote the measures of the Administration in which he holds so distinguished a Station.

1830.
30 Sept.

I have, &c.,

RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 83, per ship Lady Harewood.)

Sir, Downing Street, 1 Oct., 1830.

1 Oct.

I have the honor to acknowledge the receipt of your despatches of the dates and numbers noted in the margin,* recommending the following applications from Public Officers of your Government for favorable consideration, vizt. :—

Applications for
land grants.

Lieutt. Colonel Dumaresq, of the New South Wales Veteran Company, for an allowance of ground on which to erect a residence;

Captain Wilson, the Director of Public Works, for a Grant of Land and a Building Allotment, as well as for an increase of salary;

And Mr. Therry, the Commissioner of the Court of Requests, for a Grant of Land and Building Allotment.

I have to acquaint you that I have no objection to allotments of land being made to these Officers, according to their respective applications and according to existing Regulations.

Land grants
authorised.

With respect to Captain Wilson's application for an augmentation of salary on account of the duties of his situation having increased since his appointment, I regret that I feel under the necessity of refusing this part of his request. I am, &c.,

Refusal of
increase of
salary for
C. Wilson.

G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 60, per ship Gilmore; acknowledged by
Viscount Goderich, 26th March, 1831.)

Sir, Government House, 1st October, 1830.

I have the honor to acknowledge the receipt of your Despatch of the 12th of April last, No. 21, on the subject of the Military Allowances issued to Lieut. Colonel Morisset in consequence of his appointment as Commandant of Norfolk Island.

Military
allowances
issued to
J. T. Morisset.

I am sorry to find that the communication, made in Earl Bathurst's Despatch of the 24th of September, 1826, No. 67, was not adverted to when Colonel Morisset arrived about the Middle of the following Year, at which time he presented a Letter from the Horse Guards, Notifying his appointment to the Staff and stating it to be "without *Pay*."

* *Marginal note.*—No. 26, 19th April, 1830; No. 34, 21 May, 1830; No. 35, 24th May, 1830.

1830.
1 Oct.

Improper
application for
allowances.

Refund to
be made.

As this Officer, so far from having informed me that he had applied for the appointment, to use the terms of his Letter to Mr. Hay of the 5th of April, 1826, "without Staff Pay or any Emolument being attached to the Situation," but on the contrary immediately applied for the several *allowances* of his Military Rank, I presume to think that he can have no claim to benefit by the success of an application made under such circumstances, and I have in Consequence directed that he be called on to refund the whole of the allowances, which have been issued to him contrary to the Conditions of his appointment.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO UNDER SECRETARY HAY.
(Despatch marked "Private," per ship Gilmore.)

My dear Sir, Government House, 1st October, 1830.

Despatch
acknowledged.

I have been favored with Your Letter of the 7th of April last, marked "Private," enclosing Copy of a Letter received from Lieut. Col. Allan, 57th Regt., and of an answer returned to that officer, requesting I would explain the circumstances, should certain observations contained in Col. Allan's Letter be correct.

Colonel Allan's Statement is as follows:—"I beg submissively to remark, heretofore it has been customary to give Grants of Land to the Officers of Corps, and the Regiment under my Command has been the first to experience this serious disappointment."

Report *re* land
grants to
military officers.

It appears, as Col. Allan states, to have been the practice "heretofore" to give Officers Land, and a few of the Buffs, the Regiment which he succeeded, appear to have been allowed *Reserves* by my Predecessor, to be confirmed into Grants on their leaving the Colony. Colonel Stewart of the Buffs, who held the Commission of Lieut. Governor, was put in possession of 8,000 Acres by order of the Secretary of State, when he was about to embark with his Regiment. I have given Land to no Officer, but those who have retired, except in the case of Brigade Major Gillman, who, having a large quantity of Stock, asked for a Reserve on account of his Children, which was ordered. But, finding that no improvements had been made upon it, the authority for this Reserve was cancelled some time since. It being contrary to the intentions of His Majesty's Government that Officers on full Pay in the Military Service should receive Land, I have in no instance granted any to Officers so circumstanced.

I remain, &c.,
RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

1830.
3 Oct.(Despatch No. 61, per ship Gilmore; acknowledged by
Viscount Goderich, 23rd March, 1831.)

Sir, Government House, 3rd October, 1830.

Having had occasion frequently of late, to allude to the difficulty, indeed impossibility, of obtaining competent Individuals to undertake Contracts for the erection of Buildings, etc., and the great increase of Expense when so undertaken (exclusive of the risk to which the Government is exposed in a variety of ways) in comparison with the Cost, when the Work is done by the Government Establishments, I was induced to call on the Director of Works for a Comparative Statement as above, so that you might be enabled to form an opinion from such a Document (supposing it possible to obtain Competent Contractors) of the expediency or advantage of doing away altogether, or reducing the public Establishments to a lower Scale.

Inability to obtain competent contractors.

Comparison of government and contract work.

I now do myself the honor to transmit for your information the accompanying Copy of a Report received from the Director of Works, together with the Statement called for, by which you will be enabled to judge of the Matter without further remark on my part. It should however be considered, if the idea of having Work done by Contract be abandoned for the present, whether it may not be necessary to add to the Department of Works, so as to render it equal to the performance of what it may be necessary for it to undertake. The Superintendence is so deficient that the Workmen comparatively do nothing. I have stated my opinion very fully to Mr. Hay on this subject in my Letter of the 30th September. In urging this matter, I can have no view but the good of the Service, as the relief, which the Government would experience by the discontinuance of the public Establishments, is in fact incalculable.

Transmission of report.

Proposed increase in department of works.

As a further means of enabling you to judge of the eligibility of Individuals here, who Tender for the erection of Buildings, etc., I do myself the honor to enclose for your information Copy of a Schedule of Tenders lately received for erecting a Quarter for the Surgeon at Liverpool. It will be observed that the Tenders vary from £1,050 to £1,975, which is some proof that, in an undertaking of the Nature of that in question, the price of Labour and of Materials being pretty well known, that some of the parties at least are totally unacquainted with the Nature or extent of the Work in which they are desirous to engage, and that the Government would consequently be exposed to disappointment and embarrassment by accepting the offers of such Persons.

Tenders for surgeon's quarters at Liverpool.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

1830.
3 Oct.

MR. C. WILSON TO COLONIAL SECRETARY MACLEAY.

Sir, Office of Public Works, Sydney, 1st July, 1830.

Reports
required.

I have the honor to acknowledge your Letter of the 26th Ultimo, No. —, directing me to transmit a report of the comparative expence of erecting Buildings by the Department under my direction and by Contract, of the Work generally required by this Government, and to state the particulars on which the calculations of the charges are made when the Work is performed by Government, in accordance with which, I have now the honor to report, first:

Classification of
government
work.

That the works generally required by this Government may be divided into four Classes, Vizt., repairs to Public Buildings, which are not numerous and which I attribute to the badness with which they have originally been constructed, hastily put together with Timber not sufficiently seasoned, etc.

2dly. Small buildings such as Lock up House, temporary Gaols, Watch Houses, Toll Houses in the Country, as may be required by reason of the increasing Population.

3dly. Permanent Buildings in addition to those now standing for increased accomodation, and permanent buildings to replace those falling into decay.

4thly. The Manufacturing in the Shops of the Yard various articles of Furniture, Tools, Carts, Iron Work, Plumbing and Glazing, as also Casting Machinery in the Founders and Mill-wrights Shops.

Method adopted
in estimates.

Secondly. I have to report that the Estimates for work performed by this Department are framed agreeable to the approval of His Excellency the Governor communicated by you to my Predecessor in your letter as per Margin,* that is to say: the Estimate is divided into two heads, Labor and Materials.

Comparative
expense of
government
and contract
work.

Lastly. I have the honor to report the comparative expence of erecting Buildings by this Department and Contract, as appears by the accompanying statement of the particulars on which the calculations are made, that, when performed by this Department, the Cost of Labour is as one to six, and the Cost of Labour and materials, when worked, as one to three, or perhaps in some instances only one to two in favor of Government.

I have, &c.,

CHAS. WILSON, C.E. D.P.W.

[Sub-enclosure.]

Comparative
statement of
prices of labour
and materials.

COMPARATIVE STATEMENT OF PRICES OF LABOUR AND MATERIALS.

Class or Division.	Description of Labour.	Government Prices.		Market Prices.	
		£	s. d.	£	s. d.
Labour and Materials or Articles pro- cured or work- executed by the Labour of Convicts.	Labour of each Convict	per diem	0 0 10	0 0 10	0 0 10
	Timber of all kinds and Scantlings	per running foot	0 0 1	0 0 2	0 0 2
	Shingles.....	per thousand ...	0 5 0	0 10 0	0 10 0
	Laths	ditto	0 5 6	0 10 0	0 10 0
	Posts Morticed	per hundred ...	0 15 0	2 10 0	2 10 0
	Rails	ditto	0 9 0	0 12 6	0 12 6
	Paling	per thousand ...	0 15 0	1 5 0	1 5 0
	Spokes	ditto	0 8 0	1 4 0	1 4 0
	Felloes	each	0 0 3	0 0 8	0 0 8
	Bricks	per thousand ...	0 12 0	1 2 0	1 2 0
	Excavation	per Yard Cube	0 0 3½	0 0 10	0 0 10
	Rough Ashar including Labour..	per foot	0 0 4½	0 0 8	0 0 8
	Chisselled ditto	ditto	0 0 4½	0 1 3	0 1 3
	Setting rough stone ditto	ditto	0 0 0¼	0 0 4	0 0 4
	Flagging ditto	ditto	0 0 2	0 0 7	0 0 7
	Cut Mouldings ditto	ditto	0 0 6	0 1 0	0 1 0

* Marginal note.—29th Decr., 1828.

† Average—Labour, 3/6; Mechanic, 7/.

COMPARATIVE Statement of Prices of Labour and Materials—*contd.*

1830.
3 Oct.

Comparative
statement of
prices of labour
and materials.

Class or Division.	Description of Labour.	Government Prices.	Market Prices.	
		£ s. d.	£ s. d.	
	Lime	per bushel	0 0 6½	0 0 6½
	Hair	ditto	0 0 10	0 0 10
	3 Inch brass headed Nails	per dozen.....	0 1 6	0 1 6
	Pump Tacks.....	per thousand ...	0 5 6	0 5 6
	Spring lachets.....	each	0 4 0	0 4 0
	3 Brass Cocks.....	each	0 5 0	0 5 0
	Double strap hinges weight 14 lb. p. pair	per ponnd	0 9 6	0 0 6
Materials and Articles pur- chased in the Colony.	Sheet Iron	ditto	0 0 8	0 0 8
	Cast Iron	ditto	0 0 4	0 0 4
	Plumbers Solder.....	ditto	0 1 3	0 1 3
	Red Paint.....	ditto	0 1 0	0 1 0
	Rose Pink.....	ditto	0 1 3	0 1 3
	Chrome Yellow	ditto	0 16 0	0 16 0
	Umber	ditto	0 2 6	0 2 6
	Venetian Red	ditto	0 1 0	0 1 0
	Lamp Black	ditto	0 4 0	0 4 0
	Dutch Pink	ditto	0 1 3	0 1 3
	Indigo	ditto	0 16 0	0 16 0
	Lake	ditto	1 5 0	1 5 0
	Any other articles so procured ...	actual cost price
	5 Inch Spikes	per ponnd	0 0 3	0 0 6½
	4 Inch do	per thousand ...	0 10 0	1 15 0
	3 Inch Nails.....	do	0 6 6	0 16 8
	Dog Nails	do	0 6 6	0 6 6
	Batten Nails	do	0 3 3	0 7 6
	Shingle Nails	do	0 3 0	0 4 0
	Flooring Brads	do	0 4 6	0 8 0
	Lath Nails	do	0 3 0	0 3 9
	Brads from 2 to 1 inch.....	do	0 2 2	0 5 0
	All other Nails	per ponnd	0 0 3	0 0 6½
	Hall door draw back locks	each	1 0 0	0 1 0
	Iron rimmed locks 7 to 10 inches	each	0 8 6	0 14 0
Stock locks	each	0 3 6	0 4 6	
Padlocks	do	0 3 6	0 3 9	
Drawer locks	do	0 1 6	0 2 6	
Cupboard locks	do	0 2 3	0 2 6	
Mortice locks	do	0 12 6	0 15 0	
Screws 2 in. 4-, 1½ in. 3/6, and 1 in. 1/10	per gross	0 4 0	0 7 0	
H and H hinges	per pair	0 3 0	0 3 9	
T hinges 12 inch strap	ditto	0 3 0	0 5 0	
Hook and eye hinges	per ponnd	0 0 6	0 0 6	
Butt hinges 2 to 3 inch	per pair	0 0 9	0 2 0	
Revale hinges	do	0 3 6	0 4 0	
Thumb Latches	each	0 0 10	0 1 6	
Flush bolts	do	0 1 9	0 2 6	
Sash Pullies	per pair	0 1 3	0 3 6	
Sash Fastenings	do	0 1 6	0 1 6	
Sash Line	per yard	0 0 2½	0 0 4	
Plate bolts 6 12 and 18 inch	per ponnd	0 0 6	0 0 7	
House bells	do	0 2 0	0 3 0	
Wire	do	0 2 4	0 8 0	
Cranks	each	0 0 8	0 0 9	
Check springs	do	0 0 8	0 1 0	
Iron when wrought into Chimney bars	per pound	0 0 5	0 0 5	
Sheet Lead	do	0 0 2½	0 0 6	
Pig lead.....	do	0 0 2	0 0 3	
Window Glas 8×10 10×12 12×14	pr. 100 ft.	3 0 0	3 0 0	
White Lead	per pound	0 0 4½	0 0 4½	
Whiting.....	do	0 0 1	0 0 3	
Black Paint	do	0 0 9	0 1 0	
Green Paint	do	0 1 9	0 3 0	
Prussian Blue	do	0 8 0	0 16 0	
Yellow Ocre.....	do	0 0 6	0 0 10	
Linseed Oil	per gallon	0 3 0	0 3 6	
Oil of Turpentine	do	0 6 0	0 7 6	
Glue	per ponnd	0 0 10	0 2 6	
Sand Paper	per sheet.....	0 0 1	0 0 1	

[Enclosure No. 2.]

1830.
3 Oct.
Schedule of
tenders for
surgeon's
quarters at
Liverpool.

SCHEDULE of Tenders received for Building Quarters for the Residence of the Surgeon, within the outer Walls of the Hospital at Liverpool, in Pursuance of the Public Advertisement, dated the 13th August, inserted in the Sydney Gazettes of the 17th, 19th, 21st, 24th, 26th, 28th and 31st August, and 2d, 4th, 7th and 9th September, 1830, which Tenders were opened in the presence of the undersigned on the last mentioned day.

No. 1.—Date, Sept. 8, 1830. Name of Offerer—F. E. Forbes. Names of Sureties—Hughes and Hosking and J. Josephson. Amount required by each—£1,493 17s. 6d. Remarks—Any additional Work or alterations beyond those detailed in the specification enclosed in the Tender to be paid for on appraisement.

No. 2.—Date, Sept. 9, 1830. Name of Offerer—Emanuel Marvin. Names of Sureties—Andw. Nash and Saml. Gilbert. Amount required by each—£1,050. Remarks—To be paid by Instalments, one third in advance, one third when roofed, and the other on completion.

No. 3.—Date, Sept. 8, 1830. Name of Offerer—Charles Evans. Names of Sureties—Jno. Campbell and Thos. Chippendale. Amount required by each—£1,975. Remarks—To be Completed, agreeably to Specification, within the time specified.

No. 4.—Date, Sept. 8, 1830. Names of Offerers—James Byrnes, Robt. Gooch and George Hopkins. Names of Sureties—Henry Harvey, Andw. Nash and Thomas Reynolds. Amount required by each—£1,150. Remarks—To be Subject to the Inspection of any Surveyor.

Rejection
of tenders.

Being led to be of opinion on enquiry that £800 to £900 for Completing the building above mentioned would leave a fair Profit to the Contractor, we recommend that the above Tenders be rejected, and either that the Work should be executed by the Department of Public Works, when Circumstances will admit, or that the Director of that Department be authorised to engage a Responsible Contractor for its Completion for a Sum not exceeding Nine hundred Pounds.

WILLIAM LITHGOW,
Audr. Genl.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 62, per ship Gilmore; acknowledged by
Viscount Goderich, 27th March, 1831.)

4 Oct.

Sir,

Government House, 4th October, 1830.

Transmission
of letter from
F. N. Rossi.

I have the honor to transmit for Your Consideration the Accompanying Copy of a Letter addressed to me by the Principal Superintendent of Police, with whom I have had frequent personal Communications on the subject of his Department.

Proposed
assistant police
magistrate at
Sydney.

I informed You, in my Letter of the 21st of October last, No. 114, nearly twelve Months ago, that a Consideration of the Expence alone had prevented me from appointing an Assistant Police Magistrate for Sydney, being satisfied that no one Individual could perform the Duties in a proper manner, which devolved on Captain Rossi.

Some very serious outrages, which were committed in the early part of the Year, induced me to bring the matter under the Consideration of the Executive Council, and I do myself the honor to transmit for Your information the enclosed Extract from the Minute of the Proceedings, which shew what was proposed at that time.

In consequence, however, of the Instructions, Conveyed in Your Despatch lately received, with respect to the increase of Salaries and augmentation of Establishments, I forbore to Act on the measure Contemplated. Captain Rossi, being informed of this, addressed the accompanying Letter to me (Enclosure No. 1) in which he has explained the grounds on which the appointment of an Assistant Police Magistrate is necessary.

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4 Oct.Appointment
postponed.

I am aware that what he has stated is the fact. The treatment, which the Magistrates have received, has indisposed them to act; and I know that feelings of attachment to the King's Government alone prevented their resigning their situations on the occasion of their proceedings in the case of Hall against Hely* being brought into the Supreme Court (as has been lately reported), when they were treated with the most unmerited Contumely.

Objections of
magistrates
to sitting on
bench.

The enclosed replies of Three of the Magistrates to a Circular Letter, requesting they would state whether it was their intention to attend again, the business of the Police Office being at a stand, afford some proof of their feelings on the occasion; and I am satisfied there is no ground to expect that they will ever again come forward as formerly.

It is unnecessary for me to repeat the Arguments made use of by Captain Rossi; but it is a fact that much additional Duty has been thrown on his Office of late by several Acts of Council, which have been passed for the preservation of order and tranquillity; and, as a further proof that an Assistant is necessary, I might instance the existence of that Appointment at Hobart Town in Van Diemen's Land, where the Population bears no proportion to this, and where the lower orders cannot be more profligate or disorderly. It is therefore my intention to place Mr. Windeyer in the situation of Assistant Superintendent of Police, under the Authority and terms of your Despatch of the 7th of December last, No. 172. Mr. Windeyer is a very respectable Man, and has filled the situation of Chief Clerk of the Police for some time, having I understand rendered himself very useful by his knowledge of the Law, to which he was bred. I shall fix Mr. Windeyer's Salary at £350 a Year, as proposed in Council, which is indeed below what the Situation requires.

Reasons for
appointment
of assistant to
F. N. Rossi.Nomination of
C. Windeyer
as assistant
superintendent
of police.

In order to render the Principal Superintendent still more available for the General Police of the Colony, the necessity of which becomes every day more apparent, I have appointed a Bench to be formed of the Officers of the Government, who are in the Magistracy, for the trial of Offenders in the Service of the Crown.

Bench formed
of government
officers for trial
of convicts.

* Note 182.

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4 Oct.

This Bench sits daily, and a Clerk has been appointed to take down the proceedings, make out the Reports and keep the Records. He is also to assist in the office of the Principal Superintendent of Convicts, should his business permit.

Insufficiency in
establishment
of F. A. Hely.

The enclosed Copies of Letters from that officer, who is extremely zealous in the performance of his Duties, will shew the insufficiency of his Establishment.

I trust I need not add that these arrangements have not been made, until they could be no longer delayed without injury to the Public, and that I have not yielded hastily or inconsiderately to the Applications, which have been made for additional assistance in these Cases.

I have, &c.,

RA. DARLING.

Receipts from
publicans'
licenses.

P.S.—As Captain Rossi and Mr. Hely have alluded to the trouble occasioned by Licensing of Publicans, I beg to state that the Receipts on this account Amounted last Year to £3,726. In the present Year, they amount to £5,075, being £1,350 more than the former year.

[Enclosure No. 1.]

MR. F. N. ROSSI TO GOVERNOR DARLING.

Sir, Police Office, Sydney, 3rd September, 1830.

Necessity for
assistant police
magistrate.

From the tenor of the verbal communication, which Your Excellency has recently been pleased to make me, relative to the appointment of a second paid Magistrate to the Police Office, it is with considerable reluctance I again venture to intrude the subject; but my duty to Your Excellency's Government, to the Public, and to myself, compel me to submit for Your serious Consideration not the difficulty only but the impossibility of carrying on the duty of the department confided to my charge without the assistance of such an Officer.

Difficulties of
F. N. Rossi.

2. I have from time to time submitted in writing and verbally the existence of difficulties arising from this cause; and I now beg leave, inasmuch as they are greatly increased, to bring them once more in a succinct manner under Your Excellency's Notice.

Cases requiring
presence of two
magistrates.

3. There is not a day passes without Convict Cases being brought before me, which require the presence of two Magistrates to adjudicate; and Your Excellency must be aware of the great number of Acts of Council, containing penal Clauses to which free persons are subject, which also require the presence of at least two Magistrates. There are also many Statutes of the Imperial Parliament giving summary powers, which can be enforced by such a Bench only.

4. In all the above numerous classes of Cases, it is constantly the practice, for want of a Second Magistrate, to remand them from day to day to the very great inconvenience and expence of the parties and their Witnesses, and to the obvious detriment of the Public Service. It not unfrequently happens that, in consequence of such delay, process is obliged to be renewed. In the granting

of Slaughter-house Licences and Auctioneers' Licences, in taking Recognizances under the Licensed Victuallers Act, and in other Cases, parties applying have from this cause been unavoidably postponed for several days.

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4 Oct.

Cases requiring presence of two magistrates.

5. At this moment, the Chief Constable cannot from the same cause even file the Informations against several persons, who have contravened the provisions of the Licensed Victuallers Act.

6. I send almost daily messages to the Magistrates to request their attendance; but I regret to say my applications are attended with little success.

7. It is clearly impossible for me to remedy the irregularities, which must of necessity arise from these circumstances, and, whilst the whole of my time is as at present given up to sitting in the Public Office, the more important and interesting duties of my department are utterly neglected or inadequately performed.

Unavoidable neglect of duties.

Many reasons may be assigned for the unwillingness of the Magistrates to attend the Bench. I have heard and believe that one of the principal causes is the aversion, which Gentlemen feel to subjecting themselves to Newspaper Strictures, and the distortion of their sentiments and decisions in these Publications. It must also be observed that the great body of Magistrates are mercantile men, and many of them, besides the necessity of attending to their individual avocations, are by law disqualified from acting in Cases under the Licensed Victuallers Act (from their necessary Connexion in trade with Publicans), although such cases are frequent now and likely to be in future of constant recurrence.

Reasons for aversion of magistrates to sitting on bench.

Therefore on looking to the List of Magistrates in the Commission of the Peace, notwithstanding it appears very large, yet, from the Circumstances enumerated, I am of opinion that it would be delusive to expect from them any thing like a *regular* attendance. In practice also, it has been found extremely inconvenient that contradictory views are frequently taken of the same subject by Magistrates who attend only occasionally to their duties on the Bench.

Unlikely regular attendance of magistrates.

8. I am induced, therefore, respectfully to submit for Your Excellency's consideration the "Statement of the Sydney Police" herewith transmitted, which, in the first division under the head of "Authorized Establishment," shews the total annual Expence to be Five thousand, eight hundred and seventy eight pounds. This establishment was proposed by me on the 7th October, 1826, and received the approbation of Your Excellency as communicated to me by the Honorable the Colonial Secretary's letter of the 11th December, 1826; and it has since I believe been sanctioned by His Majesty's Government by Despatch No. 10/1827.

Expense of establishment of Sydney police.

The "Present Establishment" amounts to Five thousand six hundred and thirty eight pounds, sixteen shillings and eight pence.

By the "Proposed Establishment," the annual Expence would be Six thousand and one pounds, sixteen shillings and eight pence, being an excess of expence annually beyond the "Authorized Establishment" of only (£123 16s. 8d.) one hundred and twenty three pounds, Sixteen shillings and eight pence.

9. The amount of Fines and Fees, imposed and collected at the Sydney Police Office for the year 1829, amounted to (£727 11s. 4d.) Seven hundred and twenty seven pounds, eleven shillings and four

Fines and fees collected at police office.

1830.
4 Oct.

pence; and, during the first Six Months of the present year ended 30th June, 1830, they have amounted to (£455 18s. 1d.) Four hundred and fifty five pounds, eighteen shillings and one penny. Your Excellency having also been pleased by Act of Council to appropriate the sums collected for Publicans' Licenses to the use of the Police Fund, there has this year been collected from that source the sum of (£2,875) Two thousand, eight hundred and Seventy five pounds.

10. Your Excellency will be pleased to observe that, when I recommended in 1826 the establishment, which was subsequently approved, I stated that it could only be considered suitable for the then existing period, it being indeed clear that it is impossible permanently to fix an establishment for the Police, which must be extended from time to time as the growth of the Community renders it necessary.

Since the year 1826, it is superfluous to apprise Your Excellency that a considerable number of Convicts have been sent to this Colony, and that a great number of that class of persons have become free by the expiration of their Sentences; and that, from these and other causes, a great increase has accrued to the duties of the Police. It is equally superfluous to attempt to impress upon Your Excellency's mind the very great importance of the Police Establishment in a Community Constituted like that of New South Wales; it must be obvious that on its efficiency the peace and security of this Society must mainly depend.

I would here request to be again permitted to remark that nearly the whole of my time, at present, is taken up in presiding as a Magistrate on the Bench, whilst the organization and superintendence of an active Corps of Police throughout the Colony, attending to representations from the Country districts, and keeping up the necessary communication with the Magistrates in the Interior are wholly neglected. I, therefore, confidently hope that Your Excellency will not deem the trifling Annual addition of (£123 16s. 8d.) One hundred and twenty three pounds, sixteen shillings and eight pence to the expence of the Police Establishment for Sydney (fixed in 1826) as worthy of consideration, when weighed against the great advantages which will result from the more efficient "Proposed Establishment."

11. Under that Establishment (although our Returns and Accounts are becoming more numerous and more complex) I consider that, *for the present*, Four Clerks will be sufficient, except during the press of business occasioned by the Annual Licensing of Publicans, and the preparation of the Jury Lists, when it may be necessary to entertain an Extra Clerk for a short period. Of the Three extra Clerks, who have been employed in bringing up Arrears, two were discharged at the end of last month, and the other will also be discharged at the end of the present month.

12. Should Your Excellency be of opinion that the proposed establishment is not proper for adoption at this time, I have only humbly to beseech Your Excellency that You will be pleased to absolve me from censure, should the Public complain that the duties of the Sydney Police are imperfectly performed, and that the Summary proceedings of the Sydney Bench are productive of expence and delay, in effect amounting to a denial of Justice.

I have, &c.,

F. Rossi, J.P.,

P. Supt. of Police.

Sum collected
for publicans'
licenses.

Inability to fix
permanent
police
establishment.

Increase in
duties of police.

Unavoidable
neglect of
duties.

Establishment
for police.

[Sub-enclosure.]

STATEMENT OF POLICE ESTABLISHMENT AT SYDNEY.

Authorized Establishment.			Present Establishment.			Proposed Establishment.		
No.		Amount.	No.	Amount.	No.	Amount.		Amount.
		£ s. d.		£ s. d.		£ s. d.		£ s. d.
1	One Principal Superintendent of Police.....	600 0 0	1	one	1	600 0 0	one	600 0 0
1	One Chief Clerk	200 0 0	1	one	1	250 0 0	one	200 0 0
1	One Assistant Clerk	72 0 0	1	one	1	150 0 0	one	120 0 0
1	One ditto	50 0 0	1	one	1	90 0 0	one	110 0 0
1	One Chief Constable	150 0 0	1	one	1	150 0 0	one	150 0 0
2	Two Police Officers.....	426 0 0	...	.....	...	.....	.....	.....
8	Eight Wardsmen.....	584 0 0	6	six	8	438 0 0	Eight	584 0 0
16	Sixteen Conductors	949 0 0	12	Twelve	16	711 15 0	Sixteen	949 0 0
48	Forty Eight Patrol Men	2,482 0 0	54	fifty four	48	2,792 5 0	Forty Eight	2,482 0 0
4	Four do for Parramatta Road, Broken Bay, Lane Cove and Hunter's Hill .....	.....	4	Four	4	206 16 8	Four	206 16 8
16	Sixteen Night Constables.....	365 0 0	...	.....	...	.....	.....	.....
1	One Assistant Magistrate.....	.....	1	one	1	350 0 0	one	350 0 0
1	One Clerk of the Records.....	.....	1	one	1	130 0 0	one	130 0 0
1	One Assistant Chief Constable .....	.....	1	one	1	100 0 0	one	100 0 0
1	One Office Keeper .....	.....	1	one	1	20 0 0	one	20 0 0
		£ 5,878 0 0	...	.....	...	£ 5,638 16 0	.....	£ 6,001 16 8

Police Office, 3d Sept., 1830.

F. Rossi, J.P., Pl. Supt. of Police.

1830,
4 Oct.
Statement
re police
establishment
at Sydney.

[Enclosure No. 2.]

EXTRACT from Minute No. 20 of the proceedings of the Executive Council on the 16th June, 1830.

PRESENT:—His Excellency The Governor; The Venble. the Archdeacon; The Honble. The Colonial Secretary; The Honble. Colonel Lindesay.

In reference to the proceedings on the previous day, His Excellency the Governor laid before the Council a letter from F. N. Rossi, Esqr., Principal Superintendent of Police, making various proposals in respect to the Police of the Colony generally and of Sydney in particular, together with certain other Documents connected with this subject, which were severally read.

The Council, after a very full consideration of the subject, were of opinion that it is highly expedient for the general security to remodel the Police of the Colony, and, with a View to effect this object, recommended as follows, "Vizt." :—

1st. That an Assistant Superintendent of Police be appointed for the Town of Sydney, in order to relieve the Principal Superintendent in Carrying on the duties of the Town and to enable him to attend to the Police of the Colony generally.

2nd. That the Salary of the Assistant be Three Hundred and Fifty Pounds per Annum.

3rd. That the ordinary Constables be appointed, as far as Circumstances will permit, from the Men receiving Tickets of Leave, holding out to them such inducements in the shape of rewards for extraordinary exertions, "Vizt.," Apprehending Bushrangers, etc., as would prove a Stimulus to Meritorious Services.

4th. That the Rewards for important Services should extend to Conditional Pardons; and, for the apprehension of desperate delinquents and other Notorious Characters, free Pardons should be granted with a Passage to England.

5th. That the Police form one Corps, and be liable to serve in any part of the Colony, the Station of the Constables being Changed every Six Months.

6th. That the Police wear a Badge on the left Arm, except when employed on any Secret Service, and be Armed with a Carbine and bayonet, a pistol and Cutlass.

7th. That the Police be paid on the first of every Month.

8th. That Neglect of duty, Drunkenness and other offences be punished with dismissal or forfeiture of Pay due, or both, according to the circumstances of the case; and the individual, if holding a Ticket of Leave, be returned to Government.

9th. That every Constable, who shall be employed in any manner not connected with his duty, shall be punished as above.

10th. That no Constable be allowed to engage in business of any kind, or to cultivate Land.

11th. That Pound Keepers be sworn in as Constables, to act as occasion may require, but are not to receive any Pay or Allowance further than the rewards which may be offered for any Special Service.

12th. That the Superintendent of Police and other Stipendiary Magistrates should Visit the different parts of their Districts, once at least in every Month; and that the Chief and other Constables, in whom Confidence can be placed, should be employed in like manner at uncertain periods.

1830.

4 Oct.

Recommendations by executive council for reorganisation of police.

13th. That, with a View to the efficiency of the Police, Boards be immediately appointed in the Several Districts to ascertain the fitness, in point of health, etc., of the Constables for the duties of their Station; And that, previous to the appointment of any Constable in future, he shall undergo a similar examination, if it can conveniently take place, it being clearly understood that the Magistrates are not to employ any Constable or other person, belonging to the Police, on their farms or in their private Concerns, on pain of dismissal from their Office.

1830.
4 Oct.

Recommendations by executive council for reorganisation of police.

A true Extract:—E. DEAS THOMSON, Clk. Col.

[Enclosure No. 3.]

MR. E. WOLLSTONECRAFT TO COLONIAL SECRETARY MACLEAY.

Sir, George Street, Sydney, 29th September, 1830.

I have the honor to acknowledge receipt of your Circular of 21st/22nd Instant, communicating His Excellency the Governor's Observation, "that, in consequence of the non-attendance of the Magistrates at the Police Court, the Dispensation of Justice had been impeded, and the Public subjected to the most serious Inconvenience; and that steps must be taken to render the Magistracy of Sydney effective"; It is further observed, "that His Excellency whether it will be in my power to give up a portion of my time to the performance of this Public Duty, that Arrangements may be made for the regular Attendance of those who may be desirous of continuing in the Commission." It is added "that His Excellency thinks it necessary that the Magistrates should devote such portion of their time to this Public Duty, as the Interests of the Community may require."

Letter acknowledged re magistracy.

An unwearied attention to the Duties of the Magisterial Office for the space of Nine Years will, I presume, Sir, exempt me from the Charge "of impeding the Dispensation of Justice to the Public or of sacrificing the Interests of the Community."

Services as magistrate.

During that long Period, I have never shrank from the Performance of the Duties which pertain to that Office, although my Bodily health and my personal Interests have been considerably injured thereby. These disadvantages have however been overlooked by me, and I should still have continued to devote myself, as formerly, to the Public Service, could I have done so without incurring the unprovoked Attacks, the Odium, and the Malevolence, which for the last two Years have been unceasingly directed against myself, together with all those who may have zealously and conscientiously persevered in the discharge of their Public Duty.

Reasons for recent absence from bench.

This Consideration alone has led to the unwilling absence of myself and several of my Coadjutors from the performance of those Duties, which we are now called upon to resume; and the apparent neglect of which has drawn down upon us the implied reprehension of His Excellency the Governor. But I trust that a due Consideration of the Causes, which led to our Secession, will induce His Excellency to pause upon the Threshold of Consideration, and ultimately to approve of that Conduct, which could alone have been by those who possessed the least regard for their Character or Consistency.

In this Colony, at the present day, Crime and Violence are indirectly fostered and protected, and a success in either is applauded and encouraged. The Detection, therefore, of Vice and Turbulence

1830.

4 Oct.

Public feeling
towards
magistrates.

is viewed as an illegal encroachment upon the Liberty of the Subject, as an unauthorised Attack upon the Rights of Free Men!

The Magistrates, consequently, as the Ministers of such Detection and Punishment, are looked upon as mere Tyrants, and are invariably held up to the Public as objects of Scorn and Hatred. All their Acts are scrutinised with a malicious and jaundiced Eye, and a false or perverted Interpretation is placed upon every Judgment they may deliver, upon every word they utter.

I need not, I presume, recapitulate to His Excellency the foul, the false, the undeserved Attacks, which for so long a Period have been heaped upon the Conduct and the Motives of the Magistrates composing the Sydney Bench in the Performance of their Public Duty. These have been too frequently repeated and too notorious in their Character to have escaped his Observation.

So long, however, as such vituperations were confined to the depraved Organs of a Turbulent Populace, they might still, as heretofore, have been passed by with the neglect and scorn which they deserved; But when, to these Revilings of the Mob, were added the Censures of dignified Persons, whose Opinions possess a paramount Weight in our Society (but from whom a different Line of Conduct might reasonably have been expected), when these grave Personages were found, re-echoing the Shouts of the Factious and the Discontented! the Evil assumed a more imposing Aspect; and the injury, likely to arise therefrom, became sufficiently alarming, and called for the serious Consideration and the prompt decision of those Individuals, who were thus placed under the Ban of one Class of their Enemies and the virtual Excommunication of the other!

In this emergency, one Resource only remained to the Magistrates, that of absenting themselves from all Public Duties, and this they have accordingly adopted!

I shall not now stop to enquire whether the Conduct, pursued by the Censures, originated in a petty Jealousy or in an undue thirsting after a low Popularity! It is sufficient for me to know that the Evil has had Existence, and still continues to exert its Influence on the Public Mind; and, as I feel that I do not now possess either that health of Body or that buoyancy of Mind, which might heretofore have led me to a willing encounter with this Political Gorgon, I must satisfy myself, by avoiding all Contact with its Influence, leaving to others, who are more competent, the Task of ridding our Society of this Moral Pestilence.

So long, therefore, as this Evil is permitted to exist, so long have I determined to cease from all Attendance upon the Magisterial or other Public Duties; and, with a knowledge of this Determination, I most respectfully leave to the Decision, to the Justice of His Excellency, whether my Name shall or shall not appear in the forthcoming Commission.

I have, &c.,

EDWD. WOLLSTONECRAFT.

[Enclosure No. 4.]

MR. G. BUNN TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 25th Sepr., 1830.

I have the honor to acknowledge the receipt of Your Letter of the 21st inst., requesting to know whether I would give up a portion of my time to the duties of the Magistracy of Sydney, in order that arrangements might be made for the attendance of Magistrates in rotation.

Letter
acknowledged
re magistracy.Attacks on
bench at
Sydney.Withdrawal
of magistrates
from bench.

I beg to acquaint You, for the Information of His Excellency the Governor, that I am as equally willing now as I ever have been to take an active part in the duties of the Magistracy, and will cheerfully renew the same whenever I am assured that the Magistrates are no longer to be the objects of scorn and derision they have, on so many occasions, been made by the Press, a portion of the Bar, and the Bench; but, held up to ridicule by the Press, constantly abused by certain members of the Bar, unchecked by the Judges, and charged by the Judges themselves "to say the least with *obliquity of Conduct*," and therefore ordered "to pay the Costs," as you must be well aware many of my brother Magistrates and myself were for doing that act, which we are now ordered by His Excellency to make the Rule of our actions in similar Cases. I feel I cannot consistently take a more active part than I have recently done since that occurrence; but this, I think, on enquiry will be found equal to any rotation of duty that can fall to my share.

At the same time that I feel called upon to express these feelings, I beg you will assure His Excellency the Governor of my devoted attachment to His Government and Person, and that that alone prevented my tendering my Resignation at the time these circumstances occurred, knowing that a large proportion of the Magistracy would have done the same, and thereby have deprived His Excellency of that support to His Administration, which he has a just right to expect from the Gentry of this community, and which I shall be the last in the Country to deny him. I have, &c.,

GEO. BUNN.

[Enclosure No. 5.]

MR. W. BROWNE TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 24 September, 1830.

I have the honor to acknowledge the receipt of your Letter of the 21st instant, stating that, in consequence of the non-attendance of even a single Magistrate at the Police Court in Sydney, the dispensation of Justice had been much impeded and requesting to know, previous to His Excellency the Governor revising the Commission of the Peace, whether it will be in my power to give up a portion of my time to this important public duty.

In reply, I beg to state, for the information of His Excellency the Governor, that, from the insult, and derision, with which the Magistrates have been treated, and myself in particular, by a scurrilous press, together with the recent occurrences in the Supreme Court, to which I most reluctantly allude, that as a Magistrate it has long ceased to be either a source of gratification or pleasure to me to give up a portion of my time to the public, and I must here declare that, had it not been for the high estimation I have ever held for His Excellency's Government, and sincere attachment to his person, no other inducement for one moment would have prevented me tendering my resignation as a Magistrate.

With a sincere hope, however, that we may not again be subject to such annoyances, I beg you to assure His Excellency that I am ready to take my share of the Duties of the Police Court in Sydney, taking leave to observe at the same time that, during the Sittings of the Supreme Court, the Magistrates are now subject to attend as Assessors and Special Jurors, which must of necessity make their attendance at the Police Office uncertain.

I have, &c.,

W. JEMMETT BROWNE.

1830.
4 Oct.

Objections to sitting unless exempt from abuse.

Reasons for withholding resignation as magistrate.

Letter acknowledged re magistracy.

Objections to sitting whilst subject to abuse.

1830.
4 Oct.

[Enclosure No. 6.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Sir,

P. Supdt. of Conv. Office,
Sydney, 26th July, 1830.Business of
bench at Hyde
park barrack.

In reply to your Letter of the 20th instant, which has reference to the Amount of business that will form the probable average of the sittings daily of the Bench in Hyde Park Barrack, I beg leave to say that, with the limited experience which a fortnight or three weeks' sittings affords, it would be difficult if not impossible to form an estimate of what may be the general average in the year. The enclosed Return, however, will shew what has been done since the Court of General Sessions alluded to was Established. But the minuting of Evidence is not the only business, which will devolve on the Clerk of that Court.

Duties of clerk.

Warrants are to be made out and the Returns furnished, which are required by the Act of the Governor in Council, called "an Act for instituting and regulating Courts of General quarter Sessions in New South Wales."

Some correspondence also will naturally result from the examinations which will from time to time occur, and, with the charge of Stationery, Office Records, and of the Office itself (which is to be distinct, and at some distance from mine) will require nearly the whole time of one person.

Request for
appointment of
special clerk.

Under the circumstances, I again submit very respectfully, for the Governor's consideration, the necessity of appointing a Clerk for that duty, as I cannot permit one from my own Office to undertake it without relinquishing responsibility for the due performance of its duties, an alternative to which I am certain His Excellency would not desire to reduce me.

Police business
performed
in office of
F. A. Hely.

I also beg leave to remind His Excellency that no small portion of the business (that connected with the Ticket of Leave Men of Sydney and its surrounding Districts) done in my office is *extraneous to it*, and more properly belongs to the Police of the Town; and, when I was first charged with it, it was with a view of relieving the Police Establishment of a duty, which it was considered (under its existing organization) it was unequal to. Now again is a large share of the business of that Department withdrawn, and virtually handed over to mine, which arrangement will for the present at least save the public the expence of a Second Police Office in the Town. I trust, therefore, I may not be deemed unreasonable in expecting that adequate assistance will be afforded for the conduct of it.

Necessity for
"muster-
master."

His Excellency is doubtless aware that, at Hobart Town, Van Diemen's Land, where the Police and Convict Departments cannot have more than one fourth of the business, which the corresponding Departments in this Colony have to perform, there is, besides a Superintendent of Police and a Superintendent of Convicts, an Officer called the "Muster Master," who is especially charged with all details connected with temporary remissions of the Sentences of Convicts, Records of Delinquencies, Musters of Ticket of Leave holders, etc., etc. If such an Officer has been found necessary to the efficient conduct of the public business in that small Colony, how much more should he be required here, where the business so much greater in amount, and, as regards my department particularly, so much more widely ramified.

I have but to add that the name of the Clerk who is about to quit my office, having lately received a Ticket of Exemption to enable him to live with and support his Wife, is William Nixon Wright.

1830.
4 Oct.

I have, &c.,

FREDK. A. HELY.

[Enclosure No. 7.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Sir. P. Supdt. of Conv. Office, Sydney, 12th August, 1830.

Adverting to your letters of the 10th instant, the first directing that notices of Special Assignments of Female Convicts should be furnished to the managing Committee of the Female Factory, and the other that M.S. lists of all Convicts, who are absent Six Months, should be transmitted to you quarterly for the information of Mr. Capper, Supdt. of Convicts in England, I have the honor to refer you to my Letters addressed to you as per Margin,* in which I have submitted the necessity for the appointment of an additional Clerk in this Office, as well as one for the Court of General Sessions appointed to be held at Hyde Park Barracks, and to express my regret at my inability to furnish the Returns required or even to accomplish the business already in my charge without additional assistance.

Inability to make returns without additional clerks.

Since the Establishment of Clerks for my office was fixed, the business devolved on it by new Laws and Regulations of the Government has been considerable, and, altho' I believe I work as hard and am as constant in my attention to its duties as any other Officer under the Government, I find I cannot keep it from falling into arrear.

Increase in business of office.

The importance of the duty may be deemed inconsiderable, yet the actual labor is not the less on that account.

Reverting to the subject of your Letter 30/641, I beg permission to state it as my belief that, until a regular Government Gazette is established, in which the name of every Runaway Convict can be published weekly and remain therein until apprehended (as is the case at present at Van Dieman's Land and was so until the year 1824 or 5 in this Colony), the advantages, great and powerful as they undoubtedly are to be gained by such publicity in the effectual Surveillance of so large a body of Convicts as are in New South Wales, will be but half attained.

Publication of lists of runaway convicts.

Under the existing System, a Runaway is Gazetted but thrice in the Gazette and is then withdrawn; he is afterwards published in the quarterly Return for twelve Months, and withdrawn altogether; thus what between the haste and consequent inaccuracies of the Gazette, and the very great delay, which generally occurs in the printing of the quarterly Return, together with the irregularity of the Reports from private persons, etc., Runaway Convicts are often lost sight of altogether.

From these causes also, no quarterly Return was published as should have been for January last.

With regard to the presumed escape of Convicts from the Colony, it cannot be denied that many do escape. To effect a check on the frequency of this, I would propose that the Act of Council No. 10/1825 should be amended, and a Penalty levied on every Expiree,

Measure proposed to check escape of convicts.

* *Marginal note.*—2d July, 1830; 2d July, 1830; 6 July, 1830; 10 July, 1830.

1830.
4 Oct.

who, after having cleared out at my office for any other part of the World, should be found in the Colony, unless he gave satisfactory reasons for it.

Proposed
regulation of
departures.

I would further propose that, on clearing out, his Certificate or other instrument of freedom should be cancelled, and a Clearance or Passport given him in its stead, and that the names of such persons should be publicly advertized weekly as having so cleared out or obtained Passports with the view of leaving the Colony; this would afford some check on a practice which has, I have no doubt, obtained, namely that of Expirees clearing out under pretence of quitting the Colony and then handing such clearance over to another.

I have, &c.,

FREDK. A. HELY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

5 Oct.

Sir,

Downing Street, 5 October, 1830.

This letter will be delivered to you by Mr. Iceley, who has applied to this Department in order that instructions might be issued to you for extending his present Grant of Land in New South Wales in proportion to his Capital.

Report required
re land grant
for T. Iceley.

I am directed by Secretary Sir George Murray to transmit to you the accompanying copy of a dispatch, which was addressed to you by direction of Mr. Huskisson on the 2d of Novr., 1827, and I am to request that you will report to the Secretary of State the reason why these instructions have not been already carried into effect.

I am, &c.,

R. W. HAY.

[Enclosure.]

UNDER SECRETARY HORTON TO GOVERNOR DARLING.

Sir,

Downing Street, 2nd Novr., 1827.

I have had the honor to receive and to lay before Mr. Secretary Huskisson your letter of the 24 March last, accompanied by a Copy of one which you had received from Mr. Iceley on the subject of his application for an additional Grant of Land equal to the Capital which he has embarked in the Colony.

Instructions
re land for
T. Iceley.

In consideration of the special circumstances of Mr. Iceley's case, and the losses which he sustained on the occasion adverted to in Lord Bathurst's dispatch of the 8th of July, 1825, Mr. Huskisson is of opinion that it may be perfectly safe in principle to allow Mr. Iceley to have such farther quantity of Land granted to him on the Quit Rent system as will, together with that which he has already received, give him 6,000 acres in the whole, reserving at the same time 4,000 Acres near him, if convenient, for purchase at any time when he has brought the other into cultivation.

Necessity for
definition of
terms re land
grants.

As the expression "Grant without purchase" when alluding to a Grant, on which a Quit Rent is chargeable, is calculated to mislead persons as to the terms upon which Lands are now held in the Australian Colonies, I am directed to call your attention to the subject with a view to a clearer definition of the two descriptions of Grants. By the phrase at present in use, a Grant of the nature of that to which I have adverted is not unfrequently considered as being a

* Note 7.

gratuitous one, whereas by paying an annual rent instead of a definite sum of money, the Grantee does to all intents and purposes pay for the Land, which he occupies, although the system under which the price is paid differs from that which takes place in the case of the more direct purchaser. Mr. Huskisson proposes therefore to substitute in the former case the expression of "Grant subject to Quit-Rent" in lieu of that heretofore adopted of "Grant without purchase."

1830.
5 Oct.

Term proposed.

I have, &c.,

R. W. HORTON.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 63, per ship Gilmore; acknowledged by
Viscount Goderich, 23rd March, 1831.)

Sir, Government House, 5th October, 1830.

I am sorry to have occasion to report that the Colony has been a good deal disturbed of late by "Bushrangers," who have put on a more formidable appearance than heretofore. In the earlier part of the year, they infested the Roads about Parramatta and Committed Several Acts of Outrage even in the Neighbourhood of Sydney. The Leaders of two Parties, MacNamara and Donahoe,* who had been long at large, were both Shot in an encounter with the Police, and several Men have been executed.

Outrages by
bushrangers.

Leaders shot
and men
executed.

A Party of from 12 to 15 in Number, lately assembled at Hunter's River, plundered the Settlers of Horses, Arms, etc., and with difficulty were driven from that part of the Country, it having been impossible to come up with them after the first Skirmish, in which three Men were Killed, from the Circumstance of their being all well Mounted. They directed their Course across the Country towards Bathurst, and I am sorry to add that the Men belonging to one of the Establishments in that District, about 13 in Number, have recently risen, and, proceeding to the neighbouring Farms, plundered them of what was necessary for their Equipment. They are now well Armed and provided with Horses. Parties of Troops and of the Mounted Police were immediately sent in pursuit, and the latter, having come up with them, I regret to state were beaten off and obliged to retire with the loss of two Men and five Horses after a very smart engagement, which I am informed continued a quarter of an hour. It is the more to be regretted as an incident of this Nature cannot fail to encourage such of the Convicts as may be disposed to join them in the same degree as it depresses the Settlers. Many of the latter in the first Moments of Alarm quitted their Farms, and the Consternation was pretty general. I lost no time in sending reinforcements of Troops to the different Stations and of placing Detachments so as to furnish Guards over the Iron Gangs and Road Parties, as should these

Mounted gang
driven from
Hunter river.

Bushrangers
near Bathurst.

Defect of
mounted police.

Alarm amongst
settlers.

Repressive
measures.

1830.
5 Oct.Mounted police
to be increased.

people rise, who are 1,500 in number, the Consequences might prove of the most serious nature. Our deficiency however, at this moment, is in a Mounted Force, as the Infantry have no chance of coming up with the Bushrangers, who seize on fresh Horses, whenever they require them. I have therefore made arrangements for immediately augmenting the Mounted Police, which at present consists of about 68 Troopers, to 100 in the first instance, so as to encrease their numbers at the three principal Stations, the North, West and South, to such an extent as will enable them to Act with effect at once in checking any disposition to revolt, which may appear on the part of the Convicts.

Outrages
by natives.

I am sorry to observe that the Natives have also Manifested a disposition of late to be troublesome. They have Killed Cattle at Several Stations, which has hitherto been unusual, and have menaced the Settlers on the borders of Argyle and St. Vincent. The almost boundless extent of this Country will render a large Mounted Force necessary, should the Natives proceed to the same lengths as at Van Diemen's Land. The Accounts, which I have received from Lieut. Governor Arthur, the particulars of which have no doubt been communicated to you, have induced me to place a much larger Force at his disposal than can be conveniently spared from this; but I have made the exertion previous to forwarding the 57th Regiment to India, being aware of the importance of the Atrocious proceedings of the Natives being promptly and effectually checked.

Military
assistance sent
to G. Arthur.

I shall do myself the honor to report by the next opportunity the completion of the arrangements, which are now making for the Augmentation of the Mounted Police, and shall be glad, if enabled to inform you that the country has been Cleared of Bushrangers, and the Natives have ceased their hostility.

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 64, per ship Gilmore; acknowledged by
Viscount Goderich, 28th March, 1831.)

6 Oct.

Transmission
of application
from
C. D. Riddell.

Sir,

New South Wales, 6th October, 1830.

I have the honor to transmit herewith an application on the part of the Colonial Treasurer, C. D. Riddell, Esqr., for a Building Allotment in the neighbourhood of Sydney, and to state that I am not aware there is any objection to his request being Complied with.

I have, &c.,

RA. DARLING.

[Enclosure.]

1830.
6 Oct.

MR. C. D. RIDDELL TO SIR GEORGE MURRAY.

Sir, Sydney, New South Wales, — October.

I have the honor to request that permission be given to his Excellency the Governor to grant me a building allotment, according to the rules and regulations under which such grants are usually made.

I have, &c.,

C. D. RIDDELL, C.T.

Request by
C. D. Riddell
for building
allotment.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 65, per ship Gilmore; acknowledged by Viscount Goderich, 29th March, 1831.)

Sir, Government House, 7th October, 1830.

7 Oct.

I have the honor to transmit, as required by your Despatch of the 31st of July, 1828, No. 17, the written opinions of the several Members of the Legislative Council, on the subject proposed in the 6th Paragraph of the above Despatch, Vizt., "As to the expediency of an alteration of the Law in this respect (i.e., the Constitution of Juries in Criminal Cases), and as to the specific alterations which it would be most desirable to make."

Transmission
of opinions *re*
constitution of
juries.

It may be proper to explain that I delayed calling on the Members for their opinion, being desirous of affording them an opportunity, and of ascertaining myself how the Juries, appointed under the Act of Council No. 8* of last Year for the trial of Civil Issues, would acquit themselves.

Delay in
obtaining
opinions.

I had come to the opinion previous to the receipt of your Despatch of the 7th of April last, No. 18, informing me of the alteration, which had been determined on, that it would be inexpedient to interfere at present with the constitution of Juries, as established by the 5th Sect.* of the 9th Geo. 4th, Chap. 83rd.

Inexpediency in
alteration of
constitution of
juries.

It now appears unnecessary to enter into the grounds of this opinion, which, however, may be gathered from the Letters of the Members of Council (several of which are highly deserving attention), conceiving the question originally proposed to have been virtually set at rest by the determination communicated in your Despatch above referred to. I shall therefore, rather than repeat their observations, take other Views of the subject which they do not appear to have contemplated.

I was partly led to the conclusion I have come to by a conscientious belief that the present Juries have discharged their duty faithfully and impartially; and that, in the present state of this community, there is no chance of their being replaced in a Manner, which would be equally advantageous to the general interests of the Public. It might with truth be observed, if the Military Juries have erred, it has not been in endeavouring to

Opinion by
R. Darling
in favour of
military juries.

1830.
7 Oct.

Opinion by
R. Darling
in favour of
military juries.

serve the Government. They have been so constantly kept alive, in every case in which the Government has been concerned, as to the manner in which their Verdict would be scrutinized, that it would have required something more than common self control to have been uninfluenced by the Appeals made to their feelings and situation.

The Parties immediately interested and their Counsel have been so well satisfied that they had no ground for Complaint, that there has not, that I am aware of, been a single murmur or whisper of disapprobation; the point, which has been conceded, therefore appears purely a Matter of grace, a concession to popular prejudice which no man can wish more earnestly than I do, may prove to have been well bestowed, though I cannot but apprehend its consequences.

As an abstract question, there can be no difference of opinion; but, so long as there is an essential distinction between the Character of the Mother Country and the Colony, I cannot but doubt, and I express it with deference, the advantage of conforming, for the sake of conformity, to the system pursued in the Mother Country. It is universally admitted that this is a Colony of a peculiar and anomalous Character, very unlike the Mother Country; and therefore I should think unsuited to the same system of Government. I am indeed of opinion, from the experience I have derived from my situation here, that no Colony, so long as it continues to be a receptacle for Criminals, can receive with advantage, or be considered eligible to the possession of the English Constitution.

Constitution
of juries in
England
unsuitable in
N.S.W.

It might also be observed, under another view of the Subject, that those, who come to settle or reside here, must be fully aware of the circumstances of the Colony. It cannot then be unreasonable to expect that they should conform to that System of Government, which is considered necessary to its Character. Those, who come Voluntarily to reside in a Penal Settlement from interest or other motives, can have no right to demand the introduction of Laws, which are inconsistent with the Management and conduct of a Population chiefly composed of Convicts, or who, if not so immediately, were originally Convicts, any more than they could justly claim to be governed by English Laws, should they think proper to reside in any foreign Country.

Settlers to
conform to
system of
colonial
government.

If I have pursued the subject further than is necessary under present circumstances, I have been led to do so from a desire to view it in its different bearings; and I would hope that the observations now offered will furnish an irrefutable answer to those who clamour, as they are urged by a few busy Malcontents, for "Trial by Jury and a Legislative Assembly."

As to the Population generally, I am satisfied if polled, the more reflecting and best informed would be averse from change, and that the lower orders, who sign Petitions merely because they are solicited, would be found totally indifferent about the matter, and who in fact have never bestowed a thought on the subject.

1830.
7 Oct.
Public opinion
averse to
change.

Having stated my opinion and offered such remarks as have appeared necessary to the subject, I beg, Sir, to assure you, which I do with the utmost sincerity, that I should be gratified in the extreme, could I think that circumstances admitted of the Military Juries being dispensed with without prejudice to the public interests. It would be a proof of the improved condition of the Colony, in the success of which I am deeply interested. I might add, as a further reason though of less importance, that it would contribute to my own ease and the convenience of the public service, the employment of the Military in this manner having frequently proved extremely embarrassing and occasioned me personally much trouble and anxiety.

Personal
feelings of
R. Darling *re*
military juries.

I have, &c.,

RA. DARLING.

P.S.—Mr. Lithgow, the Auditor General, being absent from Sydney in Consequence of ill Health, it is not in my power to forward his opinion by the present opportunity; But I hope to be enabled to do so by the Next.

Inability to
forward opinion
of W. Lithgow.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Sydney, 5th October, 1830.

I have the honor to acknowledge the receipt of two Circulars, addressed to me by Your Excellency under the respective dates of the 17th of August, and the 13th of September, 1830, in which Your Excellency requests that I would state, for the information of The right Honorable the Secretary of State, my opinion upon the two following points:—

Opinion by
F. Forbes *re*
trial by jury
in criminal
cases.

First, "As to the expediency of an alteration of the law with respect to trial by Jury, as pointed out in the 5th Section of the 9th Geo. 4th, c. 83, in criminal cases"; and,

Secondly, "As to the specific alteration which it would be most desirable to make."

In compliance with the request of Your Excellency, and in obedience to the commands of the Secretary of State, I have the honor to submit the following as my opinion upon the points referred to.

First, After an experience of many Years, during which I have tried a great number of Criminal Cases, with the assistance of Officers of His Majesty's Forces, I can truly affirm that their Verdicts have been always considerate and just, and tempered, perhaps, with a greater degree of clemency than would have been shewn by a Jury, composed of the Civil Inhabitants of the Colony. The propriety of the Verdicts of the Military Juries has never been questioned to my knowledge in any cases of felony or ordinary misdemeanor. But I apprehend that mere correctness in finding

1830.
7 Oct.

Opinion by
F. Forbes *re*
trial by jury
in criminal
cases.

their verdict forms but one, and that not the primary virtue of trial by Jury. The essence of this mode of trial consists in its entire exemption from all supposable means of influence and in the consent of public opinion. To secure these objects, the Jury lists are made up of the whole of the middling classes of the community; the Jurors are returned from the County, where the action is laid, in every cause is formed by ballot, and is open to challenge for the smallest degree of presumable bias, either in the Jurors themselves or in the Officer who returns them. A Jury composed of Officers of the Army or Navy wants these essential qualities of a common Jury. They are a small body in the State; they are governed by a code of laws peculiar to themselves; they have not that community of interests and feelings with the accused, that reciprocity of rights and obligations in the society to which they belong, which is essential to the notion of peers or equals, as they are understood in a legal sense, and which gives such peculiar force to the verdict of the country as the finding of a Jury is emphatically called. They are nominated also by their commanding officer, who is at the same time the head of the civil Government, and they are not liable to be objected to except upon the ground of direct interest in the event of the trial. From these causes, as well as from a strong national prepossession in favor of trial by Jury, I have found that the better order of Inhabitants have shewn as much repugnance to be tried by a Jury of Officers for a Civil Offence, as Gentlemen of the Army would probably evince at being tried upon a Military charge by a Jury of Civilians.

Another consequence of the present system is the want of that necessary support to the Judge, which is afforded by the operation of Juries according to law in England. The functions of the Judge and the Jury are well understood, and accurately distinguished by the public, and the Judge is shielded from the reproach of disappointed parties. The law is written, and cannot be misrepresented by the Judge; the facts are found by the Jury, and the opinion of the public goes along with their finding, and improper motives are never imputed to the Judge or to the Jury.

As a practical question, arising out of the peculiar state of society here, I have formed an opinion, after much experience, that there are sufficient Materials for framing Juries in this Colony; that the supposed party spirit and mutual mistrust between the free and the freed population, which are apprehended in England to prevail to such an extent in New South Wales as to influence the feelings of Juries, are not founded in fact; and the Verdicts of Juries in this Colony are as likely to be just and temperate, as the verdicts of Juries in any parts of His Majesty's dominions.

Secondly, I am of opinion that, until the establishment of Circuits in pursuance of the 13th section of the New South Wales Act, it will be impracticable to try all the criminal cases, which are presented to the Supreme Court, by means of Juries composed of the Inhabitants of Sydney and its vicinity. The number of persons on the Jury-lists in Sydney is too limited with reference to the frequency of crimes among the convict population, and the numerous cases to try, to admit of so much of the time of the Sydney Jurors being applied to the Criminal business of the Colony, as would be necessary for its despatch without a great sacrifice of private interests and much public inconvenience. I think, therefore under all circumstances, that the ordinary course of trial should be left

as it is at present. But that in all prosecutions, to which Government is in any manner either directly or indirectly a party, it should be left in the discretion of the other party to apply to the Court to have a Jury of freeholders. I think also that it would be attended with a considerable saving of expence to the public to introduce regular circuits of the Court, with the appendage of Common Juries, for the trial of Offences in distant parts of the Colony.

I have, &c.,

FRANCIS FORBES,

Chief Justice, New South Wales.

1830.
7 Oct.

Opinion by
F. Forbes *re*
trial by jury
in criminal
cases.

[Enclosure No. 2.]

ARCHDEACON BROUGHTON TO GOVERNOR DARLING.

Sir, Sydney, 14th September, 1830.

Your Excellency's Letter of yesterday's date having conveyed to me your desire to receive at my earliest convenience a reply to your communication of the 17th ultimo, relating to the expediency of any alteration in the Law of Trial by Jury, and the specific alterations which it would be desirable to introduce, I have the honor to forward that Statement of my views, which had been reserved in expectation of the almost immediate assembling of the Legislative Council.

Opinion
by Revd.
W. G. Broughton
re trial by jury
in criminal
cases.

Some late proceedings in the British Parliament would appear to intimate that a determination has been already formed to extend the mode of trial by jury to all cases, in which the members of Government are parties interested.

If the only remaining question be as to the application of that mode of trial to cases of crime properly so called, that is to indictments to violence offered to life, person or property, or for perjury or other infamous offences, or for libels upon private individuals, it may I conceive be very quickly determined. So much having been conceded, little remains which can excite difference of opinion. Indeed I do not perceive the advantage of retaining military juries, if their sole province is to be the trial of the last mentioned class of criminal indictments.

It is true that, in the greater proportion of such causes, the parties either are or have been convicts; and it is too evident to be disputed that the persons termed emancipists, of whom the juries would be in a great measure composed, have an habitual leaning towards the convict class. At the same time, acting upon their oaths before the eyes of the court and of the public, intermingled, as the chances are that they would be in every pannel, with free persons having no bias for or against the accused, and above all knowing how necessary it is for the security of their own persons and properties that the guilty should not escape punishment, I do not think that the emancipists would suffer their verdict to be influenced by consideration of the class to which the accused belonged, nor that they would feel any undue reluctance to condemn, when the evidence plainly required it.

The question however of the greatest importance, and requiring to be treated with the greatest caution, is that which relates to the adoption of Trial by Jury in causes of a public nature. It must not be lost sight of that occasions may and will arise, requiring the

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Government, upon exclusively public grounds and for the maintenance of its authority as a Government, to institute criminal prosecutions, in the result of which the members of the Government individually are no farther interested than as all men must be interested in the due execution of the Laws. Let it be supposed that a crisis should occur here resembling that of the Manchester meetings in England in 1819. I cannot conscientiously express my belief that the state of public feeling affords security for an impartial decision on the part of Juries, for I do not think that they would come to the consideration of such cases with unprejudiced minds. Any immediate alteration in the constitution of criminal courts, which shall have the effect of bringing before a Jury all cases in which the Government is in any way concerned, such cases for instance as I have supposed of seditious obstruction to its proceedings, I must accordingly hesitate in regarding as judicious or as likely to promote the public good.

I shall endeavour to state my reasons for that hesitation, although I am aware how difficult it is, in a case of pure expediency, to render evident to others the force of the considerations, which have influenced an individual in forming his own judgment, especially when his conclusions are the result of a course of observation upon circumstances separately minute, and only in the aggregate possessing the weight, which is necessary to determine the inclination of his mind.

Upon such a course of observation, neither negligent I trust nor prejudiced, I am persuaded that the sentiment of obedience is so imperfect here that all restraint, beyond what is necessary for the repression of personal violence, finds little support in public opinion. There is a predisposition to believe that every man, who sets himself in opposition to such restraints, is morally innocent, though he may be legally guilty. Such persons are sure to have a perverted popular feeling on their side; and, if, under the influence of general excitement, juries should be found resolutely predetermined not to convict, the Government may be braved with impunity, and must be exposed to embarrassments with which it is not powerful enough to contend.

I am not insensible to the objections in principle to which military juries are liable, objections which naturally strike with great force the minds of persons in England legislating for this Colony, but to which I do not find that equal weight is attributed here. At all events, it should be constantly borne in mind that, if military juries may be suspected of carrying a bias in favor of Government, the alternative on their discontinuance is but the substitution of another description of juries concerning whom it may be, with at least as much justice, maintained that they have a bias against it. Looking at the relative situations of the parties, and at the nature of the causes in which they are likely to be engaged, I cannot but think that, upon questions accompanied with party-feeling, the verdicts of the military are most likely to recommend themselves to the approbation of impartial men. That ascendancy of Government, which may be supposed, without their own consciousness, to influence the judgments of officers in His Majesty's Service, is as nothing compared with the control which, from the present state of property, individuals have the power of exerting over nearly the whole of those classes from which Juries are principally derived.

At the same time, however, that these sentiments are entertained, I should without hesitation advise the immediate discontinuance of military juries, if I could be persuaded that through their partial adoption there was any danger of the Colony being ultimately deprived of Trial by Jury according to the regular constitutional form. But I can discover no grounds for such an apprehension. That form has been naturalized among us by the Act regulating the constitution of Juries for the trial of Civil Issues. The employment of the military is acknowledged on all sides to be only a temporary expedient, which does not prevent the people from enjoying to a great extent the advantage of being tried by their equals, or from becoming habituated to discharge the functions of jurymen.

It is much to be hoped that progressive improvements in the state of society will speedily admit of their being called in all cases to serve in that capacity; but, for the reasons above-stated, it is my opinion that the period, when this may be done with full security, has not yet arrived.

I have, &c.,

W. G. BROUGHTON, M.L.C.

[Enclosure No. 3.]

COLONIAL SECRETARY MACLEAY TO GOVERNOR DARLING.

Colonial Secretary's Office,

Sydney, 11th October, 1830.

Sir,

I have had the honor of receiving the Circular letters of the 17th August and 13th Ultimo, which Your Excellency addressed to me as a Member of the Legislative Council of this Colony, requiring me to state, for the information of His Majesty's Government, my sentiments as to the expediency of an alteration of the Law with respect to Trial by Jury, as pointed out in the 5th section of the act of 9th Geo. 4th, Chap. 83, which directs that all issues of Fact on Criminal Informations shall be tried by one or more of the Judges of the Supreme Court and seven Commissioned Officers of His Majesty's Sea or Land Forces, whether on full or half pay, and as to the specific alteration which it would be most desirable to make.

Having fully and maturely considered this very important subject, I have now the honor of stating to Your Excellency that, although I think that Trial by Jury according to the Law of England ought to be extended to this Colony, as soon as the state of the Population will admit of this being done without extreme inconvenience, yet I am decidedly of opinion that it is not expedient at present to make any alteration in the Law with respect to the Trial of Criminal Cases, or at least those cases in which the Government is not immediately concerned. The experiment, made under the authority of the late New South Wales Act and with the sanction of His Honor the Chief Justice, of trying Criminals in the Courts of Quarter Sessions by means of Grand and Petty Juries, has proved beyond all doubt that this Colony is not yet sufficiently advanced to receive such Institutions. Those Juries were originally summoned from among the most respectable part of the Population; but the difficulty of procuring a sufficient number of Persons of this description out of Sydney soon led to the summoning of Persons, who, independently of their supposed legal disqualification by having been attainted Felons and become free only by expiration of

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Sentence, were absolutely unfit to sit on any Jury on account of their ignorance and their drunken and immoral Habits. Even the Grand Juries were partly composed of Persons of a similar description, the distinguishing qualification of a Grand Juror having been merely reputed Property, and an instance actually occurred of a Gentleman finding himself sitting on a Grand Jury with an Individual, who had a short time previously been his assigned Convict Servant. It is generally understood that those Juries, especially the Petty Juries, shewed much lenity towards offenders, and I have the authority of the Chairman of the Quarter Sessions and of the Clerk of the Peace for stating that the business of the Quarter Sessions has gone on better with regard both to Justice and dispatch, since the commencement of the Military Juries under the present Law, than before. Indeed I am perfectly convinced that no Jury of Colonists, however respectable they may be, can be more strictly just in their decisions than a Jury composed entirely of Military Men, who have no local prejudices or partialities to indulge, and who will therefore always decide according to the evidence brought before them. That such is and has been the uniform conduct of the Military Juries in this Colony will, I am satisfied, be allowed by all the Judges, as well as by every other Person who is capable of forming a correct Judgment on the subject; but, when I state this, I beg to be understood as alluding only to decisions in cases in which neither the Governor nor any Person immediately connected with the Government or Military is concerned.

There is reason to believe that the Military Officers generally would be glad to be relieved from the duty of sitting on Juries in any cases, and it is certain that they are most anxious to be relieved from the very invidious task of sitting as Jurors in causes in which Your Excellency or the Government is in any way interested. This, in fact, is to me by no means surprising, for I have had occasion to hear such indelicate and, to say the least, uncalled for allusions to their situation and nomination as Jurors, made both by Counsel and Judge, as could not fail to be offensive to them; and I am satisfied that, owing to this circumstance and to an excessive anxiety to shew the Public that they have no undue Bias in favor of Government, they have, in more than one case, given a verdict against the Government, when a *respectable* Colonial Jury would have decided otherwise. A remarkable circumstance recently occurred, which clearly proves how a Military Jury may be led to decide in such cases. Two actions for Libel brought against the Government Printer were tried in the Supreme Court about the same time. One before what was called a special Jury, but which, however, owing to some inattention on the part of the Crown Lawyers, was not legally constituted; and the other before a Military Jury. The *special* Jury, equally regardless of the evidence adduced and of the Judge's direction, did not hesitate, in opposition to both, to give a verdict against the Printer, whereas the *Military* Jury, following implicitly the direction of the Judge, gave a verdict also against the same Printer, contrary to the opinion of nine tenths of the community, although that verdict virtually declared the Governor to be the author of a Libel. In fact, it is notorious that the Military Juries have been invariably guided by the Judge, in every case in which the Government has in any way been concerned.

Having thus stated my opinion of Military Juries, it is scarcely necessary for me to add that I consider the measure, which His Majesty's Government has decided upon of having a Civil Jury on the trial of all cases in which the Governor or Government is concerned, as most salutary; in as much as it will give general satisfaction in the Colony, and at the same time be highly beneficial to the Government. It remains to be ascertained how Juries in such cases are to be constituted; and I hope that I shall not be considered as going out of my province if I now briefly express my opinion on this subject.

Although I was an advocate for passing our present Colonial Jury Law, yet I am free to confess that the experience of the last nine months does not allow us to expect much benefit either to the Government or to the Colony from Juries in the trial of Civil Issues, as those Juries are now constituted. It is a remarkable fact that the only causes, which have been hitherto tried by *common Juries*, are two against the Sheriff in his official capacity, and two against the Editor of the Sydney Gazette for Libel. This proves beyond doubt that, notwithstanding all that we have heard of the Colonists wishing to have trial by Jury, they prefer leaving their cases to the decision of a Judge and two assessors rather than to a common Jury as now constituted by our Colonial Law. Such a Jury would therefore be totally unfit to try questions in which Government is concerned; and we are now to consider how far it may be proper to try such questions by a special Jury.

The total number of names on the present List of special Jurors is sixty six in the Town of Sydney and within the distance of twenty two Miles from the Town; but that List is known to include the names of many Persons, who are disqualified from sitting as special Jurors, and some even who are not qualified to sit on any Jury; and it is understood that the whole District above mentioned does not contain forty eight Persons, including Magistrates, who are duly qualified* to sit as Special Jurors according to the Colonial Law as it now stands. There will consequently be great difficulty in procuring proper Juries on Trials, in which the Governor or any officers of the Government or Military are concerned, even if Magistrates be included; and, if we may judge from the manner in which the names of Magistrates have been hitherto struck out of the Jury Lists in reducing them to twelve, it appears that those Gentlemen are scarcely less objectionable in the Eyes of certain Parties than even the Military Officers. But the difficulty, which is experienced in procuring a sufficient number of Persons, who are qualified either by Education or respectability of Character to act as Magistrates in any part of the Colony, some large Districts being absolutely without one such Person, shews that, without including some Magistrates, no respectable Jury can be obtained; and, for this reason, I beg leave to suggest that Juries in all cases, which it may not be thought proper to try by the usual Commission of Military or Naval Officers, shall be composed of six Magistrates not holding situations under Government, and six other Gentlemen actually possessed of not less than four square Miles of Land by direct Grant from the Crown, without reference to the distance of their residence from Sydney; and that the Sheriff shall prepare Lists of twenty four Individuals of each of those two Classes, out of which every such Jury is to be struck. I have, &c.,

ALEX. MCLEAY.

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Opinion by
A. Macleay *re*
trial by jury in
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* Note 185.

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[Enclosure No. 4.]

ATTORNEY-GENERAL BAXTER TO GOVERNOR DARLING.

Sir, Attorney General's Chambers, 24th Sept., 1830.

Opinion by
A. M. Baxter re
trial by jury in
criminal cases.

In acknowledging the receipt of Your Excellency's letters of the 17th Ultimo, and the 13th day of the present month, submitting to my consideration the following important questions, and requiring me to report what views I entertain thereupon, for the information of His Majesty's Government:—

First. "As to the expediency of an alteration of the Law with respect to Trial by Jury, as pointed out in the fifth Section* of the 9 Geo. 4, Cap. 83, which directs that all issues of Fact shall be tried by one or more of the Judges of the Supreme Court and seven commissioned Officers of His Majesty's Sea or Land Forces, whether on Full or Half Pay"; and,

Secondly. "As to the specific alteration which it would be most desirable to make."

I have the honor to inform Your Excellency in reply that, in obedience to Your Excellency's desire, I have given the subject my most serious attention, and I am of opinion that the time is come when an alteration might with advantage be made to assimilate the system of our Juries to that of the Parent Country.

Adverting to the extent and respectability of the Jury List for Sydney, formed under the Local Ordinance No. 8, dated 9th October, 1829, intituled "An Act for regulating the Constitution of Juries for the trial of Civil Issues in the Supreme Court of New South Wales," I can entertain no doubt that, should His Majesty's Home Government think fit to extend the System to Trials of Issues of Fact in Criminal Cases, unexceptionable Panels might always be returned for their trial; and, from the number of qualified persons on the civil Jury List, the duty would not be felt as burthensome.

But, though no inconvenience might be found under a change of System during the Sittings of the Courts in Sydney, Yet, at the Quarter Sessions and adjourned Sittings of the Supreme Court in the Interior, the same facilities as to number and extent of Jurors do not exist; And therefore, for this reason, as well as with a view to guard against any ill consequences that might possibly arise from an abrupt change, I think that to leave the Criminal Cases, as at present, in the hands of the Military Juries might be advisable, *Except* such Cases as the Supreme Court in its discretion might direct to be tried by a Jury to be granted on the motion of Counsel of either the Prosecutor or the Prisoner.

This, I imagine, would give the proposed assimilation to the English practice the benefit of a gradual adoption, and the opportunity of observing its actual working in practice, when the System might either be introduced to the full extent of that of England, be preserved in its suggested modified state, or revert to the condition in which it stands at present.

I have, &c.,

ALEX. M. BAXTER.

Attorney General, M.C.

* Note 184.

[Enclosure No. 5.]

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MR. M. C. COTTON TO GOVERNOR DARLING.

Sir, Sydney, 4th October, 1830.

In attention to Your Excellency's letters of the 17th August and 13th September, with reference to the despatch of the Right Honorable The Secretary of State, dated 31st July, 1828, calling upon the respective Members of the Legislative Council for their opinions on the following points, Vizt. :—

Opinion by
M. C. Cotton re
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First, as to the expediency of introducing generally into the Colony Trial by Jury; and Secondly, as to the Specific Alteration in such case, which it would be most desirable to make.

I have the honor to state that, in forming an opinion upon a subject of so much importance to the general interests of the Colony, I feel the disadvantage of the want of that experience, which alone can be attained by a mingled interest for at least some Years in the concerns of the community to which the question more particularly refers.

Judging, however, from the difficulty which has been experienced in obtaining the services of a sufficient number of respectable and otherwise eligible persons to discharge the duties of Jurymen for the trial of civil issues under the Local Act, I have great doubt, in the present infantine and peculiarly constituted state of the Colony, of the possibility of devising any measures effectually to overcome this obstacle or to ensure in the same degree the main objects of Trial by Jury, the attainment of substantial Justice and the satisfaction of the public mind, as is now effected under the present System.

The Wisdom of Parliament cannot but be obvious in having directed the choice of Jurors from a class of Men, who from education and profession, as well as from the habit of trying issues of fact at Courts Martial, are so eminently qualified to fulfil these duties: And who further, being disunited from the party feeling and local interests inseparable from a limited community, are so well calculated to give such general satisfaction, if perhaps I excepted cases in which the Government is immediately concerned.

Whilst the earliest possible introduction of Trial by Jury must be considered an object earnestly to be desired in every British Settlement, lest by inaction the minds of the People become the less fit to exercise the important duties of Jurors; and feeling, as I do, every desire to see the advantages, which the enjoyment of these rights are calculated to produce, yet, under the present circumstances of the Colony, I am unable to suggest any means of satisfactorily attaining that object.

I am, therefore, not at present prepared to recommend to Your Excellency any alteration in the Law relative to Trial by Jury.

I have, &c.,

M. C. COTTON.

[Enclosure No. 6.]

COLONEL LINDSAY TO GOVERNOR DARLING.

Sir, Sydney, 28th Septr., 1830.

I have the honour to acknowledge the receipt of Your Circulars of the 17th ult. and 13th inst., and, in reply I beg to state

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Opinion by
P. Lindesay *re*
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that, having taken the subject thereof into consideration, I am of opinion the Law should stand as it now does; with this alteration, that all Issues of Fact might likewise be tried by seven respectable Merchants or Inhabitants of Sydney; but that the empanel for such issues (from the strangely constituted society of New South Wales) should not descend to those Classes of Men from which, in England, Petty Juries are often formed.

I have, &c.,
P. LINDESAY, Col.,
Lt. Col., 39th Regt.

[Enclosure No. 7.]

MR. JOHN MACARTHUR TO GOVERNOR DARLING.

Sir, Parramatta, 18th Sepr., 1830.

Opinion by
J. Macarthur *re*
trial by jury in
criminal cases.

I do myself the honor to acknowledge the receipt of Your Excellency's Letters of the 17th Ultmo. and of the 13th Inst.

I regret that I have no more accurate information than what I derive from common rumour to enable me to give an opinion relative to the important subject, upon which I am required to state my sentiments. But, as I entertain no doubt that most of the reports in Circulation are Correct, which censure the conduct of Juries composed of Colonists, who have tried Civil Causes in the Supreme Court and Criminal ones at the Quarter Sessions. I am constrained to declare I am of opinion that it would be unwise and dangerous, in a community so disorderly and depraved as this, to make any change in the long established practice of entrusting none but Commissioned Officers in His Majesty's Service to officiate as Jurors on all Criminal Trials.

I hope, however, that the period is not very remote, when, from an influx of respectable Emigrants and from the progress of Education amongst the Youth of the Colony, the moral character of our population will be so improved, as to warrant the extension to us of all the privileges enjoyed by the Inhabitants of Great Britain.

I have, &c.,
JOHN MACARTHUR.

[Enclosure No. 8.]

MR. R. CAMPBELL TO GOVERNOR DARLING.

Sir, Sydney, 23d Septembr., 1830.

Opinion by
R. Campbell *re*
trial by jury in
criminal cases.

I do myself the honor of acknowledging Your Excellency's letters of the 17th Ult. and 13th Inst., calling on me to take into Consideration the expediency of an alteration of the law with respect to the mode of trying Issues of fact in this Colony, as pointed out in the 5th Section of the 9th Geo. 4, cap. 83, and to state my sentiments thereon for the information of His Majesty's Government.

In compliance with Your Excellency's request, I beg now to lay before you my humble opinion upon this very important point, and I am happy to add that that opinion, founded on the knowledge I have acquired of the Colony during my long residence in it, has been confirmed by the approbation of such of my friends as I have consulted on the subject.

I think that the Colony is not at *present* quite ripe for an unlimited extension of the privilege of Trial by Jury, as it exists in

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the Mother Country, and I firmly believe that, in the absence of that great privilege, no better substitute can be devised whereby the chief ends of our penal Laws, the Security of Property and the prevention of Crime, may be attained, than the one prescribed by the 5th Sectn. 9 Geo. 4, cap. 83. The principal objections that I would urge to the introduction of Trial by Jury without distinction in Criminal Cases are: 1st. The limited population of the Colony and the laxity of morals of a part of that population. 2d. The animosity excited between the Emigrants and Emancipists by the prejudices of the one class and the mutual jealousy of both. "A jury coming from the Neighbourhood," says Blackstone, Book 3d, c. 23d. "is often liable to strong objections, especially in small jurisdictions; or where the question in dispute has an extensive local tendency, where a cry has been raised, and the passions of the multitude been inflamed; or where one of the parties is popular and the other a stranger or obnoxious; In all these cases, to Summon a Jury labouring under local prejudices is laying a snare for their consciences, and, tho' they should have virtue and vigour of mind sufficient to keep them upright, the parties will grow suspicious." If these remarks apply to the comparatively moral population of England, they must apply with much greater force to that of New So. Wales. If the learned Commentator expresses a doubt whether Men in England, where so many circumstances combine to render the loss of character an object of dread to every even the meanest individual, would, in the cases cited by him, "have virtue sufficient to keep them upright," can we reasonably expect to find it in the members of a small Community distracted, as all newly formed Communities are, by a variety of party and private quarrels? Especially when we reflect that a number of that Class, from which our Juries in Criminal Cases would for the most part be taken, and wh. I may be permitted to call our middle class, have at one time of their life by their misconduct lost their reputation and forfeited their rights as freemen; and that it is much to be feared, from the frequent instances of gross perjury which occur in our Courts, that long familiarity with guilt in its worst shapes has weakened if not totally destroyed in the minds of many of them that scrupulous regard for the sanctity of an Oath, which honest men must feel, and without which neither our lives nor property would be safe.

But, "as the administration of Justice should not only be chaste, but should not even be suspected," I would recommend that, in every case wherein a member of the Government should be interested, or the justice of the particular case should otherwise seem to the Court to require it, a power be vested in the Judges to grant a jury on the application of either of the parties, such Jury to be constituted in like manner as the special Jury appointed to be granted in Civil Issues, and described in the 21st Section* of the Act of Council, No. 8, entitled "An Act for regulating the Constitution of Juries," etc. I will only mention one great advantage which would result from the adoption of this Suggestion, viz.: The leading the young men in the Colony, who have never been in England, not abruptly and unprepared, but step by step as it were, to the exercise of the important functions of British Jurors.

I have, &c.,
ROB. CAMPBELL.

* Note 185.

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[Enclosure No. 9.]

MR. A. BERRY TO GOVERNOR DARLING.

Sir,

Sydney, 27th September, 1830.

Opinion by
A. Berry *re*
trial by jury in
criminal cases.

I had the honor to receive a letter, dated the 13th instant, wherein Your Excellency requests I would state my opinions as to the expediency of any alteration of the Law, with respect to the trial by Jury, as pointed out in the 5th Section of the 9th Geo. IV, Cap. 83, which directs that all issues of fact shall be tried by one or more Judges of the Supreme Court and seven commissioned Officers of His Majesty's Sea or Land Service, whether on full or half pay; and secondly as to the specific alteration, which it would be most adviseable to make, that such opinions might be forwarded to the Right Honorable the Secretary of State.

In conformity with the above, I have now the honor to state my opinions and my reasons for the same.

Soon after the promulgation of the late New South Wales Act in the year 1824, The Sheriff called a meeting of the Magistrates of the Colony for the purpose of making arrangements for the Courts of quarter Sessions according to the provisions of that Act. On this occasion, the Magistrates were divided, the Majority, with whom I agreed, were of opinion that it was not the intention of the Legislature to authorise a civil Jury in these courts. The point at issue was referred to His Honor the chief Justice, who ruled that there should be a civil Jury.

After some experience of such Juries, His Excellency Sir Thomas Brisbane, the late Governor, addressed a letter* to the Magistrates, requesting they would state their opinions respecting their operations, and whether it would be adviseable to extend them to the Supreme Court; I joined in an answer stating the Juries wrought so well that in our opinion it would be desirable to extend them to the Supreme Court. At this time, the more respectable of the Inhabitants were alone summoned as Jurymen, and these excited by the novelty were full of Zeal.

After some time, the door of the Juryroom was thrown open to all classes. I believe that the general opinion respecting this Jury then began to change, and I consider that the opinion I had given to Sir Thomas Brisbane did not apply to.

Having given this retrospective view of the Jury question, I revert to the more immediate subject of Enquiry. After the most mature consideration, I am of opinion that, in common Criminal cases, a military Jury as at present constituted will for some time to come be better adapted to the circumstances of this Colony than any other, not only as affects the accused but the public in general.

Military officers are from their Education capable of forming correct judgements, while their character must render them averse to false or partial verdicts, and strange to say, in confirmation of the above, their verdicts in such cases have seldom been impugned by any of our public writers.

This Colony being a receptacle for all the criminals of the United Kingdom, delinquencies are more numerous in proportion to the population than in any other part of the world, and are beyond comparison more numerous than when the opinion above alluded to was given in answer to Sir Thomas Brisbane; and, if the whole duty of Jurymen was transferred from the military to the civil

* Note 186.

inhabitants of the Colony, it would soon be felt as an intolerable burthen. For, although the inhabitants of this Colony are very clamorous about their rights, yet this proceeds from coveting the distinction of Jurymen, and at least in common cases not from any Zeal to perform the important and onerous duties of the office, of which the following is an example. Some years ago, I was appointed one of the Commissioners to enquire into a case of Lunacy. A Jury of twelve Men was summoned. On being called upon for their verdict, one Individual declined giving his opinion untill paid his fee, and the Court, having by consent been adjourned, occasioned two sittings, which occupied part of two days; all the others on that account demanded a double fee, and, on this being declined by the Commissioners, there was a general murmuring, complaining how much their attendance as Jurymen had injured their private affairs.

Military men from their situation in life are in common cases more likely to be free from partiality than the civilians. They seldom come in contact with the ordinary class of Delinquents; on the contrary the Civil inhabitants of the Colony, from daily experience of the perverse dispositions of their Convict Servants and from the frequent depredations to which their property is exposed, would be more apt to entertain an undue bias against the prisoner. I think that the Military Jury in their verdicts have generally inclined to the side of Mercy.

I would however recommend a Jury of Civilians in all cases wherein the Government or the Military were concerned, or in any case wherein it might be clearly shown that the Military might be presumed to have a bias.

The verdict of a civil would give more public satisfaction in such cases than the verdict of a Military Jury, however just.

The Military will be relieved from an unpleasant duty, in the discharge of which they are exposed to much popular odium; and in fact the gross public animadversions, to which they have often been subjected on such occasions, may reasonably be supposed to have overawed or influenced their verdicts.

Such cases being of comparatively rare occurrence, there would be no difficulty of finding a competent and unexceptionable Jury amongst the Civilians.

The Jury ought to consist of twelve respectable inhabitants. I am not fully prepared to say whether the duty might not be transferred without modification to our Special Juries, appointed to try civil issues, Our experience of the operation of such Juries being too limited to enable me to give a decided opinion.

As the Law now stands, the Attorney General is frequently obliged to withdraw a Juror from want of unanimity. I therefore think it would be desirable, if the verdict was given by a Majority, but that not less than three fourths should concur to convict the prisoner. It is incongruous with the general principles of Human nature to expect an absolute unanimity of opinion in twelve men, and, although forming a prominent part of the Law of England, seems so contrary to the principles of every other part of her institutions that most likely it is a deviation; because All Elections are made by a Majority; The Houses of Lords and Commons decide by a Majority; The Decision of the Judges in Banco is the

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opinion of the Majority; and the verdict of the grand Jury is the opinion of the Majority. It seems therefore reasonable to conclude that common Juries may have consisted originally of more than twelve, but that the concurrence of twelve was necessary to a conviction.

It is with much diffidence that I have ventured this opinion, and I am not likely to strengthen it by adding that according to the Code Napoleon the verdict is given by a Majority.

I have, &c.,
ALEXR. BERRY.

[Enclosure No. 10.]

MR. R. JONES TO GOVERNOR DARLING.

Sir,

Sydney, 29 September, 1830.

Opinion by
R. Jones *re*
trial by jury in
criminal cases.

I have the honor to acknowledge receipt of your Letters of the 17th Ult. and 13th Inst., stating that the Right Honourable the Secretary of State by his despatch dated the 31st of July, 1828, No. 17, laid by Your Excellency before the Legislative Council at its first meeting, would expect from you a full report explaining the views of every Member of the Council on the following points:—

First, As to the expediency of an alteration of the Law with respect to trial by Jury as pointed out in the 5th Section of the 9th Geo. 4th, Chap. 83, which directs that all issues of fact shall be tried by one or more of the Judges of the Supreme Court, and Seven Commissioned Officers of His Majesty's Sea or Land Forces, whether on full or half pay; and,

Secondly, "As to the specific alteration it would be desirable to make."

In answer, I beg to state that, from mature consideration, I do not consider it expedient to alter the law with respect to trial by Jury as pointed out in the 5th Sec. of the 9th Geo. the 4th, Chap. 83, regarding the trial of issues of fact, being well persuaded from long observation that the verdicts, found in cases tried before Juries of Commissioned Officers, have given general satisfaction. These Gentlemen, from their Education, intelligence and impartiality, are better qualified for this duty than any class of Persons that can be found in this Colony, without interfering too much with local prejudices, and thereby creating party feeling, which of all things should be avoided in a community like this. Again I am of opinion that the class of Colonists, which should constitute Juries, is not sufficiently numerous for this purpose, as, from the selection that must necessarily be made, the great bulk will consist of Persons wanting education, intelligence and often principle, carrying with them the local feelings and prejudices not unusual in a small community like ours, where it frequently happens we are too familiar with our Neighbours' affairs; and therefore, the less we have for some years to come of the free institutions of the Mother Country amongst us, the better it will be for the peace and good Government of the Colony. Property here forms no criterion of a Man's fitness; Character is infinitely of more consequence; and it will therefore be impracticable to introduce trial by Jury into the Country, as it should be, untill the originally free and the freed bear almost an equal proportion in number, which is far from the case at the

present time, besides the selection of Jurors in the nature of the Country must be partial and confined to those, who live in or near the principal Towns where the assizes are held, as Persons, resident at great distances in the interior, could not attend without loss of time, inconvenience and expense, that would be alike ruinous to them and their concerns; and these are generally the most respectable and intelligent of our community. Again the Colonists have not time to spare without serious injury to their general interests to attend the sittings of Courts, which occupy about four Months in the year, and therefore no adequate good could result to counterbalance the inconvenience as well as great evil of taking people from their homes and occupations for so long a period of time. Finally the little experience, we have had of the trial by Jury in cases of civil issue, fully justifies the opinion I have given; and under these feelings, not desiring a change from the present mode of trial of issues of fact, I have no specific alteration to propose for Your Excellency's consideration.

I have, &c.,

RICHARD JONES.

1830.
7 Oct.

Opinion by
R. Jones *re*
trial by jury in
criminal cases.

[Enclosure No. 11.]

MR. J. BLAXLAND TO GOVERNOR DARLING.

Sir, Newington, 5th Sepr., 1830.

Agreeably to your Excellency's request contained in communication of the 17th Augt., namely that I would state my opinion in writing respecting the following points:—

Opinion by
J. Blaxland *re*
trial by jury in
criminal cases.

First, As to the expediency of an alteration of the Law with respect to Trial by Jury, as pointed out in the 5th Section of the 9th Geoe. 4th, Chapt. 83, which directs that all Issues of Fact shall be tried by one or more Judges of the Supreme Court and seven Commissioned Officers of His Majesty's Sea or Land Forces, whether on full or Half Pay; and

Secondly, As to the Specific alteration, which it would be most desirable to make.

First, I beg to submit that I am of opinion that the above Law is no longer suited to the present state of the Colony, in as much as that it has not in numerous instances given satisfaction, and that it is still less likely to prove satisfactory to the Colonists in future, the Colony no longer being in a state to require such species of Judicature, the population not only being sufficiently numerous and dense in the different Districts of the Colony, but also respectable, and more particularly so from the late continual immigration from the Mother Country; and I am of opinion with respect to the Second question that the present Jury system of Naval and Military Officers should, with as little delay as possible, be exchanged for that of the common Jury system of England.

As a matter of minor importance respecting the present Jury system, I beg to state the following objections, namely, the expenses incurred by it in consequence of the extra pay allowed to the Officers so employed, fifteen shillings daily to each Juror exclusive of travelling expenses incurred during the Circuit.

I have, &c.,

J. BLAXLAND.

1830.
7 Oct.

[Enclosure No. 12.]

MR. E. C. CLOSE TO GOVERNOR DARLING.

Sir,

Illulaung, 17th September, 1830.

Opinion by
E. C. Close *re*
trial by jury in
criminal cases.

In reply to your Excellency's Circular of the 13th Ultimo, calling upon me to state my sentiments on the points offered for consideration by the Right Honble. the Secretary of State, viz., First, As to the expediency of an alteration of the Law, with respect to Trial by Jury, as pointed out in the 5th Section of the 9th Geo. 4th, Chap. 83, which directs that all issues of Fact shall be tried by one or more of the Judges of the Supreme Court and seven commissioned officers of His Majesty's Sea or Land Forces, whether on Full or Half Pay; And Secondly, "As to the specific alteration which it would be desirable to make." Without reflecting in any way on the Military Juries, which have always performed their arduous and unpleasant duties with credit to themselves and almost undeviating satisfaction to the public, it is my opinion that both Policy and economy require an alteration of the Law in regard to Juries on Criminal cases; that, by the application of the Sections from 1 to 17th of the act of Council No. 8 in respect to Juries on Civil Issues and the Explanatory Act subsequently passed, nearly every inconvenience will be met and provided for, and considerable Sums saved to the Public.

These opinions are the result of conviction, produced by much attention to the Subject.

I have, &c.,

E. C. CLOSE.

[Enclosure No. 13.]

MR. H. H. MACARTHUR TO GOVERNOR DARLING.

Sir,

Vineyard Cottage, Parramatta, 27th Sept., 1830.

Opinion by
H. H. Macarthur
re trial by jury
in criminal
cases.

In conformity with the request contained in Your Excellency's Letter of the 13th Instant, I have the honour, in reply to your Circular dated the 17th of August last, to submit the following Opinions upon the Question, proposed by The Right Honourable the Secretary of State for the Colonies, as to the "expediency of an alteration in the Law, with respect to Trial by Jury, as pointed out in the 5th Section of the 9 Geo. 4, c. 83, which directs that all Issues of Fact shall be tried by one or more of the Judges of the Supreme Court and Seven Commissioned Officers of His Majesty's Sea or Land Forces, whether on full or half pay"; And Secondly, "as to the specific alteration which it would be most desirable to make." Upon a mature and deliberate consideration of this important Question, I come to my conclusions under considerable regret that Your Excellency's first intention of bringing it forward for consideration in Council has been abandoned, more especially as I feel assured the discussion, which would have taken place under Your Excellency's personal observation, must have elicited proofs of Facts, upon which the Policy or Impolicy of an extension of Trial by Jury may principally rest, and which I can only refer to as matters of common Report.

In explaining my opinions upon this subject, more particularly connected with the Criminal Judicature of the Supreme Court, I find it will be necessary to advert to the first Establishment of Grand and Petty Juries in the Courts of Quarter Sessions under the 4 Geo. 4, c. 96; these Juries were superseded by 9 Geo. 4, c. 83, which directs all Crimes, Offences and Misdemeanours committed by

Free Persons to be tried in the Courts of General and Quarter Sessions respectively in such and the same manner and subject to all such and the same Rules and Regulations in every respect as the Supreme Court.

I deem it also necessary to enter into some explanation of my view of the present constitution of the Colonial Jury by the Act of Council, No. 8, 10 Geo. 4, for trial of Issues of Fact on the Civil Side of the Supreme Court, in pursuance of the 8th Section of 9 Geo. 4, c. 83.

On the first establishment of the Grand and Petty Juries in the Quarter Sessions Courts, under the Administration of Sir Thomas Brisbane, a careful selection was made of the Jurors, and, for some-time, None but Freemen of good fame and repute, who came free or were born in the Colony, were admitted. The general opinion then was that the Juries worked well; but it was soon found to press heavily on a certain Class of Men, such as working Tradesmen, who constituted the Petty Jury; and it was not much less burthensome to the Gentlemen who were called to the important Duties of the Grand Jury. From the circumstance of the Gentlemen being widely scattered over the Country and from the paucity of their Numbers, not more than 14 or 16 could be collected at a Sessions of any established Court out of Sydney.

The Sheriff soon after introduced into the Juries such of the freed Convicts, whether by Pardon or Servitude, as he considered to be qualified by their possessions; this innovation upon the Constitutional Rights of Freemen at once destroyed the Character, to which the Juries had aspired, and occasioned a desertion of the most respectable Men from the Grand Juries, on which they were now subjected to the degradation of being associated with Men, who, in many Instances, had been their assigned Convict Servants! Men, who were indebted to the Influence or Liberality of their late Masters for the Liberty or the Property, which was made the standard of their qualification and eligibility to be Grand Jurors!

Thus then the Juries of the Quarter Sessions Court were degraded and rendered mischievous; and it is notorious that, in the later period of their existence, many Criminals escaped the just consequence of their Crimes by their Verdicts, given in some Cases in opposition to the directions of the Bench founded on the clearest Evidence.

In adverting to the Jury for the trial of Civil Issues, as now constituted by Act of Council, I feel the more confidence in expressing my opinions, as founded on Facts, coming more immediately under the observation of Your Excellency's Administration. Not being a Member of the Council when this Act was passed, I speak from report, when I state that the qualification for Jurors of Convicts become free by Servitude or pardon was adopted by the Council upon a declaration from the highest Law Authority in the Colony that freed Convicts, whether by servitude or favor, were qualified to be Jurors (upon the possession of the requisite Amount of Property) by the 9 Geo. 4, c. 32.* In adopting this opinion upon the Law, the Council appear to have been desirous to secure something like a Constitutional Jury to the Colonists in the qualification which they laid down as necessary to constitute Special Jurymen, and which was calculated to admit None but Freemen of Character and Property; at the same-time, by the 20th Section of the Act of

1830.
7 Oct.

Opinion by
H. H. Macarthur
re trial by jury
in criminal
cases.

* Note 187.

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Opinion by
H. H. Macarthur
re trial by jury
in criminal
cases.

Council, they granted to Plaintiff or Defendant, in any Case wherein a Jury may be allowed by the Court, right to claim this Special Tribunal. The deviation from the obvious intention of the Colonial Legislature, which has been made by the Rule of Court, dated December 5th, 1829, and published in the Gazette, shows how difficult it is to provide against innovation.

It is notorious that the Jury Lists, as now returned, contain the names of some of the most objectionable Men in the Community! and the manner, in which these Returns have been made admitting freed Convicts of all denominations, provided they are possessed of Property, has subjected the Special Jury to a very pernicious Influence, which was exercised in striking the first Special Jury impanelled under the Act! It is a well known fact that every Magistrate was objected to by the Attorney on one side, and his name struck out accordingly. The Jury was made up of Retail Dealers and others, a mixture of Free and Freed men! and thus reduced to what had been the contemplated standard of the intended Petty Jury. The result has been such as might be expected. Party Spirit has prevailed. The solemn direction of the Judge upon the Law, as particularly applicable to the case before them, has been set at defiance. Evidence of facts has been disregarded, and Verdicts returned opposed to every principal of Law or Justice! Upon these Facts, I ground my conviction of the Impolicy and Injustice, as well as I humbly conceive the Illegality of Juries constituted of disqualified Men; I can see no just grounds for subjecting any Man, both in his Person and Property, to a Tribunal of Men, who are decidedly disqualified by the 3rd Section of 6 Geo. 4, c. 50. which provides: "That no Man, who hath been or shall be attainted of any treason or felony or convicted of any Crime that is infamous, unless he shall have obtained a free pardon, nor any Man, who is under outlawry or excommunication, is or shall be qualified to serve on Juries or Inquests in any Court or on any occasion whatsoever."

I apprehend the free pardon, here excepted, is of a very different description to that of a mere release from the consequences of Conviction of Crime! or otherwise the greatest Criminals, being relieved from the Penalties of the Law by partial or total remission of Punishment, would be placed in a far better situation than the less flagrant Culprit, who has undergone the minor punishment of the lesser Crime.

I conceive then that the 9 Geo. 4, c. 32, restores manumitted Criminals to their privileges as Witnesses merely, and not to Eligibility or Capacity to sit in Judgment on Freemen, and that it can have no reference to the Jury Act by which the Birthright of the latter, to be tried by their Peers, is so clearly defined and secured.

Under the impression that the admission of Manumitted Convicts to the Juries is illegal; that it is unjust, in as much as it deprives Freemen of their constitutional Right to be subjected only in their Persons and Property to the Verdict of Men ("*probi et legales omni exceptione majores*") as free and untainted in Character as themselves; that it is impolitic, in as much as it destroys all confidence in the Courts of Justice, and must greatly injure the Character of the Colony in which such a system prevails! I am of opinion it will be no less destructive of that consideration for Virtue, Morality, and good Faith, which cannot be too carefully inculcated or seriously impressed on the minds of the rising Generation of this mixed Community.

Much has been said of the equal Right to protection and legal privileges of the Freemen and Freedmen; I would be the last to promote any measure tending to render the Security afforded by the Law to all Classes of Men at all doubtful: and surely, whilst all Parties are subjected to the same Tribunal with equal Rights and Privileges in seeking Justice and protection from the Courts, there can be no failure as regards the one more than the other! But, on the contrary, should the unconvicted Freeman be subjected to a Tribunal of convicted Freedmen, I contend he would be deprived of one of the most valuable Birthrights of Englishmen, secured to them by the Constitution. The branded Felon can never be the Peer of the unconvicted Man, and, in my humble opinion, Honor, Integrity and Fidelity would be driven from the Community, in which a contrary principal could prevail.

Having thus explained myself upon the Principles, which govern my sentiments upon this important and interesting Subject, I have now to submit my opinion on the Question to the specific alteration, which it may be desirable to make in the Jury, as now constituted for the Trial of all Crimes, Offences and Misdemeanors in the Supreme Court and General and Quarter Sessions Courts.

The Jury, as now constituted, consists of Seven Officers of His Majesty's Sea or Land Forces, and possesses the full confidence and good opinion of the respectable portion of the Community; and when I contrast the many complaints of the conduct and Verdicts of the late Qr. Sessions Juries and the present Civil Court Juries, which are too notorious to be doubted, with the highly honorable Character sustained for so many Years by the Military Juries, I acknowledge myself incapable of suggesting any alteration of the present system, from which either benefit or advantage can be anticipated.

Influenced by the most earnest desire to see the Judicial Institutions of our Mother Country extended to the Colony, I trust the time is not far distant when, by the accession of respectable Emigrants and the advancement of the intelligent Young Men, who are rapidly increasing amongst us, we may be enabled to bring this great Palladium of Justice "Trial by Jury" into the constitution and practice of the Courts of the Colony, in such form, and with such Security as to Character, as will ensure the Confidence of all Classes.

With great respect,

I have, &c.,

H. H. McARTHUR.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 84, per ship Lady Harewood.)

Sir,

Downing Street, 8 October, 1830.

This dispatch will be delivered to you by Dr. Wilson, who has applied for a free grant of 5,000 acres.

Although the gratuitous services, which this Gentleman has performed by his excursions into the Interior of New Holland, may deserve some little indulgence on the part of His Majesty's Government, yet I have expressed to him my opinion that they are not of such a nature as to warrant a departure from the existing Regulations respecting Grants of Land; you are at

1830.

7 Oct.

Opinion by
H. H. Macarthur
re trial by jury
in criminal
cases.

8 Oct.

Application by
Wilson for land
grant.

1830.
8 Oct.

liberty, however, to comply with his wishes so far as you may deem expedient, without making further reference for my authority.

I am, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 85, per ship Lady Harewood.)

9 Oct.

Approval of
conditional
pardons.

Sir, Downing Street, 9 October, 1830.

I have received and laid before the King your despatch No. 13 of the 1st of April last, with which you have transmitted to me Twenty Six Conditional Pardons for His Majesty's approbation, in conformity with the Statute, made in the 9th year of His late Majesty's Reign cap. 83, Section 33.

The names of the Prisoners, in favor of whom these Pardons have been granted, are enumerated in the margin.

I have received His Majesty's Commands to signify to you that, in pursuance of the before mentioned Statute, His Majesty is graciously pleased to approve and allow these Pardons.

I am, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch No. 66, per ship Gilmore.)

Sir, Government House, 9th October, 1830.

Transmission of
application from
J. Bowman.

I have the honor to transmit Copy of a Letter from Dr. Bowman, Inspector of Colonial Hospitals, applying for a Building Allotment on the Ground called "Hyde Park." Dr. Bowman has been already informed that that Ground has not yet been laid out, and that he cannot be allowed an Allotment at present at that place; I therefore conclude he wishes to obtain your Sanction for his obtaining an Allotment there, whenever it may be in a state to be located, and I am not aware of there being any objection to his receiving one.

I have, &c.,
RA. DARLING.

[Enclosure.]

MR. J. BOWMAN TO COLONIAL SECRETARY MACLEAY.

Sir, Medical Department, Sydney, 6th October, 1830.

Application by
J. Bowman for
allotment at
Hyde park.

A short time previous to my vacating the House* I occupied at the General Hospital. His Excellency the Governor was pleased to offer me an Allotment of Ground to build a residence for my family near to the Catholic Chapel,* Sydney; but, as it appeared by your letter of the 17th January, 1829, the Necessary arrangements for allotting that ground had not been completed, I could not then be permitted to occupy it; and, having been informed that His Excellency subsequently received instructions not to grant Land to Officers in the Civil Service, I cannot now be put in possession

* Note 188.

of that allotment. I therefore request you will have the kindness to solicit His Excellency to explain this circumstance to the Right Honble. the Secretary of State for the Colonies, and recommend that the Land originally intended for me should be granted for the purpose specified.

I have now been more than eleven years at the head of the Medical Department of the Colony, and believe I am almost the only Officer in the Civil Service, who has not obtained a building allotment. I therefore respectfully hope my past services may be considered a Claim for that indulgence, which has been so liberally extended to other Individuals.

I have, &c.,

J. BOWMAN.

1830.

9 Oct.

Application by
J. Bowman for
allotment at
Hyde park.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 86, per ship Lady Harewood.)

Sir, Downing Street, 10 Octr., 1830.

10 Oct.

I have received your dispatch No. 25 of the 17 of April, 1830, reporting the necessity of augmenting the Medical Establishment at New South Wales by the appointment of another Assistant Surgeon at Moreton Bay, and I now beg to acquaint you that I have nominated Mr. George P. Moncreiff to that situation, upon the salary assigned in Mr. Huskisson's dispatch No. 19 of the 31st of March, 1828, to Officers holding appointments of that description.

I am, &c.,

G. MURRAY.

Appointment of
G. P. Moncreiff
as assistant
surgeon at
Moreton bay.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lady Harewood.)

Dear Sir, Colonial Office, 11 October, 1830.

11 Oct.

As an application has been made to this Department in favor of David Stormann, who was transported from the Cape of Good Hope to New S. Wales some time previous to the year 1823, Sir George Murray would be glad to be informed what has been the conduct of this Convict since his arrival in the Colony under your Government, in order that, if the Application be renewed, Sir George Murray may be able to decide to what extent he may be deserving of Indulgence.

I remain, &c.,

R. W. HAY.

Report required
re D. Stormann.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 67. per ship Gilmore; acknowledged by
Viscount Goderich, 23rd March, 1831.)

Sir, Government House, 13th October, 1830.

13 Oct.

I have the honor to forward to you at the desire of the Chief Justice the Copy of a Letter, which he has addressed to me in reference to the Subject of my Despatch of the 7th of August last, No. 45, to which I beg to add the Copy of my reply.

Transmission of
correspondence
with F. Forbes.

1830.
13 Oct.

No reply from
J. Stephen.

I avail myself of the opportunity of stating that I have not received any Communication from Judge Stephen on the subject of my Despatch above referred to, a copy of which, as you have been already informed, was transmitted to him on the 7th of August.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

CHIEF JUSTICE FORBES TO GOVERNOR DARLING.

Sir,

Sydney, 2nd September, 1830.

In consequence of being engaged at the Court at Campbell Town, it was not until yesterday, at a Meeting of the Judges on the first day of term, that I was honored by the perusal of Your Excellency's letter to Mr. Justice Stephen, and the enclosed communication of Your Excellency to the Right Honble. Sir George Murray, under date the 7th Ultimo. In that Communication, your Excellency refers to a supposed observation of mine as follows:— "It will be observed, on reference to the Report in the enclosed Gazette, that, towards the Conclusion of Mr. Justice Stephen's address, he alludes to an observation, which had fallen from the Chief Justice the preceding day, with respect to notifying the cause or grounds of the dismissal of Constables from their office." I beg leave to say that so much of the Report of the proceedings in the Defendant's paper of the 1st of July, as puts into the Mouth of Mr. Justice Stephen the words referred to by Your Excellency, is as respects myself incorrect. I made no such allusion to the dismissal of Constables. The Counsel for the Defendant had, the day before in arguing the rule for a New trial, contended that, if the law, as laid down by me at the trial of the cause, namely, that every publisher was liable for everything which he published to the injury of another's Character, were correct law, then that the Editor of the Gazette might be prosecuted for every Order of the Government, which he published, and which happened to degrade the Character of any individual; and he alluded to the supposed Cases of Constables and other persons, who might be dismissed for Drunkenness and other offences. To these observations, I replied in the most general terms to the following effect:—that I hoped I had laid down no doctrines contrary to the Law of England, or that could interfere with the publication of whatever was proper; but that I was not prepared to say it would be justifiable to publish a Government Order, which degraded a Man's private Character. I made no allusion to any Act or practice of your Excellency or your predecessors. My remark was directed to the abstract question, as to what it might or might not be lawful for the Editor of a paper to publish; and it was made in my own defence.

I have felt it due to myself to make this explanation; although to your Excellency, I am aware, after the candid reply of your Excellency to Mr. Justice Dowling and myself, that your representations to the Secretary of State related solely to Mr. Justice Stephen, it is unnecessary. It is possible, however, that my silence as to so much of the Sydney Gazette, as refers to a mis-apprehension of mine, may be taken for an admission of the Correctness of the

Inaccuracy
of report in
Sydney Gazette
re alleged
remarks by
F. Forbes on
dismissal of
convicts.

Report; and, as the Subject has been submitted to the Right Honble. the Secretary of State, I have to request that this letter may be transmitted with and form a part of the Documents in the Case.

1830.
13 Oct.

I have, &c.,
FRANCIS FORBES,
Ch. Justice N.S.W.

[Enclosure No. 2.]

GOVERNOR DARLING TO CHIEF JUSTICE FORBES.

Sir, Government House, 13th September, 1830.

I have the honor to acknowledge the receipt of your Letter of the 2nd inst. which shall be forwarded as you desire by the first opportunity to the Right Honble. the Secretary of State.

Letter acknowledged.

On seeing the Sydney Gazette containing the Report of the observations made by Mr. Justice Stephen in the Supreme Court on the 29th of June last, I wrote to His Honor requesting to be informed whether the Report was correct, to which, after stating that he had not taken any Notes of what fell from him on the occasion alluded to, he replied as follows, "Vizt.":—

Confirmation of report in Sydney Gazette by J. Stephen.

"To the best of my recollection however, there is not any Material Variation in Substance from what I said as stated in the Gazette alluded to." I therefore concluded from the manner, in which he referred to the observations made by your Honor the preceding day, that the Report in the Sydney Gazette was correct, and I stated the matter in my Despatch accordingly, as introductory to the remarks with which Mr. Justice Stephen followed up the Subject.

I have, &c.,
RA. DARLING.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 87, per ship Lady Harewood.)

Sir, Downing Street, 14th October, 1830.

14 Oct.

I have received your Dispatch No. 23 of the 15th of April, accompanied by a Memorial from the Trustees of the Scots Church, praying for a Loan of £1,200 to enable them to erect certain buildings on an allotment of Land granted to that Establishment; and I have to request that you will acquaint the Gentlemen, whose names are attached to the Memorial, that I regret that I do not feel myself at liberty under the circumstances of the case to grant to them the pecuniary assistance which they have solicited.

Refusal of loan to trustees of Scots church.

I have, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lady Harewood.)

Sir, Downing Street, 15th October, 1830.

15 Oct.

I have laid before Secretary Sir George Murray your letter of the 25th of May, in reply to one from Mr. Twiss, upon the case of Mr. Thomas Raine, whose bond of Security to the

Acceptance of explanation re T. Raine.

1830.
15 Oct.

Colonial Government you were represented to have cancelled; and I do myself the honor of acquainting you that Sir George Murray is perfectly satisfied with the information which your letter contained in reference to the case in question. I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Lady Harewood; acknowledged by Governor Darling, 27th September, 1831.)

16 Oct.

Sir,

Downing Street, 16th October, 1830.

Request by
R. Hoddle for
relief from
refund of salary.

Secretary Sir George Murray has received a Memorial from Mr. Robert Hoddle, the Senior Surveyor of New South Wales, in which he represents the hardship of his being called upon to refund the Sum of £380, the difference between the Salary of £400 per annum, which he was inadvertently permitted by the Colonial Government to receive from October, 1828, to February, 1830, and the Salary of £220 per annum, which appears to have been subsequently issued to him.

Decision
postponed
pending report
from R. Darling.

As Mr. Hoddle, contrary to the Regulations, forwarded his Memorial directly to the Secretary of State, he has been informed that Sir George Murray will defer the consideration of his case, until he shall have received from you a Report upon the Statement, which Mr. Hoddle has made, for which purpose he has been directed to furnish you with a Copy of his Memorial. I am however to observe that, if Mr. Hoddle's assertion be correct, that he was ignorant of the error which had been committed by the Colonial Government, Sir George Murray is disposed to relieve him from the Surcharge, which has been made against him, and also to extend the same indulgence to the other "Surveyors," who may be similarly situated. I am at the same time to request that you will impress upon the Officer, by whom this expense has been occasioned to the Public, the necessity of being more cautious for the future.

I am, &c.,

R. W. HAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 88, per ship Lady Harewood.)

20 Oct.

Sir,

Downing Street, 20th October, 1830.

Despatch
acknowledged.

Having referred for the consideration of the Secretary of State for the Home Department your Dispatch of the 24th of April last, No. 30, with copies of the proceedings in the case of John Burton and Jeremiah Collins for the alleged Murder of two men, and in which also you report the acquittal of Collins,

and the respite of Burton, I now transmit to you a free Pardon, which His Majesty has been graciously pleased to grant to the latter prisoner; and I am to desire that you will take the necessary measures for carrying His Majesty's Gracious intentions into effect.

1830.
20 Oct.

Free pardon for
J. Burton.

I have, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Earl of Liverpool.)

Sir, Downing Street, 21st October, 1830. 21 Oct.

I am directed by Secretary Sir George Murray to transmit to you the copy of a Memorial, which he has received from Mr. Peter Cunningham, a Surgeon in the Navy, who appears to have Emigrated to New South Wales in pursuance of the Regulations* under which Officers of the Army and Navy are permitted to become Settlers in that Colony, applying on the grounds, set forth in his Memorial, "for a further Grant of four Sections of pasture land in the vicinity of his Grant, for the feeding of the Encrease of his Stock." Sir George Murray does not feel it to be necessary to convey to you any particular Instructions upon this application, confident that, if Mr. Cunningham's request be reasonable, it will meet with as favorable consideration as the Regulations will admit.

Transmission of
memorial from
P. Cunningham.

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

[Enclosure.]

MEMORIAL OF MR. PETER CUNNINGHAM.

To the Rt. Honble. the Secretary of State for the Colonies.

Your Memorialist,

Peter Cunningham, Surgeon Royal Navy, most respectfully states that, in 1825, he was put in possession of four Sections (2,560 acres) of land on Hunter's River, New South Wales, ninety miles from the Sea, on which improvements to the value of £1,370 as per annexed list have been already made or Contracted for to be made during his temporary absence, the same being paid for; that he has 600 fine woolled sheep and 120 head of horned Cattle and horses to depasture the same, and has maintained 14 Convicts per annum for five years free of Expense to the Government. Your Memorialist further most respectfully states that three acres per annum of ordinary land being required for the pasture of each sheep and ten acres for each head of Cattle, his present grant is consequently inadequate by 440 acres to feed the stock now possessed. On account of the above improvements therefore, the amount of his stock, the number of Convicts maintained, and a seniority of nearly twenty years in His Majesty's Service, Your Memorialist humbly solicits a further grant of four sections of pasture land in the vicinity of his grant for the feeding of the increase of his stock, which doubling every three years, the above Extra grant therefore is absolutely necessary at the present period for the sustenance of your Memorialist's stock.

Memorial from
P. Cunningham
soliciting
additional land
grant.

* Note 175.

1830.
21 Oct.

Memorial from
P. Cunningham
soliciting
additional land
grant.

Your Memorialist most respectfully ventures to observe that all the land within many miles of his grant being already culled by Settlers, only very inferior pasture land is therefore left for Selection, while it being decided by competent authorities that corn cannot be profitably raised for Exportation more than fifty miles from a Sea port. Your Memorialist's grant therefore, far exceeding this distance, can at present be only applied in the rearing and fattening of Stock, which, having been depreciated in value on an average of 400 per Cent. within the last four years, Your Memorialist's grant is therefore depreciated in value to the amount of 400 per Cent. within the above period, while on the contrary corn growing grants within profitable exportable distance of a Sea port have increased in value.

Your Memorialist most respectfully requests that you will be pleased to refer this his humble Memorial to his Excellency Governor Darling with a recommendation to grant the boon he solicits and
Your Memorialist will ever pray

[*Unsigned.*]

Expenditure on
improvements
on land grant.

IMPROVEMENTS ON GRANT.

Stone Cottage shingled	£160
Stone Milk Dairy	40
Cheese Dairy shingled with ten stone presses	100
Cheese Store and two dry stores (shingled)	110
A Barn shingled	110
Stock Yard, milking pales and Calf Shed	120
Garden Cottage and Garden	100
Four miles and $\frac{1}{2}$ of fencing	300
Out buildings for men, pig sties, etc.	100
Ninety Acres of land in Cultivation	100
Implements of husbandry	130

£1,370

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Earl of Liverpool.)

22 Oct.

Transmission of
memorial from
H. Dumaresq.

Sir,

Downing Street, 22d October, 1830.

I am directed by Secretary Sir George Murray to transmit to you for your information and guidance a Copy of a Memorial, which has been addressed to him by Lieut. Colonel Dumaresq on the subject of a tract of 8,000 Acres of land, which he was permitted by your Predecessor to hold as a "Reserve," with a view to their purchase; and also a Copy of the answer, which, by Sir George Murray's direction, has been sent to Colonel Dumaresq.

I am, &c.,

R. W. HAY.

[Enclosure No. 1.]

MEMORIAL OF LIEUT.-COLONEL DUMARESQ.

To the Right Honble. Sir George Murray, Secretary of State for the Colonies.

THE Memorial of Lieut. Col. H. Dumaresq respectfully sheweth that, in the month of October, 1825, he obtained from Lieut. General Sir Thomas Brisbane a Grant of two thousand Acres of Land on

the usual terms, and authority "to hold eight thousand other Acres, as a Reserve, with a view to their purchase, on the following conditions," viz. :—

1st. "To enter into an obligation to pay as Rent for the said Land the Sum of Fifteen shillings sterling per annum for every hundred Acres for Three years from the date of taking possession."

2nd. "At the end of three years from that date, to pay into the hands of the Collector of Internal Revenue (or other person duly authorised to receive the same) a deposit of 10 per cent. on the whole purchase, and also to lodge with that officer notes agreeable to the prescribed form for payment of the balance at intervals of six months, until a period of three years is completed."

3d. "That failing to lodge the said deposit or notes, at the time specified, be received as a proof that the claim to purchase has been waived, and that the land in question will therefore be considered as disposeable, in like manner with other Lands."

On taking possession of his land in April, 1827, Memorialist commenced extensive improvements thereon, in which, together with the purchase and importation of valuable sheep and Stock, he has expended upwards of £10,000.

The period is approaching, when, conformably with the conditions before quoted, he should notify his intention to purchase the land in question.

But, in consequence of the drought which has prevailed for these last three Years, he has been unable to raise Corn of any description, and has consequently been obliged to procure Food at ruinous prices for the maintenance of his Establishment.

He suffers likewise in common with others from the extraordinary depreciation in the value of cattle and Sheep, as well as from the general depression which pervades the Colony; and he is incapable of raising the necessary Funds to fulfil the conditions already mentioned, or those recently submitted for your consideration, and which the local Government has proposed to substitute for them.

Memorialist therefore prays that *eight thousand Acres* of Land in question be ordered him as an *additional Grant*, subject to the usual Quit Rent from the 3d of April next, when the Deposit becomes due.

Memorialist respectfully submits that, in acceding to his prayer, an advantage will still accrue to the Public Revenue, inasmuch as that Quit Rent will be paid immediately upon Land, which, if relinquished by him "and disposed of in like manner with other Lands," would not be chargeable with Quit Rent for seven years after it should be so granted. He will likewise have paid Rent from the moment of its occupation, whilst other Settlers have received Grants (in some cases to treble the extent now solicited) exempt from charges of any description, for a period of seven years after taking possession of them.

Memorialist would further point out that, at the time of fixing the value of the Land to be disposed of under the foregoing conditions, the sum of 5s. was considered to be represented by a Dollar or 4s. 4d. Sterling; Whereas, by substituting a sterling denomination, 8d. an acre has been added to the price of the purchase, whilst it has lately been decided that 3s. 4d. is the maximum value of the Land of this Colony in its natural state.

1830.
22 Oct.

Memorial from
H. Dumaresq
soliciting
conversion of
reserve into
land grant.

1830.
22 Oct.

Memorial from
H. Dumaresq
soliciting
conversion of
reserve into
land grant.

Memorialist does not dwell upon the circumstance of his having introduced valuable sheep and Stock into the Colony, or on the nature and extent of the improvements he has made on his Property, with a view to lessen the boon he craves or to establish a right to extraordinary consideration; he believed he was advancing his own interests by so doing, and regarded the means he adopted as those best calculated to enable him to fulfil the conditions under which he obtained his land.

Memorialist believes that His Majesty's Government attaches much importance to the introduction of Capital into the Colony; and, knowing that large grants have been made to gentlemen not residing in it on condition of their expending certain sums on the improvement of the land, He trusts that the fact of his having already embarked so large a Capital will appear to justify his present application, and to warrant his hopes that it will be favorably considered.

H. DUMARESQ.

Sydney, 12th Sept., 1829.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO LIEUT.-COLONEL DUMARESQ.

Sir,

Downing Street, 16 October, 1830.

Memorial
and letter
acknowledged.

I am instructed by Secretary Sir G. Murray to acknowledge the receipt of your Memorial, dated the 12 Sept., 1829, praying that the Tract of 8,000 acres, which you were permitted by Sir Thomas Brisbane to hold as a "Reserve" with a view to their purchase, may be allotted to you as an "Additional Grant," subject to the usual Quit-rent from the 3rd April last, when, according to the stipulation made by Sir T. Brisbane, the deposit became due. I am also to acknowledge the receipt of the letter, marked "Private," which you addressed to Sir G. Murray on the 21st October, 1829, suggesting various alterations in the system at present observed in granting Lands in New S. Wales.

Agreement *re*
purchase of
reserve to be
maintained.

In answer to your Memorial, I am to acquaint you that, altho' Sir Geo. Murray regrets the losses which you, in common with all other persons engaged in Agriculture, have sustained by the late Drought and the commercial depression of the Colony, he does not feel himself at liberty to relieve you from the necessity of fulfilling the agreement entered into by you with Sir T. Brisbane, when you accepted the land in question.

Proposals *re*
regulations for
land grants.

With respect to the observations contained in your private letter, I am to acquaint you that very possibly some alterations may be made in the Regulations under which lands are at present granted, but that he can hold out no expectation that the suggestions which you have offered will be adopted. Those suggestions, from their general nature, would have come more properly before the Secretary of State through the medium of the Governor, to whom it will be desirable that you should now submit them. I am, &c.,

R. W. HAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Earl of Liverpool.)

23 Oct.

Sir,

Downing Street, 23 Oct., 1830.

Mr. Hovell having addressed a further application to the Secretary of State, respecting the additional Grant of Land

which he is desirous of obtaining in New South Wales, founded upon the services performed by him in the year 1825, I am directed to transmit to you a copy of the same and of Sir George Murray's reply, by which you will perceive that no expectation has been held out to Mr. Hovell of his receiving any further Grant, excepting the Capital at his disposal shall according to the Regulations entitle him to such indulgence.

1830.
23 Oct.

Transmission
of letter from
W. H. Hovell.

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

[Enclosure No. 1.]

MR. W. H. HOVELL TO SIR GEORGE MURRAY.

Sir, Sydney, New South Wales, 21st May, 1830.

In acknowledging my receipt of a Communication, under date the 19th December, 1829, from Mr. Horace Twiss, and forwarded by your direction, I must entreat your candid Indulgence for trespassing on your Attention with a brief, explanatory Replication.

Letter
acknowledged.

From the tenor of this official Letter, I cannot but perceive, with considerable Regret, that it has been dictated by a very erroneous impression of the nature of the Service for which I appealed* to the Colonial Government for additional Remuneration. The explanation, I have now to offer, is due therefore equally to the cause of Truth, and to my own Justification from the implied censure of an unreasonable Claim.

Explanation
of claim to
remuneration
for services.

It should appear, Sir, by the observations in Mr. Twiss's Letter, "that you have been led to suppose that the expedition† of Discovery to Western Port, or rather to Port Phillip in 1825, *to have been fitted out by the Colonial Government*; and that Mr. Hume, and myself were merely appendages to it." Now, Sir, allow me to assure you (and I challenge Contradiction of the Assertion) "that the Expedition in question was first suggested, originated with, and was conducted by that Gentleman and myself, solely at our private expense, with the express favorable wishes of the Governor, but without any other Connexion with the local Government or Assistance from it than merely an addition to our resources of a few Articles, furnished by order of Sir Thomas Brisbane, not exceeding £50 in Value, and of which a certain portion was returned." This fact, Sir Thomas will, I am assured, readily verify; and this explanation will, I confide, effect an Alteration in your opinion, as stated by Mr. Twiss, "that a sufficient Case has *not* been made out, which should induce His Majesty's Government to authorise my receipt of any additional Compensation."

Expedition to
Port Phillip.

Permit me further to remark to you, Sir, that the part of my Application which prayed "that, in *my* Case as in several other Instances forming a reasonable precedent, my original grant (*consequently on the expensive Improvements made upon it*) may be rendered equimurate with the Grant, usually conferred upon a Settler of the first Class, remains entirely unnoticed in your official Communication, an Indulgence for which I now repeat my earnest solicitation, and of which, I should hope, no just motive of refusal can be alleged."

Request for
grant of four
sections
unnoticed.

However ample may appear to you, Sir, the Remuneration conceded to my Services by the local Government, I can faithfully assure you of a fact, which I now painfully experience, "that the

1830.
23 Oct.
Loss incurred
by explorations.
Request for
reconsideration.

acknowledged Benefit, derived to the Public by my several expeditions of Discovery, has been purchased, not at the expense only of personal fatigue, privations and Hazard, but by a serious deterioration of my private fortunes, which the alleged Bounty of Government has very inadequately compensated."

Under these Circumstances, I am encouraged to crave your candid review of the indisputable facts, connected with my Case; and your more favorable Consideration of my appeal, founded upon them, for the "*extended Liberality of His Majesty's Government.*"

I have, &c.,
W. H. HOVELL.

[Enclosure No. 2.]

UNDER SECRETARY HAY TO MR. W. H. HOVELL.

Letter
acknowledged.

Sir, Downing Street, 15 October, 1830.

I am directed by Secretary Sir G. Murray to acknowledge the receipt of your letter of the 21st of May last renewing your application for additional compensation in land for the services performed by you in the year 1825, when, accompanied by Mr. Hume, you undertook an Expedition of discovery to Western Port.

Refusal of
compensation.

As it is understood that you were remunerated for your services according to your agreement and to the same extent as Mr. Hume, altho' the latter gentleman was considered the principal in the expedition, Sir G. Murray cannot authorise your receiving any further compensation on that account. The Secretary of State, however, will have no objection to your receiving such addition to the Grant of 700 acres given to you by Governor Macquarie, when you first arrived in the Colony, as your increased Capital and the improvements made in that original Grant shall under the Regulations appear to entitle you. But it must rest wholly with the local Government, after enquiry shall have been made as to the extent of your means, to determine whether or not you can receive this indulgence; and you will therefore address all further applications upon the subject to General Darling, who has been informed of the contents of this communication.

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

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Earl of Liverpool; acknowledged by Governor Darling, 30th August, 1831.)

24 Oct.
Report required
re neglect to
make deductions
from pay of
soldiers.

Sir, Downing Street, 24th October, 1830.

I am directed by Secretary Sir George Murray to transmit to you the copy of a letter from the Deputy Secretary at War, relative to certain Soldiers from whose pay no deductions on account of their subsistence appear to have been made; and I am to request that you will inform me of the grounds upon which the pay of these men have not been subjected to the usual stoppages, and that you will at the same time transmit to me information on the other points referred to in the Depy. Secretary at War's letter.

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

[Enclosure.]

1830.
24 Oct.

MR. L. SULIVAN TO UNDER SECRETARY HAY.

Sir,

War Office, 26 October, 1830.

It appearing by the enclosed Extract from the answer received from the Paymaster of the 39th Regiment stationed in New South Wales that Soldiers are occasionally dieted in the Colonial Hospitals of that Country, without being subjected to any stoppages or deduction from their Pay on account thereof; and, as it is probable that in other Colonies a similar practice may prevail, I am directed by the Secretary at War to request that you will inform me how the expence of the subsistence of such Men is defrayed, and whether Returns thereof are directed to be made under any Regulations issued from the Colonial Department.

Query *re*
deductions
from pay of
soldiers in
hospital.

I am, &c.,
L. SULIVAN.

[Sub-enclosure.]

EXTRACT from the Answers to the Examination to the Accounts of the Paymaster of the 39th Foot for the period ending the 24th March, 1829, referred to in Mr. Sullivan's letter of the 26th October, 1830.

Report *re*
absence of
deductions from
pay of soldiers
in hospital.

"THE Men, detached at the penal Settlements Norfolk Island, Port McQuarie and King George's Sound, are in *Colonial* Hospitals, and no Returns are furnished, or deductions made from the Pay of the Soldier, as in the instance quoted no Returns have been furnished or stoppage called for by the Colonial Government."

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 89, per ship Earl of Liverpool.)

Sir,

Downing Street, 25th October, 1830.

25 Oct.

I have received your Dispatch No. 19 of the 11th April last, forwarding the copy of a letter addressed to you by Mr. Robert Campbell, requesting to be allowed an additional Grant of Land, in consideration of the circumstances therein stated.

Despatch
acknowledged.

The Grant, which Mr. Campbell appears to have already received, if there be deducted the 5,000 Acres allotted to him in compensation* for the loss of the Ship "Sydney," is certainly not proportioned to the advantages, which other Settlers are accustomed to receive, or to the Services which you have enumerated as deserving the favorable consideration of His Majesty's Government. The practice however of Individuals accumulating large Tracts of Country in their possession appears already to have led to very serious evils, and is, of itself, one which weighs most heavily on the Colony from so many Proprietors, who have been admitted to that indulgence, having allowed large portions of their Grants to remain in the same uncultivated state as when they received them. As the principal portion of the land, which has been allotted to Mr. Campbell, has been granted in

Area of land
granted to
R. Campbell.

Evils of large
grants.

* Note 49.

1830.
25 Oct.

Instructions re
additional land
grant for
R. Campbell.

compensation for his loss of property, it is not my intention to apply the above observations to his case in particular, nor would it seem proper to enforce the Regulations, so far as regards the employment of Capital on the 5,000 Acres, with the same degree of strictness as would be necessary in regard to land granted under other circumstances. But, if these 5,000 Acres be suffered by Mr. Campbell to remain unoccupied, or if it be not stocked by him to the fullest extent of which it is capable, it affords a satisfactory proof that he cannot require, for any purposes connected with Agriculture, an accession of property. At the same time I shall be glad, after the statement contained in your Dispatch, to comply with any wish of Mr. Campbell, to which I can with propriety accede; and, if therefore you shall be satisfied that the 1,500 Acres which Mr. Campbell first received as a Grant, and the 5,000 Acres awarded to him as a Compensation, shall have been brought into that state of cultivation and improvement, to which it might reasonably be expected to reach, you will consider yourself at liberty to make such an addition to the 1,500 Acres, as shall make the whole quantity of land in Mr. Campbell's possession (exclusive of the 5,000 Acres awarded in compensation for the loss of his Vessel) amount to 2,560 Acres, the maximum Grant which a Settler is permitted by your Instructions to receive without purchase.

I am, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 90, per ship Earl of Liverpool.)

26 Oct.

Sir,

Downing Street, 26th October, 1830.

Despatches
acknowledged.

I have received your Dispatches of the dates mentioned in the margin.*

Withdrawal of
settlement at
Wellington
valley.

I regret to learn that you should have delayed for any time carrying into effect the arrangement, which you inform me you had in contemplation previous to the receipt of my Dispatch No. 138 of the 29th of August, 1829, for reducing the Agricultural Establishment of Wellington Valley. After the conviction, at which you appear to have arrived, that "no advantages can compensate the inconvenience and expense occasioned by its maintenance," coupled with the general Instructions of my Predecessors for making all possible reductions of this nature, no interpretation, which could have been given to my former Dispatch of the 29th August, 1829, justified the postponement of the measure; and I am therefore happy to find, by your Separate Dispatch of the 24th May, that you had decided without waiting

* *Marginal note.*—No. 32, 4th May, 1830; Separate, 24th May, 1830.

for further Instructions upon discontinuing the Settlement at Wellington Valley, and upon withdrawing the Posts connected therewith.

1830.
26 Oct.

As you do not advise the discontinuance of the four remaining Agricultural Establishments at Emu Plains, Moreton Bay, Port Macquarie, and Norfolk Island, I will not object to their being kept up for the present upon the footing and under the regulations, on which they are now placed; but as, since you last expressed an opinion upon this subject, you have found it practicable to reduce one Establishment at which you deemed "the cultivation of grain indispensable," I am led to hope that still further reductions of the same nature may be feasible. At all events, I am of opinion that, in the case of a scarcity of Grain in the Colony, like that which occurred in the year 1828, the quantity produced at Emu Plains would go very little way in alleviating the distress, and that, for any public purposes for which this Grain may be required, supplies might be obtained at an expense much lower than that at which any farming Establishment can be supported; and therefore, without wishing you to advance the measure imprudently, I shall be gratified to learn that you have been able to dispense with the Establishment at that place, and to dispose advantageously of the Lands belonging to it.

Agricultural establishments to be maintained.

Proposed abolition of establishment at Emu plains.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(A circular despatch per ship Eleanor.)

Sir,

Downing Street, 1st November, 1830.

1 Nov.

I have the honor to transmit to you, herewith, the copy and extract of two letters, which have been received from the War Office, explanatory of certain arrangements, which it is proposed to adopt for the granting of lands in the Colonies to discharged Soldiers; and I have to request that, in the cases of all soldiers serving with their Regiments in New South Wales, who may be entitled to their discharge, or of those Soldiers who, having obtained their discharge in other Colonies, may proceed to your Government in pursuance of these arrangements, you will carry into effect the Regulations, which have been recommended by the Secretary at War in the enclosed papers, assigning to each Soldier, who may be desirous of availing himself of the same, free Grants of land according to the undermentioned scale, viz.:

Instructions re land grants for discharged soldiers.

Serjeants	200 acres
Privates	100 do

I am, &c.,

G. MURRAY.

1830.
1 Nov.

[Enclosure No. 1.]

MR. L. SULLIVAN TO UNDER SECRETARY TWISS.

Sir,

War Office, 10th Sept., 1830.

Instructions *re*
land grants for
discharged
soldiers.

Adverting to the 46th and 61st Articles of the Pensioner Regulations of the 14th of November, 1829, I have received the Secretary of War's Instructions to transmit to you an Extract of a Letter, which was addressed by Sir Henry Hardinge's directions on the 30th of June last to the Adjutant General, and to request that you will move Sir George Murray to convey such Instructions to the Governors of Colonies, as are necessary for carrying into effect the proposed arrangements for the Grants of Land to discharged Soldiers.

In Colonies where Grants of Land can Conveniently and usefully be made to discharged Soldiers, the Military Officer in Command will be directed to communicate with the Governor or other Competent authority.

In Colonies, such as the East or West Indies or the Mauritius, where Colonization may not be adviseable or practicable, if the Soldier, proposed to be discharged, wishes to have a Passage to North America or Australia, in lieu of a Passage to Great Britain, and that the Authorities on the Spot accede to his application, they will be instructed to act as if the Soldier was about to proceed to such Destination on Duty, not releasing him from Military Law or granting him a Discharge, until he is located under the Authority of the Governor of the Settlement, where the Grant of Land is given.

I have, &c.,

L. SULLIVAN.

[Sub-enclosure.]

EXTRACT of a Letter from the Deputy Secretary at War,
addressed to the Adjutant General, Dated 30th June, 1830.

Facilities
proposed for
settling of
discharged
soldiers in
colonies.

“To encrease the facilities for Soldiers settling in the Colonies, the Secretary at War requests that you will submit to Lord Hill the expediency of General Officers, Commanding on Foreign Stations, being invested with discretionary power to grant Discharges with Gratuity of full Pay, under the Provisions of the 46th Article of the Pensioner Regulations, to Soldiers who may be desirous of settling abroad, without waiting to commute in each Case with the Authorities at home, the number being limited to such proportion as Lord Hill may determine.”

“Men obtaining their Discharge in the West Indies, where the means of Settlement are scarce, should be recommended to settle in North America; and Men, discharged in the East Indies, the Mauritius or at the Cape, to settle at the Swan River.”

“To encourage them to adopt these Settlements, the Secretary at War will recommend that they shall be provided with Passages at the Public Charge, particularly as giving them those Passages, instead of bringing them home, would in most instances be an economical arrangement for the Public, the Passage from the West Indies to Canada not exceeding the Passage home, and from the Cape and from the Eastward of that Settlement to the Swan River being much less, the average Passage from the Cape to the Swan River is under 30 days, while that to this Country is 84 days.”

[Enclosure No. 2.]

1830.
1 Nov.

MR. L. SULIVAN TO UNDER SECRETARY TWISS.

Sir,

War Office, 23d October, 1830.

With reference to my letter of the 10th September last, transmitting an extract of a letter which was addressed by direction of Sir H. Hardinge to the Adjutant General, I have received the Secretary at War's instructions to forward an Extract of a communication, which has been received from the Adjutant General, dated the 5th Inst., and a copy of the Circular letter sent by the General Commanding in Chief to Officers Commanding on Foreign Stations on the subject of the discharge of Soldiers under the provisions of the King's Warrant, dated the 14th November, 1829; and I am directed to transmit three copies of a Memorandum, which has been prepared in this Department for the information of Commanding Officers, pointing out the course of proceeding in each case of discharge, in the 4th Head of which Discharges on Foreign Stations are particularly adverted to.

Instructions
re discharge of
soldiers on
foreign stations.

I have, &c.,

L. SULIVAN.

[Sub-enclosure.]

EXTRACT of a letter from the Adjutant General to the Deputy Secretary at War, dated 5 October, 1830.

"It is probable that the Regts. concerned will be ready and anxious to take advantage of the indulgence offered; but it ought to be observed that the General Officers on the several Stations will not be able to give full effect to the intentions of H.M.'s Govt., unless they are provided with Instructions from the War Office as well as from the Secretary of State for the Colonies as to the rates and mode of payment of the Gratuities and modified Pensions to the Soldiers, so discharged, and the allotment of Lands to be assigned to them together with the means of conveyance to their respective destinations."

Necessity for
instructions to
general officers.

[Enclosure No. 3.]

SIR HERBERT TAYLOR TO OFFICER COMMANDING.

Sir,

Horse Guards, 17th May, 1830.

I have the honor to transmit to you herewith, a Form of the Return, which will in future be required to accompany every Application, recommended by You, from Soldiers for their Discharges on the Conditions prescribed by the King's Warrant of the 14th November, 1829.

Form of
application for
discharge by
soldiers.

As the information to be furnished by this Return is requisite to enable the General Commanding in Chief to decide on the several cases brought before him, you will see the necessity of taking care that it may be accurately filled up.

I beg to call your attention to the Note at the foot of this Return, and in addition to inform you that the two years for Waterloo (allowed to reckon) are to be separately stated in the 6th Column.

I am further to acquaint you that it is desirable that all applications for the discharge of Men at their own request should be divided into two Classes, Vizt.: 1st, those for discharges by purchase, and for Free discharges with or without Gratuity (being the Conditions prescribed by the 46th Section of the King's Warrant

Classification
of applications.

1830.
1 Nov.

of the 14th November, 1829), and 2nd those for discharges with Pension, as sanctioned by other Sections of that Warrant; and that each *Class* should be the subject of a separate Letter.

Limitation of applications for indulgence.

In making this Communication, I think it necessary to apprise you that it has been agreed upon, between the General Commanding in Chief and the Secretary at War, that it will not be advisable or expedient to extend the indulgence of Discharges with modified rates of Pension to Non-Commissioned Officers in a higher proportion than that of two Serjeants and Two Corporals for each Battalion per annum; and you will therefore see the propriety of regulating your applications accordingly. In conclusion, I am directed to draw your particular attention to the preparation of the Documents named in the Margin,* previously to their transmission to this Office, and to desire that the Instructions, already issued on that point in pages from 8 to 12 of the General Order of the 1st January last, may be strictly and minutely adhered to, much correspondence having in some instances taken place in returning them for amendment, which would have been unnecessary if due attention had been paid to this part of a Commanding Officer's duty.

Preparation of documents.

I have, &c.,
H. TAYLOR, A.G.C.

Form of return required on application for discharge.

STATEMENT of Services of Men, who apply for their Discharge on the conditions sanctioned by the King's Warrant of the 14th November, 1829.

Head Quarters

Regiment
Name
Rank
Period of Service in each Rank after the Age of 18.
From to
Amount of Service
Years Days

N.B.—No additional Credit to be given for Service in E. or W. Indies in the Cases of Men who apply for the *Modified Pension*, nor are the periods of Imprisonment by Sentence of a Civil or Military Court, nor Service in the Navy, to be reckoned in any Case.

Vide 39 and 45 Sections of the King's Warrant of 14th Nov., 1829, and the other Rules for reckoning Service.

.....
Officer Commanding.

Regiment

RETURN of Men who solicit their Discharge from the Service on the conditions prescribed by the King's Warrant of the 14th November, 1829.

Rank and Name
Date of Enlistment
Present Age
Conditions

30 days having elapsed since the date of our first application, we solicit to be discharged and declare that we perfectly understand that, if our requests are granted, even if we should re-enlist, our past Services will not be allowed to reckon for the purpose of obtaining any benefit from Chelsea Hospital.

Character

* *Marginal note.*—Proceedings of Regl. Boards. Discharge: The Declaration on the 4th page to be signed by the Man in all cases when discharged at his own request. Parchment Certificate: The space for Service to be left open, to be filled up when confirmed.

[Enclosure No. 4.]

1830.
1 Nov.

A CIRCULAR LETTER FROM THE HORSE GUARDS.

Sir, Horse Guards, 25th September, 1830.

Adverting to the 9th, 10th, 11th, and 12th Paragraphs of the General Order of the 1st of January, 1830, which relate to the Discharge of Soldiers at their own request. I am directed to acquaint you that the General Commanding in Chief, with the view of enabling you to carry these Regulations more promptly into effect, is pleased to authorize you to use your discretion in deciding on such applications without previous reference to Him. In the exercise of this discretion, Lord Hill expects that you will uniformly bear in mind the following considerations, a due attention to which will insure the execution of the measure on the same principles as those on which it will be conducted at Home under his own eyes.

Instructions re
applications by
soldiers for
discharge.

1st. The Efficiency of the several Corps under your orders must always be the main point to be kept in view, and no personal indulgence, which might materially affect or interfere with this primary object, can of course be granted to Individuals on any account. In the present situation of affairs, His Lordship is not inclined to apprehend that any inconvenience would result to the Service by granting Discharges to Soldiers at their own request, in a proportion not exceeding *Thirty six* Men per Annum on the whole, whether by or without Purchase, for each Corps on a Foreign Station; but local and temporary circumstances may occur to render an alteration of this proportion expedient, of which you of course will be the most competent judge; and you will therefore be guided in your decisions accordingly. The transmission of periodical Returns to this Office of the Men so discharged will afford the best means of regulating the Recruiting of each Corps, so as to meet the wants and obviate the diminution of numbers occasioned by Discharges on Foreign Stations.

2nd. In deciding on Applications for Discharge you will always give the preference to Men of exemplary Character, and especially to those who intend to become Settlers in the Colony, to whom you will afford every facility within your power, consistent with the provisions of the King's Warrant of the 14th November, 1829, and the Instructions you may receive from the Secretary at War or the Secretary of State for the Colonial Department.

3rd. You will be very careful to ascertain that the length of service, on which such Discharges are granted, has been calculated in strict conformity with the Instructions contained in my Predecessor's Circular Letter of the 17th May, 1830, and the Circular Memorandum of the Secretary at War dated 5th July, 1830 (Copies of which are inclosed), and that no Service is allowed to be reckoned, but as authorized therein. It is particularly necessary that the utmost correctness should be observed in this respect, both to prevent injustice to the Public and injury to the Individuals concerned, for the rate of each Gratuity and Modified Pension will be subject to revision at the War Office, and, if mistakes should be discovered, the Soldiers' Allowance may be subject to reduction, or, if any wilful inaccuracies or attempts at imposition should be detected, the benefit of all his Services may be wholly forfeited.

4th. It is indispensable that, previously to the final Discharge of a Soldier at his own request, whether by or without purchase, the Records and Documents required by the General Order of the 1st

1830.
1 Nov.
Instructions *re*
applications by
soldiers for
discharge.

January, 1830, be prepared at the Regiment. The Parchment Certificate must be confirmed with your Signature, and be delivered to the Man, when he is struck off the strength of the Corps, and the two other Documents, vizt., the Proceedings of the Regimental Board and the Discharge, must be transmitted without delay thro' the Secretary at War, by whom the necessary instructions will be given regarding the payment of the Gratuities, the placing of Discharged Men on the Modified Pension, dispensing with their personal appearance before the Commissioners of Chelsea Hospital, and regarding every other financial arrangement that may arise out of the intended measure.

5th. You will bear in mind that the General Commanding in Chief and the Secretary at War have decided that the number of Non Commissioned Officers, discharged on the Modified rate of Pension, must not exceed two Serjeants and two Corporals per Annum for each whole Regiment, including both Service and Reserve Companies. It will not be advisable therefore for you to sanction the Discharge of more than one of each rank per Annum, unless the Commanding Officer, thro' whom the application comes, can satisfy you that he has been in communication with the Officer Commanding the Reserve Companies of the Corps, and that there are no Claimants there with whose just pretensions any further indulgence would interfere.

I have, &c.,

[*Unsigned*].

[*The printed circular, No. 669, dated 5th July, 1830, with the necessary forms, was also enclosed.*]

UNDER SECRETARY HAY TO GOVERNOR DARLING.*

Downing Street, 4th November, 1830.

SURGEON PETER MACARTHUR of the late 6th Royal Veteran Battalion, Military Settler.

P.S.—I also enclose for your information a Copy of a letter which has been addressed to me by Dr. Somerville, Physician to the Royal Hospital at Chelsea, bearing testimony to the character and abilities of Mr. McArthur.

I am, &c.,

R. W. HAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 91. per ship Earl of Liverpool; acknowledged by Governor Darling, 27th June, 1831.)

8 Nov.

Sir, Downing Street, 8th November, 1830.

I have received your Dispatch dated the 12th of April last, No. 20, reporting the proceedings which have taken place in the Actions† brought by the Editors of the Australian and Monitor Newspapers against the Magistrates and Superintendants of Convicts for the removal of their assigned Servants.

Actions against
magistrates and
F. A. Hely.

* Note 191.

† Note 19.

It is of course unavoidable that the Public Officers, who have acted on this occasion in strict conformity with the directions which they received from yourself, should be indemnified against the damages and Costs of the Action to which they became liable on that account. I therefore approve the payment at the public expense of those damages; and I also approve the payment of the Costs, on the assumption that they were taxed by the proper Officer of the Court, and that nothing beyond the amount of such taxed Costs have been paid.

1830.
8 Nov.

Approval of
payment of
damages and
taxed costs in
suits.

With respect to the Sums charged for Counsel's fees, which in one Action amount to £31 10s., and in the other to £94 10s., making together £126, I am unable to sanction that Expenditure without more satisfactory proof that it was necessarily incurred and was reasonable in amount. The reason, assigned in your Dispatch for paying these Fees, is that the question was of great importance to the Public, and that therefore the best assistance was indispensable. Without denying the importance of this question, I am not fully aware why the defence of this Action might not have been left to the Law Officers of the Government, or, if they were unequal to so arduous a duty, I must still require some vindication of the amount of the Fees paid to the Counsel employed to assist them. Without meaning to depreciate the services of those Gentlemen, I cannot but regard it as extraordinary that they should have received the sum of £126 as their remuneration for the defence of two Actions, in both of which the question of Law was precisely the same, and in neither of which could there be, from the nature of the case, any complicated or difficult question of fact demanding investigation. Whether the charge be compared with the rate of remuneration granted to the Law Officers of the Crown in New South Wales, or with the practise which I understand to prevail in similar cases in this kingdom, the difficulty of acquiescing in it seems equally great. The fees in question are nearly equal to a Sixth part of the whole annual income of the Colonial Solicitor General, and to the fourth part of the income of the Crown Solicitor, both of whom are said to give their whole time to the public Service; and, if I am correctly informed, those Fees greatly exceed what would have been given to the most eminent Advocates at the English Bar in a similar case. You will therefore have the goodness to explain more fully upon what principle it is that these charges have been made.

Criticism of
amount of
counsel's fees.

I cannot close this Dispatch without expressing my regret that this question should have been brought into discussion with the Editors of these Newspapers. It is not suggested that any necessity existed for the removal of their assigned servants, nor is it

Criticism of
revocation of
assignment of
convicts to
editors.

1830.
8 Nov.

Criticism of
revocation of
assignment
of convicts to
editors.

even shewn that any reasonable cause whatever required your interference. The single object of Parliament in enabling the Governors of New South Wales and Van Diemen's Land to remove assigned Convicts was the advantage of the Convicts themselves, or the protection of the Public against an improper use of his Master's authority. It was apprehended that, without such a power being vested in the Governor, some Masters might oppress their assigned Servants by extreme severity, while others might defeat the great object of transportation, and subject the Colony to great inconvenience by a culpable neglect of good domestic discipline. It is not imputed to the Editors of these Newspapers that they erred in either of these respects; whatever your motives for removing their assigned Servants may have been (and I am bound to suppose that they were unexceptionable), yet it would be vain to expect from the Public at large any other construction than that you were endeavouring by this use of your power to harass a political opponent and to cripple his operations. I deeply regret that any ground whatever should have been given for such an imputation, however well I may myself be convinced of its injustice. The decision of the Judges of New South Wales will probably induce His Majesty's Government to propose an amendment of this part of the law; you will however clearly understand that the power itself must never be used, except on the clearest proof or most evident probability that the assigned Convicts, whom it may be intended to remove from his master, is treated by that master with undue rigour, or with culpable indulgence, or in such a manner as tends to defeat the ends of Justice or to endanger the peace and good order of Society.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 92, per ship Earl of Liverpool.)

9 Nov.

Sir, Downing Street, 9th November, 1830.

In my Dispatch of the 22nd of July last, I acquainted you that I had felt it my duty to discontinue the Services of Mr. Rumker as Superintendent of the Government Observatory at Paramatta; I now do myself the honor of informing you that I have appointed to that situation Mr. James Dunlop, a gentleman who has been strongly recommended to me by the President of the Royal Society, with a Salary of £300 per annum, half of which Mr. Dunlop will be entitled to receive from the date of his Embarkation.

I have, &c.,

G. MURRAY.

Appointment
of J. Dunlop
to charge of
observatory.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

1830.
10 Nov.

(Despatch No. 93, per ship Earl of Liverpool; acknowledged by Governor Darling, 27th June, 1831.)

Sir, Downing Street, 10th November, 1830.

I have had the honor to receive your Dispatches dated 9th of April last No. 18, and the 26th of the same month marked "Separate," on the subject of the accumulation of legal business in the Colony of New South Wales, and the expense which you have deemed it necessary to incur for the assistance of the Law Offices of the Crown in the dispatch of that business.

Accumulation
of legal
business.

Considering the extent of the legal Establishment, and the amount of the charge already sustained by the Public on that account, I observe with much regret the additional expense already incurred in this Branch of the Public Service and the prospect of its future augmentation. I trust that the objections, which have latterly operated to prevent your being satisfied with the exclusive assistance of the legal advisers of the Government, will be removed on the arrival of the Gentleman,* who has recently received the appointment of Solicitor General. Without intending to lay down any inflexible rule against the employment of private barristers on any occasion, I must yet express my hope that such occasions will be very unfrequent, and I shall deem it right in every such case to require a full explanation and proof of the necessity.

Regret at
additional
expense
incurred.

With reference to the charges made by Mr. Foster and Dr. Wardell, I am unable to sanction the payments, which have been made to those gentlemen, without some evidence of the propriety and reasonableness of their demands. You will therefore cause those Bills of Costs to be taxed by the proper Officer of the Court, and you will take credit in your accounts with the Public for the amount which may be allowed on such taxation.

Bills of cost
to be taxed
and paid.

After making the utmost allowance for the anomalous state of society which must prevail in a Convict Settlement, and for other circumstances peculiar to the present condition of New South Wales, I am still at a loss to find a satisfactory explanation of the extent of the legal business, in which, as appears from your own and Mr. Moore's statement,† the Colonial Government are habitually engaged. It would seem almost to bear a comparison with that of Great Britain, since I find Mr. Moore describing himself as engaged at one time in having to sue for the Crown upon 33 Warrants of Attorney and 23 Bonds and Promissory Notes, in addition to 18 Cases from the Revenue Offices and 12 from the Commissary General, in which Actions are to be brought. He states the whole number of these Suits as amounting to 80 at the least, and as probably exceeding that number. I

Criticism of
number of
crown lawsuits.

* Note 192.

† Note 193.

1830.
10 Nov.
Criticism of
number of
crown lawsuits.

apprehend it very rarely happens that so many Actions are depending at one time at the Suit of the Crown in Westminster Hall. Compared with the number of the free Population of New South Wales, and with the Revenues and general resources of the Colony, such an amount of litigation might seem altogether incredible, if stated on any less authority than that of the Crown Solicitor himself. The review of this subject unavoidably suggests a surmise that some considerable defect exists either in the Law or in its practical administration to occasion such results; and it would seem an object of great importance and interest to ascertain whether some methods might not be found of diminishing the number and expense of those legal proceedings, in which the Crown is involved. With that view it would be satisfactory to appoint a Commission of Enquiry, to be composed of the Chief Justice, the Colonial Secretary, the Treasurer, and any other persons most conversant with the course of public business in the Financial and Judicial Departments, who might report to you on the causes of this extraordinary amount of litigation, and on the most convenient mode of applying a remedy. It will peculiarly deserve attention whether the Law of Extents, as it prevails in England, might not be advantageously introduced into New South Wales, with such modifications as local circumstances might suggest. The promptitude, with which the Dues of the Crown are recovered by means of that process in England, is an unequivocal benefit to Society at large by protecting the Public Revenue from losses, which, if incurred, must be replaced at the Public expense. I should collect from Mr. Moore's statement that the Crown does not sue its Debtors in New South Wales with any greater facilities than those possessed by a private Creditor. If really such is the fact, the Law of the Colony protects and favours public Defaulters at the expense of all other Classes of the community.

Commission
of inquiry to
be appointed.

Proposed
adoption of law
of extents in
N.S.W.

Assistance for
W. H. Moore.

On the whole, I trust that some remedy, for the inconvenience of which Mr. Moore complains, may be found in a better system of conducting the public business rather than in an increase in the number and remuneration of those who are engaged to perform it. In the mean time, however, if Mr. Moore's account of the severity of his labours be accurate, he ought to have such clerical aid as may be necessary for his relief from the immediate pressure, of which he complains. It is impossible for me to judge what should be the extent of that assistance, or for how long a time it ought to be continued. Whilst on the one hand the utmost regard should be paid to economy in the extent of all public Establishments, it is not less necessary on the other hand to afford efficient public Servants such assistance as is really

essential to the faithful discharge of their duties; and you will advert to each of these considerations, in determining the extent to which Mr. Moore's claims to relief should be admitted.

1830.
10 Nov.

I have, &c.,
G. MURRAY.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 68, per ship Marquis of Huntley; acknowledged by Viscount Goderich, 19th June, 1831.)

Sir, Government House, 10th November, 1830.

The accompanying Memorial from Mr. Harris, having been forwarded to me for the purpose of being transmitted for your consideration, I have the honor to forward it accordingly.

Transmission
of memorial
from
S. L. Harris.

The Claims set forth by Mr. Harris refer to the Administration of Sir Thomas Brisbane, and, as will be seen by the Copies of the Colonial Secretary's Correspondence,* were considered as finally disposed of; I have not therefore thought it necessary to enter into any reconsideration of them.

I have, &c.,

RA. DARLING.

[Enclosure.]

THE Memorial of Standish Laurence Harris, To the Right Honorable Sir George Murray, G.C.B., His Majesty's Principal Secretary of State, for the Colonies, etc., etc., etc.

Memorial from
S. L. Harris re
architect's
commission on
erection of gaol.

Very respectfully represents,

That, by a Document bearing date the 6th December, 1822, and issued by Authority of the then Governor, Sir Thomas Brisbane, your Memorialist was engaged to discharge the duties of Civil Architect of the Colony of New South Wales at a Salary of £100 (one hundred pounds) per annum, and with an addition of ten per Cent. on the Value of all work performed under your Memorialist's Inspection, on the building of a new Gaol† then in progress.

That your Memorialist diligently and faithfully superintended and directed the Conduct of that work, until it was suspended by Authority, and discharged all other Duties, connected with his Office, with Zeal and fidelity and in a manner confessedly scientific and unexceptionable.

That an estimate of the value of the said Work, amounting to £11,625 10s. 8d., was furnished by your Memorialist to the Colonial Government; but that a Counter-Statement of the expense of maintaining convict Laborers, employed in that work, and of procuring materials, was presented by the Board of Works, nominated by the Governor, by which the *Cost* to the Government, not the *actual value*, was made to appear £4,479 7s. 10d., and that, on this estimate alone, the stipulated per centage has been awarded to your Memorialist.

That your Memorialist, on this reduction of his just claim to a standard so little accordant with his original contract, proposed to

* Note 194.

† Note 195.

1830.
10 Nov.

Memorial from
S. L. Harris *re*
architect's
commission on
erection of gaol.

refer the valuation of the works to competent Judges, possessing Architectural knowledge and experience, and implicitly to submit to *their* Arbitration; but his proposal was declined, and the Judgment of the Board of Works affirmed, though consisting of Gentlemen, who, from their Habits and pursuits, were totally inefficient to form an accurate Opinion on a question exclusively technical and professional.

That, on your Memorialist's respectful remonstrance against a Decision, including, as he conceived, a violation of the Conditions under which he had publicly acted, and a very serious detriment to his private Interests, he was referred by the Government for redress to the Courts of Law, in which the Jury consists of two Magistrates, nominated by and dependant upon the very Government, who, in such Action, would be the Defendant. Your Memorialist, therefore, declined so hopeless an alternative, preferring an Appeal to the equitable Consideration and liberal feelings of His Majesty's Home Government.

But, previously to his recurrence to this measure of *dernier resort*, your Memorialist has made ineffectual representations of the Hardship of his Case to the present Government who decline interference with the decisions of the preceding Administration. To this appeal, therefore, your Memorialist is reluctantly but necessarily compelled, as affording the only practicable expedient for obtaining that Justice in the covenanted remuneration of his Services, to which he feels himself fully entitled.

That your Memorialist is still prepared, and disposed to prove the strict Accuracy of the valuation of the work, performed under his superintendence, as presented by him to the Government, and to demonstrate the consequent fallacy of the report of the Board of Works, who, in one Article alone (as your Memorialist engages to establish) have committed an Error of at least "one thousand pounds." From this fact, your Memorialist respectfully submits that the utter incompetency of the Members of that Board must be evident to decide on a question, involving his professional Character and his private Interests to a considerable extent; and he therefore feels bound, in Justice to himself, to remonstrate and strenuously to protest against such Decision.

Your Memorialist, in Testimony of the value of his public Services, begs to have the honor of forwarding for your Inspection and Consideration the accompanying plans, Specifications, etc., made in conformity with the orders of the Colonial Government, together with copies of the Correspondence, which, he flatters himself, will more fully explain and illustrate the Subject, which his present Memorial embraces.

And, in Conclusion, your Memorialist earnestly but respectfully prays "that you will be graciously pleased to direct the local Government, that ample though tardy Justice may be done to your Memorialist by the payment of such pecuniary claim, as, before competent and impartial Arbitrators, he may be able distinctly to establish is still *bonâ fide* due to him consistently with the tenor of the Agreement, under which his public Services were engaged, by the Colonial Government."

And your Memorialist, as bound by Duty and Gratitude, will Pray, etc., etc., etc.,

S. L. HARRIS.

Sydney, 23rd October, 1830.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

1830.
11 Nov.

(Despatch No. 94, per ship Earl of Liverpool.)

Sir, Downing Street, 11th November, 1830.

I have received and have communicated to the Lords Commissioners of the Treasury your Dispatch No. 31 of the 26th of April last, with its enclosures, on the subject of the right of Mr. P. de Mestre to hold a share in a British Vessel. The Lords Commissioners having referred the question for the consideration of the Lords of the Committee of Privy Council for Trade, their Lordships have reported "that the opinion, given on this point by the Judges of the Supreme Court of New South Wales, is quite correct, and that Mr. de Mestre is qualified by birth to own a British Registered Vessel."

Right of
P. de Mestre
to own British
vessel.

I have, &c.,

G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.

(Despatch No. 95, per ship Earl of Liverpool.)

Sir, Downing Street, 12th Novr., 1830.

12 Nov.

I have the honor to acknowledge the receipt of your Dispatch No. 28 of the 22d of April last, with four Enclosures, relative to a question which has arisen, how far it was necessary under the 27th Clause of the Act of 9th George 4th, Chap. 83, that the consent of the Legislative Council should be obtained for continuing the duties imposed or usually collected in virtue of the authority, vested in the Governor by the Acts of 59th George 3d, and of the 3d year of His late Majesty's Reign; and you request to be informed, as it is now understood from the opinion expressed by the Judges on this subject, that the application of the Colonial Revenue rests with the Council, whether it will be necessary in future to refer to His Majesty's Government in the case of such expenses as are to be paid from the Colonial Treasury.

Request for
instructions
re power to
levy duties ;and
appropriation
of colonial
revenue.

Although I am disposed to agree with you in opinion that the view taken of this question by the Judges, so far as regards the necessity of renewing the existing duties, was not consistent with the Instructions of Parliament, yet I am fully prepared to approve of the decision, to which you came, of setting at rest all further doubts upon the subject by a Legislative Enactment, not only as regarded the levying of existing Duties, but the appropriation of them; and it is scarcely necessary for me to add, under the circumstances which have given rise to this Ordinance, that, if any attention be hereafter necessary as to the amount of

Approval of act
of council for
levy of duties.

1830.
12 Nov.

Alteration of
duties and
appropriation
of revenue
subject to
legislative
council.

the duties in question, or if any additions be required to the Public Establishments in New South Wales, or other appropriation of the public Revenue, not at present sanctioned, such alteration of duties and additions of Establishment cannot be made, excepting with the previous concurrence of the Legislative Council. You will, therefore, in all such cases bring the subject under their consideration in the first instance, and will afterwards refer the matter home, as usual, for the approval of His Majesty's Government, accompanied by the Minutes of the proceedings before the Legislative Council, and such other information as you may have it in your power to afford in explanation of the changes in question.

I have, &c.,
G. MURRAY.

SIR GEORGE MURRAY TO GOVERNOR DARLING.
(Despatch No. 96, per ship Earl of Liverpool.)

15 Nov.

Despatch
acknowledged.

Sir,

Downing Street, 15th Novr., 1830.

I have had the honor of receiving your Dispatch No. 12 of the 16th of March, together with that marked "Separate" of the same date, reporting the death of the Revd. Mr. Power, and the misconduct of the Revd. Mr. Therry, who, notwithstanding his dismissal, is stated by you to continue to retain possession of the Chapel House.

Complaint
re Revd.
J. J. Therry.

I have not failed to place myself in communication with Dr. Brampton, the Vicar Apostolic, on the inconvenience to be apprehended from the line of conduct pursued by Mr. Therry; and, although it is not in the power of His Majesty's Government, at the present moment, to send out to the Colony a Clergyman of the Roman Catholic Church, who may be capable of contending successfully against Mr. Therry, yet I am in hopes that an appointment of this nature will not long be delayed.

Successor
appointed to
Revd. D. Power.

In the mean time, I have appointed the Revd. Mr. Dowling to succeed the late Mr. Power, and I trust he will be found to discharge the duties of his situation in a more becoming manner than they appear to have been executed by his Predecessors.

Stipend for
R. C. chaplain.

In consequence of your representations as to the inadequacy of the former Income assigned to the Roman Catholic Clergyman, I have to authorise the payment (from the date of his Embarkation) to the Revd. Mr. Dowling of a Salary at the rate of £150 per annum.

I have, &c.,
G. MURRAY.

UNDER SECRETARY HAY TO GOVERNOR DARLING.
(Despatch per ship Earl of Liverpool.)

1830.
16 Nov.

Sir, Downing Street, 16th November, 1830.

Request by
G. Arthur
for military
reinforcements.

Instructions for
reinforcements
from N.S.W.

Since I addressed to you my letter of the 25th April last, further representations have been received from Colonel Arthur of the inadequacy of the Military Force at Van Diemen's Land to protect the lives and property of the Colonists from the incursions of the Aborigines, and, with a view to augmenting that Force, he has suggested that the Detachment of the 63d Regiment at Swan River should be relieved either from the Cape or from Mauritius, and should be ordered to join the main body of the 63d at Van Diemen's Land. Having communicated Colonel Arthur's proposal to the General Commanding in Chief, the enclosed letter has been received, explaining the objections to the measure, and recommending that you should be instructed to augment the Force at Van Diemen's Land by a further Detachment from the troops at New South Wales. I am therefore directed to instruct you to forward to Van Diemen's Land any portion of the Troops under your command, which you can spare without endangering the safety of the Colonists of New South Wales. But if, in consequence of my letter of the 25th April, you shall have already sent a reinforcement to Colonel Arthur, you will not encrease the Force at his disposal, until you shall have at first ascertained from him that additional Troops are absolutely required.

I am, &c.,

R. W. HAY.

[Enclosure.]

[A copy of this letter is not available.]

VISCOUNT GODERICH TO GOVERNOR DARLING.

(A circular despatch per ship Earl of Liverpool; acknowledged by Governor Darling, 5th April, 1831.)

Sir, Downing Street, 22d Novr., 1830.

22 Nov.

Appointment
of Viscount
Goderich as
secretary of
state for
colonies.

His Majesty having been pleased to honor me with the Seals of the Colonial Department in the room of Sir George Murray, I take the earliest opportunity of acquainting you therewith.

It will give me great satisfaction to be able to fulfil His Majesty's Gracious intentions in this appointment; and, as it is His Majesty's Pleasure that your dispatches should for the future be addressed to me, I shall not fail to lay them immediately before The King, and to transmit to you such orders as His Majesty shall think fit to give thereupon.

I have, &c.,

GODERICH.

1830.
22 Nov.

VISCOUNT GODERICH TO GOVERNOR DARLING.

(A circular despatch per ship Earl of Liverpool; acknowledged by Governor Darling, 5th April, 1831.)

Sir, Downing Street, 22d Nov., 1830.

Division of
business in
colonial
department.

Having appointed the Lord Howick as one of my Under Secretaries of State, I enclose a Memorandum of the mode in which the public business of this Department has been divided between his Lordship and Mr. Hay.

I have, &c.,
GODERICH.

[Enclosure.]

MEMORANDUM.

Groups of
colonies.

R. W. Hay, Esq.—Gibraltar; Malta; Ionian Isles; Morocco; Algiers; Tunis; Tripoli; Missions to the interior of Africa; Sierra Leone; River Gambia; Fernando Po; Cape of Good Hope; Lower Canada; Upper Canada; Nova Scotia and Cape Breton; New Brunswick; Prince Edward's Island; Newfoundland; Bermuda; Heligoland.

Viscount Howick.—Jamaica; Barbadoes; St. Christopher, Nevis, and Tortola; Antigua and Montserrat; Dominica; Grenada; St. Vincent; Tobago; Trinidad; Demerara and Essequibo; Berbice; Honduras; Bahamas; Mauritius; Ceylon; New South Wales; Van Dieman's Land; Swan River; East-Indies.

VISCOUNT HOWICK TO GOVERNOR DARLING.

(Despatch per ship Earl of Liverpool.)

29 Nov.

Sir, Downing Street, 29th November, 1830.

Transmission of
correspondence
with
E. Biddulph.

I am directed by Viscount Goderich to transmit to you the accompanying copy of an application from Mr. Biddulph, praying that a Steam-boat, which he intends to take out to New South Wales for employment in the "Coasting and River Trade" of the Colony, may be placed upon the same footing, in regard to Port Dues and Pilotage Charges with Colonial built Vessels. I am also to enclose to you a copy of the answer, which has been returned to Mr. Biddulph, and to desire that you will give effect to Lord Goderich's intentions as therein expressed.

I am, &c.,
HOWICK.

[Enclosure No. 1.]

LIEUTENANT BIDDULPH TO VISCOUNT GODERICH.

My Lord, 2 Marine Place, 25 Novr., 1830.

Request for
concessions *re*
port charges
and pilotage for
steam vessel.

I have the honor most respectfully to acquaint you that the Mercantile interests at Sydney in New Holland have long called for the assistance of a Steam Vessel, but, owing to the Port charges levied upon all English built Vessels, the Proprietors of Steam-boats have hitherto declined sending one out. But, at the earnest solicitations of several Merchants here and at Sydney, I am induced to take out the *Sophia Jane*,* in hopes that your Lordship will give such

* Note 196.

directions to the Colonial Government, that they will allow me to employ her upon the Coasting and River Trade upon the same terms as tho' she had been built in the Colony, for, should I be obliged to pay the Port-charges and Pilotage every time the Boat enters the Cove, it would entirely ruin my future prospects, as I consider those charges alone would nearly take all the profits.

It is intended that the *Sophia Jane* shall leave Plymouth about the 1st or 2d of Decr. next, and should your Lordship have any thing to send either to the Cape of Good Hope or Sydney, I shall be most happy in taking charge of them.

I have, &c.,

E. BIDDULPH, Lieut't, R.N.

[Enclosure No. 2.]

VISCOUNT HOWICK TO LIEUTENANT BIDDULPH.

Sir, Downing Street, 29 November, 1830.

I am directed by Viscount Goderich to acknowledge the receipt of your letter of the 25th Instant, intimating your intention to take out to New S. Wales a Steam-vessel for the purpose of engaging in the "Coasting and River Trade" of that Colony, and praying that your Vessel may be placed, in regard to Port Dues and Pilotage Charges, upon the same footing with Vessels built in the Colony. I am directed to acquaint you, in answer, that, as these duties are levied under the authority of Colonial Acts, it is out of the power of the Secretary of State to accede to your request. But Lord Goderich will have no objection to instruct General Darling to recommend to the Legislative Council the extension to you of such privileges as, upon consideration of the advantages likely to result to the Colonists from the introduction of Steam Navigation, your speculation may appear to merit, and as may be consistent with the interests of those who are already engaged in this branch of the Colonial Trade.

I am, &c.,

HOWICK.

1830.
29 Nov.

Request for concessions *re* port charges and pilotage for steam vessel.

Inability to grant request.

Instructions to be sent to R. Darling for indulgence.

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship *Earl of Liverpool*.)

Sir, Downing Street, 30 Novr., 1830.

30 Nov.

The Secretary at War has applied to this office for information as to the date of Lieut. Percy Simpson's appointment to the situation of "Resident Magistrate at Portland Head" and also as to the emoluments received by Mr. Simpson in that capacity; and, in consequence of the non-arrival of the Blue Book for 1829, the Secretary of State has been unable to furnish the particulars desired. I am therefore directed by Viscount Goderich to request that you will supply the information, and that you will explain the cause of the great delay which has taken place in the sending home the Blue Book for last year.

I am, &c.,

R. W. HAY.

Report required *re* P. Simpson and blue book.

1830.
1 Dec.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch marked "Private," per ship Marquis of Huntley.)

Sir, Government House, 1st December, 1830.

Statement in
parliament *re*
party spirit in
colony.

I hope you will excuse my referring to the Discussion, which is stated to have taken place in the House of Commons on the 11th of June last relative to the Affairs of this Colony, in which you are reported to have said that you did not appoint Colonel Dumaresq to the situation of Treasurer in consequence of the strong Party Spirit, which prevailed here. I am only anxious to remove an impression, which must have been received from the Opposition Papers or have been conveyed by some Individual interested in giving a false Coloring to the real State of this Community, and therefore beg to assure You that there is no ground whatever for any such Report, and that no place can be more free from the effect of anything like Party feeling than this. You will, I trust, Sir, excuse my expressing my disappointment thus freely at Your having been led to entertain and give publicity to such an opinion, as others will of course suppose that the Community is disturbed by dissensions, which can hardly fail to prove injurious to the Colony. It is besides the more painful to me, as it has been all along the object of the Opposition Papers, supported by Wentworth, the Stephens and their few factious Associates, to convey a belief that a formidable Party exists against the Government; while the truth is that Mr. Wentworth is entirely excluded from Society, and his friends are in no better estimation with the respectable Classes of the Inhabitants than himself. You may be assured, Sir, that this is the true State of the Case, and that the Character of Mr. Wentworth and his Associates is too well known ever to permit of their having any influence except amongst Individuals of the lowest Orders.

Denial of
existence of
party feeling.

Status of W. C.
Wentworth
and friends,

I have, &c.,

RA. DARLING.

GOVERNOR DARLING TO SIR GEORGE MURRAY.
(Despatch per ship Marquis of Huntley.)

2 Dec.

Sir, Government House, 2d December, 1830.

Despatch
acknowledged.

I have had the honor to receive Your Letter of the 3rd of May last, marked Private, directing my attention to the remarks therein contained with reference to Your Despatch, dated the 30th of January last, respecting the power of the Governor to withdraw assigned Servants.

Regret at
misconception
of despatch.

I regret, Sir, extremely that I should have misconceived the purport of Your Despatch, which it appeared to me was intended to correct the view taken of this subject by the Chief Justice, who had advanced opinions similar to those expressed in your private Letter.

It is not true, Sir, as stated in the "Monitor," that I have exercised the power of revoking Assignments in two Cases only, and that the Parties affected by this measure were the Editors of the two Newspapers habitually opposed to my Administration. I will, however, candidly admit, as it appeared that the object of the two Editors was to weaken the Public Authority by bringing the Government into disrepute, that I should not have hesitated to revoke the Assignments of any Men employed in their Printing Establishments, though it might not have been necessary to have exercised that power in any other Case.

1830.
2 Dec.

Denial of
statement
in *Monitor*
newspaper.

Justification of
revocation of
assignments.

You are pleased to observe that nothing could be more opposite to the intentions of the Enactment in question than that the right of revoking Assignments should be made subservient to any political purpose; and that the selection of my two principal Opponents as the persons at whose Expense this power was to be exercised would have been highly imprudent also, as giving countenance to the imputation that the indulgence of my own personal feelings rather than the Public Welfare had been consulted.

Criticism by
Sir G. Murray.

If the preservation of the peace and good Order of this Community, composed as it chiefly is of Convicts, and the security of the Colony, which the publications alluded to were in a high degree calculated to disturb and endanger, did not justify the Step I took, I can only regret my having resorted to it, trusting that the object, I had in view, will be received as some atonement for the Act. I entertained no doubt that I was as fully warranted in revoking the Assignments of the Men in question, as I should have been in the case of an Individual ill treating his Servant, the Offence of the Editors being in fact much the more serious of the two, their proceedings being likely to prove injurious to the Public at large.

Reasons for
revocation of
assignments.

I am willing, Sir, to persuade myself that You will not impute it to any improper feeling or want of respect, if I do not view this matter in the same light as You appear to consider it. I cannot look upon it as a question between Mr. Hall and me personally, but as between the Governor and the Editor of a public Journal. You will find, Sir, on referring to the Sydney Monitor, that his attacks are not confined to me or the officers of the Government, but are levelled against every Individual who has shewn any attachment to it. As to my "proceeding giving countenance to the imputation that the indulgence of my own personal feelings, rather than the public Welfare, had been consulted," I could without difficulty expose the fallacy not to say falsehood of such an insinuation; but, as the imputation appears to have originated with Mr. Hall, I hope I shall be excused from further noticing it.

1830.
2 Dec.
—
Reports *re*
revocation of
assignments.

I have, Sir, only to add that I have given directions, as you have desired, that a Report shall be prepared of every occasion in which an Assignment has been revoked, with an explanation of the grounds of the Decision, and I shall not fail in future regularly to furnish a similar report, taking care not to revoke an Assignment hereafter without the concurrence of the Executive Council.

Transmission of
circular letter
to magistrates.

I now do myself the honor to submit for your consideration the Copy of a Circular Letter, which was addressed to the Magistrates of Districts some time since; I hope it will satisfy You that I have felt no desire arbitrarily to exercise the power which I conceived myself to possess. And I beg to be informed whether the Reports of the Magistrates recommending Assignments to be revoked, in pursuance of the enclosed Letter, are to be submitted for the consideration of the Executive Council.

I have, &c.,
RA. DARLING.

[Enclosure.]

CIRCULAR LETTER TO MAGISTRATES.

Sir, Colonial Secretary's Office, Sydney, 19th August, 1830.

Instructions to
magistrates *re*
recommendations for
revocation of
assignments;

It being no longer expedient to suspend the Operation of the 9th Section of the Act of Parliament of 9 Geo. IV, Cap. 83, which vests in the Governor the Power of revoking Assignments of Convict Servants, as to him shall seem meet, I am directed by His Excellency to inform you that, whenever it shall appear to you and one or more other Justice or Justices of the Peace that, in consequence of bad Treatment or other Misconduct on the part of the Master or Mistress of any Convict Servant who may have been assigned to him or her, it is proper to withdraw such Convict Servant from his or her Master or Mistress, you and such other Justice or Justices are forthwith to Report the Circumstance to the Colonial Secretary, together with the Grounds of your Recommendation, for His Excellency's Decision; and, until such Decision be communicated, such Convict Servant is either to be sent to the nearest Government Establishment, or be left in the Service of the Party from whom he or she may be proposed to be withdrawn, as, under all the circumstances of the Case, you and such other Justice or Justices shall judge most advisable.

and *re* return
of assigned
servants to
masters after
punishment.

I am further directed to request that, in order to prevent the Inconvenience which has attended Applications for the return of Servants after the Expiration of Colonial Sentences, you will take care, when any Convict Servant shall have been sentenced by you to be sent from his or her Service for a certain Period for Punishment, to ascertain and insert in your Commitment or Warrant if the Master or Mistress require such Servant to be returned after the expiration of the Sentence; and you are to cause it to be distinctly understood that no Servant can be returned after Punishment to his or her former Service, unless Notice to that Effect be given and inserted in the Sentence accordingly.

I have, &c.,
[Unsigned].

GOVERNOR DARLING TO SIR GEORGE MURRAY.

1830.
6 Dec.

(Despatch No. 69, per ship Marquis of Huntley.)

Sir,

Government House, 6th December, 1830.

It appearing by your Despatch of the 6th of June last, No. 43, that Mr. Moore, the Crown Solicitor, had offered himself as a Candidate for the Office of Solicitor General, considering himself fully competent to the performance of the duties of that situation and the office of Crown Solicitor which he at present holds, and which he was desirous to undertake without any further aid from the Government, I consider it my duty to put you in possession of the accompanying Copy of a letter with its Enclosure from the Deputy Commissary General, together with a Copy of a Letter and Extracts of two others from the Collector of Internal Revenue, which will afford you an opportunity of judging how far Mr. Moore was capable of performing the duties he was desirous to undertake, and of forming an opinion of the manner in which the Government has been served.

Application by
W. H. Moore
for office as
solicitor-
general.Papers
transmitted.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

DEP. COMMISSARY-GENL. LAIDLEY TO COLONIAL SECRETARY
MACLEAY.

Sir,

Commissariat Office, Sydney, 27th October, 1830.

Twelve of the Promissory Notes granted in payment for Government Cattle sold at Emu Plains in December, 1827, and August, 1828, still remaining unsettled, I do myself the honor to enclose Copies of three Letters, which I have addressed to Mr. W. H. Moore, Crown Solicitor, on the subject, since they were placed in his charge after the decease of the late Solicitor General.

Unpaid
promissory
notes for
purchase of
cattle.

1. dated 14th November, 1829, transmitting the Notes, and requesting by direction of His Excellency the Governor that legal proceedings might be immediately adopted for recovering the several amounts with Interest.

Request to
W. H. Moore
to take legal
proceedings;

2. dated 26th January last, requesting to know what had been done in consequence of the former, and

3. dated 3rd May, following to the same effect.

Not having been favored by Mr. Moore with any Answer to those Communications, I have been induced from the long period that has elapsed since the Notes became due, to bring the Matter under His Excellency's Notice, and to solicit his Instructions with respect to them.

and for
instructions
from R. Darling.

I further beg leave to submit herewith Copies of a Correspondence I have addressed to Mr. Moore, respecting a transaction, which has arisen out of the late forgeries committed on the Commissariat at Liverpool, and affecting two persons Named Ratcliffe and Thwaite, who are the present Contractors for supplying Bread at that Station. The particulars of the Case are Contained in my letter to Mr. Moore, dated 4th inst., and, as it will be seen by the two

Correspondence
re forgeries.

1830.
6 Dec.

subsequent letters that the payment for Bread Supplied by those individuals has been withheld, it is a Matter of importance that I should be instructed how to Act within the least possible delay.

I am therefore induced to bring the Subject under your consideration, the Attorney General and Mr. Moore being absent from Town.

I have, &c.,

JAMES LAIDLEY, D.C.G.

[Sub-enclosure No. 1.]

DEP. COMMISSARY-GENL. LAIDLEY TO MR. W. H. MOORE.

Sir, Commissariat Office, Sydney, 14th November, 1829.

Legal proceedings to be instituted for amounts due under promissory notes.

In pursuance of directions from His Excellency the Governor, I do myself the honor of transmitting to You the Accompanying twelve Promissory Notes, together with a Schedule of the same; and of requesting, as they have long been due, that you will have the goodness to institute legal proceedings at your earliest convenience for recovering their several Amounts with interest.

The Notes in question are the remainder of those granted in payment for Cattle purchased at Emu Plains from Government in December, 1827, and August, 1828, and no arrangement whatever has been made for their liquidation, notwithstanding that the parties have been repeatedly called upon to do so.

The late Solicitor General was accordingly instructed to adopt legal Measures against the parties; the Notes were handed to him for the purpose, but, in Consequence of his decease, they have been returned to this office. It is presumed, however, that he took the Necessary preliminary Steps for bringing the Matter forward at the ensuing term of the Supreme Court.

I have, &c.,

JAMES LAIDLEY, D.C.G.

[Enclosure to sub-enclosure No. 1.]

SCHEDULE of Twelve Promissory Notes received from
James Laidley, Esqr., Dy. Comy. Genl.

Schedule of promissory notes.

Date of Note.	Date when due.	By whom due.		Amount.
		Purchase.	Surety.	
1827.	1828.			£ s. d.
December 6...	June 9	Thomas Stubbs	W. T. Fitz.....	38 13 4
" 6...	Sept. 9	do	do	38 13 4
" 6...	Decr. 9	do	do	38 13 4
" 5...	Sept. 8	John Cullen.....	.....	44 0 0
" 6...	" 9	Jas. McFarlane	Geo. Thos. Palmer.....	88 0 0
" 6...	" 9	Thos. Bodenham	Wm. Bucknell.....	79 6 8
" 5...	December 8...	John Cullen.....	.....	44 0 0
" 6...	" 9	Jas. McFarlane	Geo. Thos. Palmer.....	88 0 0
" 6...	" 9	Thos. Bodenham	Wm. Bucknell.....	79 6 8
" 6...	" 9	James Edrop	John Wilmot	37 6 8
" 5...	" 8	Felix McCabe	F. Allman.....	70 13 4
1828.				
August 1...	November 3...	Hugh McDonald.....	John Town	32 0 0

Received the above Securities (12) in Number from James Laidley, Esqr., Deputy Commissary General.

W. H. MOORE, 14 NOV., 1829.

[Sub-enclosures Nos. 2, 3 and 6.]

1830.
6 Dec.

[These letters have been omitted as unimportant.]

[Sub-enclosure No. 4.]

DEP. COMMISSARY-GENL. LAIDLEY TO MR. W. H. MOORE.

Sir, Commissariat Office, Sydney, 4th October, 1830.

I beg leave to enclose herewith a letter addressed to me by W. H. Kerr, Esqr., requesting to know whether I have refused to pay the demand of a Contractor at Liverpool, named Ratcliffe, and if so, why I have so refused.

Application for
payment under
bread contract.

The Case is as follows:—Messrs. Ratcliffe and Thwaite, who are the Contractors for Supplying Bread at Liverpool, have been considerably overpaid by the Commissariat in Consequence of the production of forged Vouchers, to which it appears they were parties, and for which they have been Committed by the Magistrates at Liverpool to take their trial before the Supreme Court. On the discovery of the Forgeries, which first came to light on the trial of Maas and McGibbon at the last Campbell Town Assizes, I directed the Commissariat Officer at Liverpool to withhold any further payments to Ratcliffe and Thwaite, until the extent of the overpayments could be ascertained, which now being done they have been called upon to refund the Amount, but this they refuse to do; and the sums due to them to the 24th of last Month, being about equal to the overpayments, have consequently been withheld.

Reasons for
suspension of
payment.

I have referred Mr. Kerr to you for an Answer to the Application contained in his letter.

I have, &c.,

JAMES LAIDLEY, D.C.G.

[Sub-enclosure No. 5.]

DEP. COMMISSARY-GENL. LAIDLEY TO MR. W. H. MOORE.

Sir, Commissariat Office, Sydney, 9th October, 1830.

With reference to My letter of the 4th instant, I do myself the honor to state that a sum has now been detained from Ratcliffe and Thwaite, more than sufficient to cover the Amount of overpayments made to them on forged Documents, and to request therefore your legal opinion, whether the difference, over and above the Amount of overpayment, ought to be made to them, or whether it will be necessary in the pending prosecution to keep back the whole.

Request for
opinion *re*
payment to
Ratcliffe and
Thwaite.

I have, &c.,

JAMES LAIDLEY, D.C.G.

[Enclosure No. 2.]

MR. W. MACPHERSON TO COLONIAL SECRETARY MACLEAY.

Sir, Internal Revenue Office, Sydney, 29th May, 1830.

Observing in the Gazette of this day an Advertisement announcing the Sale, under Execution of Sundry property of Mr. William Panton, residing in the Neighbourhood of Stonequarry, Cowpastures, I addressed a letter (of this date No. 30/829) to W. H. Moore, Esqr., Crown Solicitor, stating that Mr. Panton was indebted to Government for the Sum of Fifty eight pounds, as the Amount of his bill due 12/15 October, 1827, for Cattle purchased at the Sale at Emu Plains, 11th and 12th July, 1827, and about Twelve pounds more as Interest on said Bill, and requesting him

Advertised sale
of property of
W. Panton.

Debt due to
government.

1830.
6 Dec.

to take the most prompt and efficient measures for the recovery of the said debt, and preventing other persons from obtaining possession of Panton's property to the prejudice of the Claims of Government.

Refusal by
W. H. Moore to
recover debt.

Mr. Moore being in Court, I delivered the letter to his Clerk, but I had seen Mr. Moore himself and mentioned the circumstance to him. The reply of them both was to this effect, "that Mr. Moore had already so much business in hand that it was quite impossible for him to accomplish it without more assistance, and therefore needless to give him more with any expectation that it could be attended to."

Answers of similar purport have on several previous occasions been given to me by Mr. Moore, and debts owing to this office to the Amount of many thousand pounds, and daily accumulating, are in danger of being lost and irrecoverable for want of attention in the Law Department.

Request for
instructions.

But, to return to the case in point, I have the honor to request that you will please to instruct me whether, as Mr. Moore cannot attend to this Matter, it must be suffered to lie over, and the debt probably become irrecoverable, or if I may be Authorised to employ any other Solicitor that may be approved of.

As the Sale is advertised partly for Saturday next and partly for the Thursday following, unless I am favored with an early Answer, it will be unavailing.

I have, &c.,

WM. MACPHERSON,

Collr. of Internal Revenue.

[Enclosure No. 3.]

[1] EXTRACT from the Collector of Internal Revenue's Letter, dated 23d July, 1830.

Inability to
recover rents
through
W. H. Moore.

"IF I am allowed to put them into Mr. Foster's hands, I think I should soon compel them either to pay their rents with more punctuality, or remove them and fill their places with more regular tenants; but, while the Management of Legal Measures remain with the Crown Solicitor, I have no hopes of any good result. It is now four Months or thereabout since he has received Instructions from you to proceed against them, but nothing whatever has been done, as I am informed, unless possibly a letter may have been written."

[2] EXTRACT from the Collector of Internal Revenue's Letter, dated 9th Octr., 1830.

Request for
instructions.

"NOTWITHSTANDING my representations to the Crown Solicitor, from his past conduct I have no reason to think that any thing effectual will be done by him. I have the honor therefore to request to be informed whether it is His Excellency the Governor's pleasure that I should employ Mr. Foster, or any other Solicitor, or allow the matter to take its chance in the hands of the Crown Solicitor."

UNDER SECRETARY HAY TO GOVERNOR DARLING.

(Despatch per ship Margaret.)

14 Dec.

Sir,

Downing Street, 14 Decr., 1830.

I am directed by Viscount Goderich to transmit to you the accompanying copy of a letter from the Secretary to the

Treasury dated the 11th of February last, in which it is proposed, with a view to simplify the accounts and reduce the Expenditure of New South Wales and Van Diemen's Land, that all Public Works which may be undertaken there should be executed by contract and that the Convicts whom this measure would release from Government Employment should be distributed amongst the Settlers.

1830.
14 Dec.

Proposal for execution of public works by contract.

Captain Montagu, the Clerk of the Council at Van Diemen's Land, who was in England at the time this letter from the Treasury was received, and who for a considerable time had charge of the Engineer Department there, was desired by the Secretary of State to report his opinion how far it would be possible to adopt the proposed measure; and I have now the honour of transmitting for your information a copy of the Report which he has drawn up upon that subject.

Reference of proposal to J. Montagu.

If Captain Montagu's calculations be correct, a very great saving in the Public Expenditure of both Colonies will be effected by executing the Public Works by Contract.

Favorable calculations by J. Montagu.

The Secretary of State is aware that in more than one dispatch you have expressed yourself favorable to the introduction of the Contract System, and that you have abstained hitherto from adopting it under the persuasion that Persons of sufficient capital are not yet to be found in the Colony, who are capable of executing any works of importance. The Secretary of State is also aware that, by the Regulations which you have adopted, Convicts, returned by their Masters for misconduct, are dealt with differently from those Mechanics, who have been retained from the first in the hands of the Government. But, from the information which Captain Montagu has now furnished, as well as from that derived from other Persons whose opportunities of local knowledge have been the same, the Secretary of State is satisfied that so long as the system is pursued by the Colonial Government of retaining in their hands so large a proportion of Mechanics as are now confined in the Convict Barracks with a view to their employment on the Public works, Individuals will not come forward for the purpose of undertaking them. I am, therefore, directed by Lord Goderich to convey to you his Instructions to apply yourself immediately to the carrying into effect the recommendation of the Lords Commissioners of the Treasury by retaining in the hands of Government only those refractory characters, whom the Settlers may have either returned or be unwilling to receive, and by confining their labour to the Roads or to some other description of work equally severe, so that by their employment at a distance from the Towns and

Reasons for delay in adoption of contract system.

Employment of mechanics by government.

Contract system to be adopted.

Refractory convicts only to be retained by government.

1830.
14 Dec.

by the strictness of the Discipline, which they will have to undergo, they may be impressed with a dread of being sentenced to Government Employment.

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

[Enclosure No. 1.]

MR. J. STEWART TO UNDER SECRETARY TWISS.

Sir, Treasury Chambers, 11th February, 1830.

I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you for the information of Secretary Sir George Murray that My Lords have referred to the Comptrollers of Privy Accounts the printed Statement of the Revenue and Expenditure of New South Wales for the year 1828, and have received a Report from them thereupon, the enclosed Extract from which I am directed to transmit to you, in case Sir George Murray should consider any communication to the Governor to be necessary; and I am further to acquaint you that, with reference to the difficulty of Estimating the value of the labor of Convicts employed on the Government Buildings and Works with a view to its payment out of the Colonial Revenue, and also with reference to a more effectual control over and reduction of this Expenditure, My Lords would suggest for the consideration of Sir George Murray whether in many instances it would not be more advisable to contract for these Buildings and Works under the Regulations adopted at other Stations, in lieu of employing Convicts on those Works, by which a larger proportion of Convicts might be assigned to the Settlers instead of being maintained and employed by the Government as at present, excepting of course from such an arrangement those Convicts, to whom severe labor was necessary as a punishment, who might be employed on the Roads or in such other way as the Officer in Command might deem necessary.

I am, &c.,
J. STEWART.

[Sub-enclosure.]

MESSRS. DRINKWATER AND HERRIES TO COMMISSIONERS OF
TREASURY.

My Lords, Comptroller's Office, 30th December, 1829.

In pursuance of your Lordships' Commands, signified to us in Mr. Brooksbank's letter of the 19th Sept. and 19th ulto., we have had under our consideration a letter from Deputy Commy. Genl. Laidley at New South Wales, and one from Assistt. Commy. Genl. Moodie at Van Dieman's Land, the former dated the 5th May, 1829, accompanied by a printed Abstract of the Revenue and Expenditure of New South Wales for the year 1828.

By page 32 of the Abstract it appears that, during the Year, Bills were drawn on your Lordships on account of the Expenditure for the Convicts to the amount of £98,469 2s. 4½d., a circumstance which we notice as being perhaps a proper subject for enquiry, as we believe an idea was formerly entertained that the Convicts might be employed or be let to hire to such an extent as to become the means of raising a fund equal to the amount of the Expenditure necessary for their maintenance.

Transmission
of report on
accounts.

Proposal for
public works
by contract.

Report on
abstract of
revenue and
expenditure.

Expenditure
on convicts.

Pages 28 and 29. It appears that the amount of Duties on Spirits distilled in the Colony was £770 2s. 7d., whilst on the other hand the Expenditure under the head "Surveyor of Distilleries" amounted to nearly the whole of the Money, vizt., £710. As respects the Post Office too, we notice that the amount received for Postage of Letters was £598 2s. 4½d., whilst the Expenditure under the head "Post Office" even exceeded the sum, being £681 3s. 10d. A similar remark applies likewise to the sum received for "Tolls and Ferries" as contrasted with the Expenditure incurred in the Department of the "Surveyor of Roads and Bridges," the former being £1,296 11s. 6¾d. and the latter £2,109 18s. 7½d. We are aware that these circumstances are not conclusive against the keeping up of these several Establishments upon their present footing (indeed as respects the small Sum collected for duties on Spirits distilled in the Colony, the *cause* thereof will be found explained at page 47), and we therefore offer our remarks with great deference and solely under the idea that they may not be *wholly* useless.

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14 Dec.

Departmental
receipts and
expenditure.

Pages 47 and 48. Arrears of Quit Rents amounting to £8,000 12s. It is stated at page 47 that "The Collection of the Quit Rents has been temporarily suspended in order that the officer entrusted with the management of this Branch of the Revenue may obtain more perfect knowledge of Proprietorships and Boundaries of Lands and allotments than has hitherto been practicable, and without which it would be inexpedient to attempt to enforce payment." These reasons undoubtedly may account for the fact of the Non Collection of the Quit Rents and the consequent arrears thereof; but we beg leave to submit whether, by the present uncertainty as to the Boundaries of the Lands and allotments, the Title of the Crown to the Quit Rents is not brought into hazard and whether disuse in claiming the Rents may not expose it to additional danger.

Arrears of
quit rents.

Page 49. Increased expence of £332 18s. 11d. in the Department of the Colonial Secretary. Do. of £880 11s. 9¾d. in that of the Colonial Auditor.

Increased
departmental
expenditures.

Page 53. Increase of £1,828 8s. ¼d. under the head of Commissariat Pay.

We were prepared for an Increase under the Head of Commissariat Pay knowing that duties formerly executed by the Colonial Establishmt. in New South Wales have, in consequence of the arrangemts. ordered in the year 1827, been since transferred to the Commissariat. For the same reason however it was to have been expected that, instead of an increase, there would be a decrease in the Expences of the Establishments of the Colonial Secretary and Colonial Auditor.

The fullest and most detailed information on this point appears therefore to be required.

We have now submitted to your Lordships the only observations, which occur to us on the abstract of the expenditure of New South Wales before us, and your Lordships will determine upon the propriety of communicating the said observations to the Colonial Secretary of State.

J. DRINKWATER.
W. L. HERRIES.

[Enclosure No. 2.]

[A copy of the report by J. Montagu is not available.]

1830.
14 Dec.

GOVERNOR DARLING TO UNDER SECRETARY HAY.

(Despatch marked "Private," per ship Marquis of Huntley.)

My dear Sir,

Sydney, 14th December, 1830.

Despatch *re*
Sir J. Jamison
acknowledged.

I have been favored with your private Letter of the 7th May last, on the subject of mine of the 4th July, 1829, to Mr. Twiss, and regret you had not been put in possession of the Original Letter, of which the Enclosed is a Copy, as the explanation it contains would have rendered your writing unnecessary.

I remain, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 71, per ship Marquis of Huntley.)

17 Dec.

Sir,

Government House, 17th December, 1830.

Statement in
parliament *re*
indulgences
for convicts.

Observing by the report given in the Mirror* of Parliament (Page 2,293) of the Discussion which took place in the House of Commons on the 11th of June last that the Secretary of State for the Home Department, in reply to Sir M. W. Ridley, appeared to admit that indulgences, inconsistent with the object of the transportation of Convicts, were granted to them on their arrival in this Colony; I beg to assure you that the information, which Sir M. W. Ridley has received, is without any foundation. No such case exists nor has any one occurred since the commencement of my Administration.

Inaccuracy of
statement.

Treatment of
"educated
convicts."

"Educated Convicts" as they are termed, which includes those transported for *Forgery*, the class more particularly alluded to by Sir M. W. Ridley, have until the present Moment been sent to Wellington Valley, a Government Establishment in the Interior 250 Miles from Sydney. These people have been kept there, in order to their undergoing a reasonable probation, and, when recommended by the Superintendent, have been from time to time assigned as Clerks or for such other situations as they appeared qualified to fill.

Regulations *re*
tickets of leave.

As to Convicts receiving "Tickets of Leave," it will be seen by the enclosed Regulations, Page 5, that the periods for their obtaining this indulgence are as follows:—

Men transported for 7 Years, at the expiration of 4 Years' Service in the Colony, provided they have conducted themselves with propriety.

Those for 14 Years, at the expiration of 6 Years' Service, and Convicts for Life, at the end of 8 Years' Service.

* Note 197.

These periods are in certain cases shortened, when the Individuals by any particular instance of Meritorious Conduct, as pointed out in Page 6 of the regulations, render themselves deserving of indulgence, the object and policy of which are, I trust, sufficiently apparent to justify the measure.

1830.
17 Dec.

It appearing that particular pains have been taken of late in giving false impressions of my proceedings, I hope I shall be excused for troubling you with these facts. I have felt the less hesitation in doing so, as they may prove useful when the subject of Secondary punishments is brought forward.

Misrepresentation of administration of R. Darling.

I avail myself of this opportunity of pointing out the inconvenience (to which I beg to draw your attention), which will now be experienced in disposing of the "Educated Convicts," as the Establishment at Wellington Valley will be broken up at the end of the present Month. I should hope, from what appears to have fallen from Sir Robert Peel, that Convicts of that description will not hereafter be sent to this Colony, as there will be much difficulty in disposing of them; in fact, I know not where to send them, and it is very desirable they should not in the first instance be assigned in Sydney.

Difficulty in future disposal of educated convicts.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this order will be found on page 3 et seq., volume XIII.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 72, per ship Marquis of Huntley; acknowledged by Viscount Goderich, 27th June, 1831.)

Sir, Government House, 21 December, 1830.

21 Dec.

I have the honor to forward herewith in obedience to the 8th Clause of His Majesty's Instructions to me dated the 17th of July, 1825, a full transcript of the Minutes of the Proceedings of the Executive Council of this Government for the half year ending the 30th of June last.

Transmission of minutes of executive council.

In consequence of the delay in furnishing Copies of the Minutes of the Executive Council, I called on Mr. Thomson to explain the cause, and beg to forward herewith a Copy of his letter on the Subject.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

[The minutes of the executive council will be found in a volume in series II.]

1830.
21 Dec.

[Enclosure No. 2.]

MR. E. DEAS THOMSON TO GOVERNOR DARLING.

Sir, Council Chambers, 21st December, 1830.

Transmission
of minutes and
acts of council.

I have the honor herewith to transmit to your Excellency Copies of the Minutes of the Executive Council for the half years respectively ending the 31st December, 1829, and 30th June last, with Copies of the Appendix to each.

I have also the honor to transmit Duplicates engrossed on parchment of the Acts of Council, Nos. 1 to 13, passed during the present year, for the Right Honble. The Secretary of State.

Necessity for
assistance as
clerk of
councils.

The Necessity of Assistance being afforded to me for the Satisfactory and efficient discharge of the duties of my office, and to enable me to transmit more regularly the Minutes of the Executive Council, has been urged on many former occasions; but I trust Your Excellency will excuse me for again adverting to this subject. Since the Copying Clerk, who was provisionally appointed to assist me, was suspended by directions of the Right Honble. the Secretary of State, I have been using, as I have indeed throughout, every endeavour to prevent the further accumulation of arrears which arose from the frequent and lengthened Sittings of the Executive and Legislative Councils, especially of the latter during the first half of the present year, but without effect; and I fear that I shall be under the Necessity, as I have been on former occasions, of remunerating from my own funds the Services of an Assistant, more particularly in the event of an early Session of the Legislative Council, which there is reason to expect.

I trust Your Excellency will excuse my having made these Observations; but an imperative sense of duty has compelled me not to pass over the present occasion without offering some explanation of the delay, which has attended the transmission of the documents, which I have now the honor to forward to you.

I have, &c.,
E. D. THOMSON.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 74, per ship Marquis of Huntley; acknowledged by Viscount Goderich, 20th June, 1831.)

Sir, Government House, 21st December, 1830.

Despatch
communicated
to E. S. Hall.

I have the honor to acknowledge the receipt of Your Despatch of the 23d of April last, No. 31, which agreeably to your directions has been communicated to Mr. E. S. Hall, the Editor of the Sydney Monitor.

Report re
complaint by
E. S. Hall.

The enclosed Copy of a Report from the Surveyor General will satisfy you how far the insinuation in the Letter, which Mr. Hall addressed to you on the 17th of October, 1829, as to an intention of depriving him of or interfering with his Land is justified.

Cause of
hostility of
E. S. Hall.

I am glad to perceive, Sir, that Mr. Hall no longer conceals the cause of his hostility to my Administration; and I trust it will be explained in the proper place, where my Character through his means has been so unjustly, so wantonly attacked. He states

distinctly in the annexed Extract of the Letter above referred to that "nothing would tend more to promote a good understanding between the next Governor and the independent Press of the Colony, than such a measure," that is, the public Documents, Advertisements, etc., being printed at his Office equally with that of the Sydney Gazette. The effrontery of such a declaration, after the abuse which he has so profusely lavished upon me, renders any exposition of his motives or the grounds of his Attacks totally unnecessary. It is sufficient to observe, Sir, that similar overtures had been made to me both by Mr. Hall and the Editor of the Australian, and, because I would not lend myself to their views and bribe them by putting the Public to an unnecessary Expense of several hundreds a Year, which a more politic and less conscientious feeling would have induced, I appear to be in some danger, and through the means of the Advocates for economy too, of falling a sacrifice to their Machinations.

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21 Dec.

Cause of
hostility of
E. S. Hall.

It may not be irrelevant in this place or unnecessary to my own justification, when so much clamour has been raised in Parliament relative to the proceedings respecting the Press, to draw Your attention to the fact, as You may not have been aware of it or it may have escaped Your recollection, that all the Acts, which have been passed by the Colonial Legislature, were passed in consequence of Instructions from Your Office. At the time of my coming out, I was charged with Instructions from Earl Bathurst, as will be seen by His Lordship's Despatch, dated the 12th of July, 1825, No. 5, to bring the State of the Press (which even at that period appeared to His Lordship to call for restraint) under the consideration of the Legislative Council. I abstained, however, from acting on the Authority conveyed to me by His Lordship, until in fact impunity appeared to be considered a License. The last communication, which I received on this subject, was made in the Despatch, which I had the honor to receive from You under date of the 31st of July, 1828, marked "Separate," so that in fact no Enactment has taken place on this subject but by the express direction and authority of Your Department.

Acts of council
passed by
instructions
from colonial
office.

Instructions
received for
restraint of
press.

I would persuade myself that the indignation, I feel at the unmerited treatment I have received, will be excused, as it springs from an honest and a conscientious feeling that I have deserved better. When the arduous nature of my situation and the difficulties, I have had to contend with, are made known, I have no doubt that the Conduct of my Administration will be seen in a different light from that in which it appears to have been recently viewed.

Indignation felt
by R. Darling.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

1830.
21 Dec.

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, Sydney, 4th December, 1830.

Report *re* land
of E. S. Hall at
Lake Bathurst.

In reply to Your letter, No. 30/1381, dated 2nd inst., requesting me to report whether I have ever received any instructions respecting the land held by Mr. E. S. Hall at lake Bathurst, or whether there has been any intention of measuring it in a Manner which would deprive him of any part of it.

I have the honor to state, for the information of His Excellency The Governor, that I am not aware of having received any instructions respecting this Land in particular, nor of any intention to deprive him of any part of what he was entitled to. Assistant Surveyor Dixon was about to Measure the Land with other grants adjoining in September, 1828, when Mr. E. S. Hall called on me at the Office, and requested that the Measurement might not be proceeded with at that time, chiefly as I understood on account of some misunderstanding about the identity of his own land and that of his relation which adjoins. I have now the honor to enclose the Surveyor's Report, by which it appears that a bit of fencing of Mr. Hall's comes into Mr. Cooper's grant, according to the common rule of frontage. I think I suggested that some arrangement might be made to satisfy both parties by giving Mr. Cooper land to the North instead, if he agreed to it, but I am not certain as to this point.

I have, &c.,

T. L. MITCHELL, S.Gl.

[Sub-enclosure.]

MR. R. DIXON TO SURVEYOR-GENERAL MITCHELL.

Sir,

Sydney, 3rd December, 1830.

Report *re* survey
of land granted
to E. S. Hall.

I have the honor to state for your information, respecting Mr. Edward Smith Hall's Grant at Lake Bathurst, that the Section Lines were laid out in a fair and impartial way, so as the Three Grants might not interfere with any of the improvements each individual had made, on what they considered would be their Grant.

A piece of Fencing of about 104 Rods, which has been put up by Mr. E. S. Hall, will come within Mr. Cooper's grant.

The enclosed Sketch* will shew the Section lines and the piece of Fencing.

I have, &c.,

R. DIXON, Asst. Surveyor.

[Enclosure No. 2.]

[This was the last paragraph of E. S. Hall's letter, dated 17th October, 1829; see page 443.]

VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 1, per ship Eleanor.)

22 Dec.

Sir,

Downing Street, 22d Decr., 1830.

Despatch
acknowledged.

I have received your despatch No. 37 of the 1st of June, accompanied by a Memorial from Mr. Abbott, Assistant Surveyor, requesting, as all his family are residing at Van Diemen's Land, that he may be transferred to the Surveyor General's Department in that Island.

The grounds, upon which this application is made, have induced me to instruct the Lieutenant Governor of Van Diemen's Land to apprise you of the first Vacancy, which may occur in the Surveyor General's Department there, in order that the request of Mr. Abbott may be complied with; and you will consider yourself at liberty, on receiving such Information from Colonel Arthur, to permit Mr. Abbott to transfer his services to that Island accordingly, taking care to apprise me of his departure from New South Wales, in order that a person may be immediately sent out to succeed him in the situation, which he will vacate should I deem it necessary that it should be filled up.

Should any of the Assistant Surveyors, at present employed at Van Diemen's Land, be disposed to exchange situations with Mr. Abbott, I do not see any objection to his being permitted to effect his object by such an arrangement.

I am, &c.,

GODERICH.

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Approval of
transfer of
J. Abbott to
Tasmania.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 75, per ship Marquis of Huntley.)

Sir,

Government House, 22d December, 1830.

I have the honor to acknowledge the receipt of your Despatch of the 20th July last, No. 64, which arrived by the Ship Burrell on the 19th inst., and do myself the honor to forward herewith, in obedience to His Majesty's Commands, the Several Documents moved for by the House of Commons on the 9th of July, 1830, relative to the case of Dennis McHugh, accompanied by a Report of the Colonial Secretary, with some additional Papers to complete the Series, which appear Necessary to a proper Understanding of the Case.

I have, &c.,

RA. DARLING.

Transmission
of papers re
D. McHugh.

[Enclosure.]

COLONIAL SECRETARY MACLEAY TO GOVERNOR DARLING.

Sir, Colonial Secretary's Office, Sydney, 22d December, 1830.

In pursuance of Your Excellency's Minute of the 20th of this month, transmitting a Copy of a precept of The Honorable House of Commons dated the 9th day of July last, Containing 5 addresses for Papers relative to a prisoner of the Crown, named Denis McHue or McHugh per Ship Providence, and directing that the five several Returns called for in the said precept might be prepared with as little delay as possible.

I have now the honor of submitting to your Excellency the following Documents on this subject, vizt.,

Documents
submitted.

In return to the first address:—

- No. 1. Copy of the depositions taken before the Sydney Bench of Magistrates against Dennis McHue (a prisoner of the Crown per Ship Providence) for Perjury, his Conviction and Sentence.

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Documents
submitted.

In return to the second address :—

- No. 2. Copy of a letter from J. E. Manning, Esqr., Registrar of the Supreme Court, dated the 21st December, 1830, to the Colonial Secretary, stating that there is no record of any order of the Supreme Court to the Sheriff for the discharge of McHue from Confinement, and inclosing a Minute of proceedings in the Supreme Court on this subject on the 3rd of January, 1829, before Mr. Justice Dowling, who certifies the same on 21st December, 1830.
- No. 3. Copy of the order of the Attorney General to the Sheriff for the discharge of Dennis McHue from Confinement, dated 3rd January, 1829.

In return to the third address :—

- No. 4. Copy of a letter addressed to the Attorney General by the Colonial Secretary under date of the 26th of February, 1829, enclosing :
- 1st. A letter from the Principal Superintendent of Convicts to the Colonial Secretary, dated 26th December, 1828.
- 2nd. A letter from the Registrar of the Supreme Court to the Principal Superintendent of Convicts, dated 26th December, 1828, together with the reply of the Attorney General to the Colonial Secretary, dated 20th June, 1829.

In answer to the fourth address :—

- No. 5. Copy of a letter from F. A. Hely, Esqr., Principal Superintendent of Convicts, to the Colonial Secretary, dated the 21st December, 1830, respecting the orders for removal (not transportation as mentioned in the Precept) of Dennis McHue to Moreton bay and for his previous Confinement in the Cells of the prisoners' Barracks.
- No. 6. Copy of a letter from the Colonial Secretary, dated 9th January, 1829, to the Commandant of the Settlement at Moreton Bay, relative to the removal of Dennis McHue as in the ordinary Service of the Crown.

The fifth address requires that there be laid before the House a Copy of the Return made to Government of the particulars of the Death of Dennis McHue, stating whether or not an Inquest was held on his body; but, as McHue was alive at Moreton Bay at the date of our last returns from thence, I have transmitted :—

- No. 7. A Certificate by myself of that fact, dated 21st December, 1830.

These papers contain, I believe, all the information required by the House of Commons; but, as it appears to be desirable that the Secretary of State should be fully informed of the real character of McHue, in the event of his Case being again brought into discussion in the House of Commons, I beg leave to submit to Your Excellency whether it may not be proper to transmit to Sir George Murray the accompanying Statement by the Principal Superintendent of Convicts of the Case of the Convict in question.

By reference to the Documents Nos. 2 and 3, sent in return to the 2nd address, Your Excellency will observe that it is stated that there was no order of the Supreme Court to the Sheriff for the discharge of McHue from Confinement, the order being in fact that of the Attorney General only; but Mr. Baxter, in a letter addressed to me on the 6th of January, 1829, of which I enclose a Copy,

Discrepancy in
statements.

expressly states that "a peremptory order was made by His Honor Mr. Justice Dowling in open Court for his (McHue's) discharge from the Colonial Sentence which had just been passed upon him."

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This discrepancy may be accounted for by the fact stated by Mr. Manning of there being no record in his office of any such order having been made, and the Circumstance of Judge Dowling's "Minute of Proceedings" being merely made out yesterday from his Memory. Another part of this Minute is certainly incorrect, for McHue was not "confined within the walls of the Convict Barracks" at the time the motion was made for his release, as stated by Mr. Justice Dowling, but was confined on board of the Phoenix Hulk in the Custody of the Sheriff; and consequently the application must have been for a Writ of Habeas Corpus directed to that Officer or to the Superintendent of the Hulk, and not to Mr. Hely as stated in the Judge's "Minute."

Inaccuracies
in minute by
J. Dowling.

On the subject of the 3rd Address, which relates to Mr. John Stephen's application as Registrar of the Supreme Court to have certain Monies the property of Dennis McHue paid into his hands in virtue of a power of Attorney said to have been given to him by McHue, I have the honor to enclose the Copy of a letter dated the 21st of this month addressed to me by Mr. Manning, the present Registrar, stating that no such power of Attorney was ever registered in his Office, and that no Minute or trace exists of any such Power or of any Proceedings under it having been entertained by the Court; and further that it is not usual or regular for the Registrar of the Court to accept of such Power, or to take charge of any property under such Circumstances. Whatever may have been the real motives of Mr. John Stephen in this very irregular proceeding, it may not be improper to add to the papers on this Subject the enclosed Copy of a letter from the Attorney General to the Colonial Secretary, dated the 15th January last, on the subject of property which was regularly lodged in Mr. Stephen's hands as Registrar, but for which he has not accounted either to the Court or to the Parties interested.

Application by
J. Stephen, jr.,
for property of
D. McHugh.

I have, &c.,

ALEX. MCLEAY.

[Sub-enclosure No. 1.]

DEPOSITIONS BEFORE BENCH OF MAGISTRATES.

Dennis McHugh, P. Providence for Life.

Prosecution of
D. McHugh for
perjury.

Charged with gross and wilful corrupt Perjury in a matter under investigation.

Sydney to wit. { MR. WM. HENRY MACKENZIE, accountant at the Bank of Australia, being sworn, deposeth that yesterday forenoon the prisr. Dennis McHugh brought the One Pound Note now produced No. 13166 to the Bank of Australia to get changed for a new one; And Deponent saith, the prisoner, on being questioned, stated that he was possessed of the said Note in the month of April last; and Deponent positively swears that the said Note was not issued from the Bank of Australia till on or after the 27th June last, neither was it made before that time.

W. H. MACKENZIE.

Sworn the 24th Septr., 1828, before J. T. MORISSET, J.P.,
P. Supt. of Police; A. B. SPARK, J.P.

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22 Dec.

Prosecution of
D. McHugh for
perjury.

DENNIS McHUGH being duly sworn saith that the Note now produced No. 13166 for the value of One Pound Sterling, signed by Thomas Icely and E. Aspinal, has been in his possession ever since April last.

DENNIS McHUGH.

Sworn the 23rd Sept., 1828, before GEO. BUNN, J.P.

PETER GARDENER, being duly sworn, states that, being desired by the Directors of the Bank of Australia to examine when the One Pound Note now produced, No. 13166, for One Pound, signed Thomas Icely and E. Aspinal, was issued from the Bank of Australia, and can solemnly swear that the said Note No. 13166 did not issue from the said Bank prior to the 27th day of June, 1828, and that therefore it could not have been in the possession of Dennis McHugh as he has deposed.

P. GARDENER.

Sworn the 23rd Sept., 1828, before GEO. BUNN, J.P.

Re-sworn the 24th Sept., 1828, before J. T. MORISSET, J.P.,
P. Supt. of Police.

GEO. BUNN, Esqre., J.P., being sworn deposes that yesterday the prisoner Dennis McHugh swore that the Note now produced, No. 13166 for the value of One Pound Sterling, signed by Thomas Icely and E. Aspinal, was in his possession ever since the month of April last, as will appear by the Affidavit taken by this Deponent, and which he subscribed; and Deponent saith that, previous to administering the oath to the prisoner, Deponent very strongly cautioned him to be careful of what he was about to swear, and that the Prisoner distinctly swore to the aforesaid statement and voluntarily and immediately afterwards, on being shewn the Bank Book, he said he ought to have told Deponent a different story, and that he had found the said Note amongst some clothes belonging to his Wife, since she came out of the Hospital, and that, when the Deponent took the aforesaid Affidavit from the Prisoner Deponent was investigating the loss sustained by the Bank of Australia by the late Robbery,* at which time the said Note was supposed to have been stolen.

GEO. BUNN.

Sworn the 24 Sept., 1828, before J. T. MORISSET, J.P., P. Supt. of Police; A. B. SPARK, J.P.

Guilty of gross, wilful and corrupt Perjury in a matter under investigation. Sentence Three Years to a Penal Settlement.

Examined by CHAS. WINDEYER, Prinpl. Clk. of Police.

A True Copy:—W. JEMMETT BROWN, J.P., For the Pl. Supdt. of Police.

GENERAL SESSIONS.

Police Office, Sydney, 24th September, 1828.

Record of
sentence on
D. McHugh.

Name.	Crime.	Punishment.
Dennis McHugh "Providence"—Life— Attached to Govern- ment.	Wilful and corrupt Per- jury.	To be sent to such Penal Settle- ment as His Excellency the Governor may direct for the term of (3) three years.

J. T. MORISSET, J.P.

Pl. Supt. of Police.

A. B. SPARK, J.P.

To the Governor of His Majesty's Gaol, Sydney.

A true copy:—T. MACQUOID, Sheriff.

* Note 11.

[Sub-enclosure No. 2.]

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22 Dec.

MR. J. E. MANNING TO COLONIAL SECRETARY MACLEAY.

Sir, Supreme Court Office, 21st December, 1830.

I have the honor to acknowledge receipt of your letter of the 20th instant requesting me to transmit to you with the least possible delay "A Copy of the order of the Supreme Court of New South Wales to the Sheriff for the discharge of Dennis McCue (a prisoner of the Crown per Ship Providence) from Confinement on the motion made for Habeas Corpus," pursuant to an order of the Honorable House of Commons, dated the 9th July, 1830.

No record of order of court for discharge of D. McHugh.

In Consequence I have the honor to inform you that there is no record in that Office of any such order having been made; and that the absence of such is accounted for in the note of His Honor Mr. Justice Dowling herewith sent; and I also find that the affidavit, alluded to in the Judge's Certificate of this day, and on which the motion of Mr. Sydney Stephen is said to have been founded, was not filed, nor is it any where to be found among the records of the office.

Missing affidavit.

I have the honor further to state that the late Registrar Mr. John Stephen, in his Capacity of Clerk of the Arraignment of the Supreme Court in its Criminal Jurisdiction, was in the habit of attending the Court at the date of the motion, which was the subject of this note; and that he was accustomed officially to make minutes of the proceedings of the Court in a book, which he never lodged in this Office, and to which I have no power of referring from his being now in England.

I have, &c..

J. E. MANNING,

Registrar of the Supreme Court.

A true Copy:—ALEX. McLEAY, Col. Secy.

[Enclosure to sub-enclosure No. 2.]

PROCEEDINGS IN SUPREME COURT.

In the matter of Dennis McHue, In the Supreme Court of New South Wales.

Minute of proceedings on motion for writ of habeas corpus in case of D. McHugh.

MINUTE of proceedings on a motion made on the 3rd January, 1829, to discharge the above prisoner out of Custody by Habeas Corpus.

Present:—James Dowling, Esqr., one of the Assistant Judges of the Supreme Court.

At the rising of the Court (which had been occupied the whole day on the trial of Crown Cases).

Mr. Sydney Stephen, a Barrister of the Court, moved on affidavit for a Writ of Habeas Corpus, to be directed to Fredk. Augt. Hely, Esqr., principal Superintendent of Convicts, Commanding him to bring up the body of Dennis McHue, a prisoner confined within the Walls of the Convict Barracks, upon an alleged illegal Conviction for Perjury.

A. M. Baxter, Esqr., His Majesty's Attorney General, having had notice of the motion, was present in Court and heard the statement of the prisoner's Counsel from the Affidavit.

Mr. Stephen Stated in Substance that the prisoner had been Summarily Convicted by two Sydney Magistrates of Wilful and Corrupt Perjury, and sentenced to be transported for three years to a Penal Settlement. The Prisoner had been apprehended on suspicion of being concerned in the robbery of the Bank of Australia. When apprehended, he had in his possession one of the Notes supposed

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Minute of
proceedings on
motion for writ
of *habeas corpus*
in case of
D. McHugh.

to have been Stolen from the said Bank, and being examined before the Magistrates as to how he became possessed of it, he gave so unsatisfactory an account that the Magistrates were induced to remand him for further examination. On his second examination, he gave a totally different account of the means by which he became possessed of the Note, from that which he gave on his first examination. Thereupon the Magistrates (he being a prisoner of the Crown) proceeded to Convict him of wilful and Corrupt Perjury, founded upon his own Contradictory evidence on his two examinations. It was alleged that one of the Convicting Magistrates was a Director of the Bank of Australia. It was Contended, therefore, that the Conviction was void, first, for want of legal proof required to sustain a charge of Perjury; and Second, that one of the Justices being a party interested, he was incompetent to act. The Counsel also prayed for a *Certiorari* to the Convicting Justices to return the proceedings into this Court.

The Attorney General upon this Statement (which he admitted to be correct in Substance) interposed and acknowledged it to be quite impossible to sustain the Conviction, and he said he should undertake on the part of the Crown that the prisoner should be immediately discharged from the Conviction, without the formality of a Writ of *Habeas Corpus* and *Certiorari* to bring up the proceedings.

Mr. Stephen upon this undertaking withdrew his motion, and
The Court made no order.

NOTE.—The Affidavit was not filed, the Attorney General having undertaken to cause the prisoner to be discharged, and he appearing to be Cognizant of all the Circumstances of the Case.

The acting Registrar, John Stephen, Junior, Esqr., was present in his place during the proceeding.

I hereby Certify that the above is a Correct Minute of the Substance of what took place in this matter.

JAMES DOWLING,

An Assistant Judge of Supreme Court.

Sydney, 21st December, 1830.

A true Copy:—ALEX. McLEAY.

[Sub-enclosure No. 3.]

ORDER BY ATTORNEY-GENERAL BAXTER.

In the Supreme Court of New South Wales.

DISCHARGE out of your Custody the body of Dennis McCue, now Confined on board the Phœnix Hulk on a Conviction for Perjury, and for so doing this shall be your sufficient authority. Dated this third day of January, 1829.

ALEX. M. BAXTER, H.M.'s Atty. General.

To

William Carter, Esqr., Sheriff
of the said Colony.

To the

Superintendent of the Hulk,
and all others.

} Discharge McCue.

WILLM. CARTER, Sheriff.

A true Copy:—DAVID MURRAY.

A Copy:—ALEX. McLEAY.

Order by
A. M. Baxter
for discharge of
D. McHugh
from hulk.

[Sub-enclosure No. 4.]

1830.
22 Dec.

A Copy of a letter addressed to the Attorney General by the Colonial Secretary, under date 26th February, 1829, numbered 29/18, together with the reply thereto, and of the letters therein referred to.

Prepared in pursuance of an Order of the Honorable House of Commons, dated 9th July, 1830.

[1] *Copy of a letter from the Colonial Secretary to the Attorney General.*

No. 29/18.

Colonial Secretary's Office, Sydney,

Sir,

26th February, 1829.

In transmitting to you the accompanying letter* from the Principal Superintendent of Convicts, containing an application* from the Registrar of the Supreme Court for certain monies lodged in the Savings Bank, and in the hands of Messrs. Cooper and Levey, at the credit of the prisoner named in the margin ;†

Request for opinion re disposal of money of D. McHugh.

I am directed by His Excellency the Governor to request you will return both papers with your report of the Course, which it will be proper to pursue, to prevent any improper interference with the regulations of the Government relative to the disposal of the property of Convicts.

You will doubtless remember that McHugh is the individual who had been convicted by the Magistrates of Perjury, but released by order of the Supreme Court, because his actual offence did not come within the legal definition of that Crime.

I have, &c.,

A true Copy:—ALEX. MCLEAY.

ALEX. MCLEAY.

[2] *Copy of a letter from the Principal Superintendent of Convicts to the Colonial Secretary.*

Principal Superintt. of Convict's Office, Sydney.

Sir,

26th December, 1828.

In transmitting to you the accompanying letter from the Registrar of the Supreme Court on the subject of certain Monies belonging to the prisoner named in the margin ;†

I have the honor to acquaint you that the Sum of Five Pounds Currency stands at his Credit in the Savings Bank, and that Messrs. Cooper and Levey have in their hands belonging to this prisoner £100 One hundred Pounds also Currency, the Vouchers for which Sums were handed over by me to the Colonial Treasurer in terms of the instructions of His Excellency the Governor.

Money at credit of D. McHugh.

I am now, therefore, to request the favor of your submitting Mr. Stephen's letter to The Governor in order that I may obtain the instructions of His Excellency on the subject,

I have, &c.,

A true Copy:—ALEX. MCLEAY.

FREDK. A. HELY.

[3] *Copy of a letter from Mr. John Stephen, Registrar of the Supreme Court, to the Principal Superintendent of Convicts.*

Sir,

Registrar's Office, 26th December, 1828.

Having received a power of Attorney duly signed and sealed, addressed to me as Registrar of the Supreme Court from a person named Dennis McHugh, for the purpose of vesting certain Monies

* *Marginal note.*—Both dated 26th December, 1828.

† *Marginal note.*—Dennis McHugh, Providence.

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Application by
J. Stephen, jr.,
for money of
D. McHugh.

under Security for the benefit of his Wife, or in the event of death to be considered as Intestate property, I beg to request information from you on the following points:—

First. Whether the Money in the Savings Bank will be given up on my order; and Secondly. Whether the Memorandum in your possession, as acknowledgment of a sum due by Messrs. Cooper and Levey, will be handed over on my application, giving of course proper receipts for the same.

As your Answer in the affirmative will save the Estate both the expense of my application to the Supreme Court by Counsel and their order thereon, I make this primary application being the usual course I adopt.

I have, &c.,

JOHN STEPHEN, Junior,
Regr. of Supreme Court.

A true Copy:—ALEX. MCLEAY.

[4] *Copy of a letter from the Attorney General to the Colonial Secretary.*

Sir, Court House Chambers, Sydney, 20th June, 1829.

Opinion *re*
disposal of
property of
D. McHugh.

I have been honored with your letter* covering one from the Principal Superintendent of Convicts, and one* from Mr. Stephen, late Registrar of the Supreme Court (herewith returned), respecting certain Sums of Money in the Colonial Savings Bank, and in the hands of Messrs. Cooper and Levey, belonging to the prisoner named in the margin,† and requesting me to point out the Course that it will be proper to pursue to prevent any improper interference with the Regulations of Government relative to the disposal of the property of Convicts.

In reply, I have the honor to state to you for the information of His Excellency the Governor that, although the Supreme Court has ruled that under certain circumstances prisoners of the Crown may hold property, yet I am not aware that the Law is so extensive or so clearly settled as to include the Case in question.

I am, therefore, of opinion that the document required by Mr. Stephen should not be given up to him till the opinion of the Supreme Court be obtained, which is the ulterior mode Mr. Stephen himself proposes to adopt in the last paragraph of his letter.

I have, &c.,

A. M. BAXTER,
Attorney General.

A true Copy:—ALEX. MCLEAY.

[Sub-enclosure No. 5.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Prinl. Superintt. of Convicts' Office,
21st December, 1830.

Sir,

Report *re*
confinement of
D. McHugh.

In reply to your letter No. 30/1,084 of the 20th instant, requesting that, to enable you to make the required return to an Order of The Honorable the House of Commons dated 9th July, 1830, I would furnish you as soon as possible with Copies of any orders, which may have been given for the Confinement of Dennis McHugh in the Cells of the prisoners' Barracks previous to his removal to Moreton Bay, and also a Copy of any return which may

* *Marginal note.*—Both date 26th December, 1828.

† *Marginal note.*—Dennis McHugh, Providence.

have been made to me of the particulars of his death. I have the honor to acquaint you that the Convict in question was confined by *my own order*, and in virtue of the authority vested in me as Superintendent of Convicts for this Colony, duly appointed by one of His Majesty's Principal Secretaries of State, upon the information of the Managing Director of the Bank of Australia, stating that McHugh was strongly suspected of being privy to the Bank Robbery, and that it was desirable to keep him from any communication with his fellows.

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Report *re*
confinement of
D. McHugh.

The affidavits made by Mr. Superintendent Weston and myself in the Supreme Court on the subject (attested Copies of which marked A and B are appended) will best explain the nature and duration of his confinement on the occasion.

McHugh was confined on the afternoon of the 4th January, 1829, and, at 2 p.m. of the 9th of the same month, he was embarked on board the Ship City of Edinburgh for Moreton Bay, in, as I understood it, the ordinary service of the Crown, pursuant to the order of His Excellency the Governor Communicated to me in your letter (No. 8) of the 9th January, 1829, a Copy of which (marked C) is herewith transmitted.

Removal of
D. McHugh to
Moreton bay.

I have further to acquaint you for His Excellency's information that I have not received any report of McHugh's death; on the Contrary, I have every reason to believe that he is alive and well at this time at Moreton Bay.

Absence of
report *re* his
death.

I have, &c.,

F. A. HELY.

A true Copy:—ALEXR. MCLEAY.

[Enclosure A to sub-enclosure No. 5.]

IN THE SUPREME COURT OF NEW SOUTH WALES.

JOHN WESTON, Superintendent of the Hyde Park prisoners' Barracks in Sydney, New South Wales aforesaid, maketh Oath and Saith that a regular and faithful Register or Diary is kept in the prisoners' Barracks aforesaid, and that the following is a true and faithful Extract from the said Diary in reference to Dennis McHugh, alluded to in the Sydney Monitor of the ninth of March now last passed, and that the said Extract is true, and faithfully represents the treatment and the Causes thereof of the said Dennis McHugh during his detention in the prisoners' Barracks aforesaid.

Affidavit by
J. Weston *re*
confinement of
D. McHugh in
Hyde park
barrack.

Extract from Barrack diary.

"Dennis McHugh per Providence received from Hulk Phoenix 4th January, 1829; Discharged to Hulk Phoenix, 9th January, 1829. Dennis McHugh, Providence, was placed in Confinement in the Barrack Cells on the afternoon of Monday, the 5th January, 1829, for the purpose of preventing his having any Communication with other prisoners in the Establishment, it being strongly suspected he was implicated in the robbery of the Bank of Australia, where he was supplied with the full Barrack rations, until the afternoon of Friday, the 9th of January, 1829, when he was discharged to the Hulk Phoenix."

And this deponent saith that the statement, contained in the Sydney Monitor of the 9th March relative to Fredk. Augustus Hely, Esqr., Principal Superintendent of Convicts, and the said Dennis McHugh, and relative to the Conduct of the said Frederick Augustus Hely and the treatment and punishment of the said Dennis

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Affidavit by
J. Weston *re*
confinement of
D. McHugh in
Hyde park
barrack.

McHugh, is totally false. And the said Dennis McHugh was not confined in the putrid air of the Barrack Dungeon for six long tedious weeks, or in the putrid air of any dungeon for any length of time; but that the said Dennis McHugh, for the purposes set forth in the Diary, was necessarily kept apart from the rest of the prisoners in a wholesome and fitting Compartment of the Barrack from the fifth of January aforesaid to the ninth day of the same month, when he was discharged to the Phoenix Hulk.

JOHN WESTON.

Sworn before me this first day of September, A.D. 1829.

JOHN GURNER, Comr. of Supr. Court.

A true Copy :—JOHN GURNER, Chief Clerk of Supreme Court.

A Copy :—ALEX. MCLEAY.

[Enclosure B to sub-enclosure No. 5.]

IN THE SUPREME COURT OF NEW SOUTH WALES.

Affidavit by
F. A. Hely in
contradiction of
libel published
by E. S. Hall.

FREDERICK AUGUSTUS HELY, Esqr., Principal Superintendent of Convicts in New South Wales, Maketh Oath and Saith that Edward Smith Hall, of Sydney, New South Wales aforesaid, Editor, printer, publisher and proprietor of a Certain public Newspaper Called the Sydney Monitor, did, on the ninth day of March now last passed, print and publish and Cause to be printed and published in the said public Newspaper a Certain false, malicious and defamatory libel of and concerning this Deponent in his official Capacity of Principal Superintendent of Convicts aforesaid, of and Concerning his Conduct therein, and of and Concerning his Conduct to one Dennis McHugh, a prisoner of the Crown, which said false, malicious and defamatory libel is in the words and figures following, that is to say, "Dennis McCue, a poor old Irishman, a prisoner of the Crown, 20 or 30 years in the Colony, assigned to his Wife, one of the quietest men in the Country, swore extra-judicially that a Certain Note of the Bank of Australia had been in his possession longer than it really had been; being a prisoner he was sentenced in a summary way for telling this falsehood three years to a Penal Settlement. The Supreme Court cancelled the sentence; Mr. Murray discharged him from the Hulk; and he went to his lawful mistress, that is to say, his wife to whom he was assigned. The Superintendent of Convicts, however, for Summary reasons best known to himself, kept him in the hot putrid air of the Barrack dungeon for six long tedious weeks without bringing any charge against him; how this Gentleman could all the time breathe the fresh air of his own dwelling and enjoy his meals, while poor McCue, above 60 years old, and 20 or 30 in the Colony, was confined in a dungeon, we know not. The man suddenly disappeared. An *Habeas Corpus* was moved to bring up the body, but it could not be discovered where the poor wretch was gone to, or what had become of him. It is Conjectured he has been removed by our Authorities without a trial to some Penal Settlement. His Excellency's pleasure, we suppose, will be again found the all powerful cause of this act of authority."

And this Deponent saith that the Conduct aforesaid, imputed by the said Edward Smith Hall in the said Newspaper to this Deponent in reference to the said McHugh, is totally false; that the said McHugh was not kept "in the putrid aid of the Barrack Dungeon

for six long tedious weeks, without bringing any charge against him"; but this deponent, in reference to the Confinement and pretended Confinement of the said McHugh on the occasion alluded to by the said Edward Smith Hall in the said Sydney Monitor, saith that the said McHugh, a prisoner of the Crown, was received into the prisoners' Barracks from the Phoenix Hulk on the fourth day of January now last passed; that, at the time he was so received, he was strongly suspected of being implicated in a Certain Robbery, which had been some time previously effected in the Bank of Australia, and, in consequence of such suspicion, and on the positive information of the Chief Constable of Sydney and a Director of the said Bank of Australia, this Deponent on the afternoon of the fifth of January caused the said McHugh to be kept separate and apart from the other prisoners in the Barracks to prevent any Communication with his supposed accomplices in the Robbery aforesaid. And this deponent saith that the Compartment of the Barracks, in which the said McHugh was Confined as aforesaid, is one of the Cells, which are above the elevation of the outer area and inner Yard of the Barrack building, and which Cells are constantly kept clean and well ventilated, the floors of them being boarded, the Walls having strong timber Wainscots, and there being a wooden bench in each for the inmates to lie upon; that the said McHugh during his Confinement had his full allowance of Provisions as this Deponent verily believes, namely, One pound and a quarter of bread, One pound Meat with Soup daily, in addition to a breakfast of Rice or Hominy; and that the whole term of his Confinement in one of the Cells aforesaid did not exceed four days, he having been Confined as aforesaid on the fifth of January and discharged to the Phoenix Hulk on the ninth day of the same month, on that day the order of His Excellency the Governor having reached the Barracks for shipping the said McHugh on board the City of Edinburgh.

F. A. HELY.

Sworn before me this first day of September, A.D. 1829.

JOHN GURNER, Comr. of Sup. Court.

A true Copy:—JOHN GURNER, Chief Clerk of Supreme Court.

A Copy:—ALEX. MCLEAY.

[Enclosure C to sub-enclosure No. 5.]

COLONIAL SECRETARY MACLEAY TO MR. F. A. HELY.

Colonial Secretary's Office, Sydney,

Sir, 9th January, 1829.

It having been considered improper to permit the prisoner named in the margin* (who has lately been discharged from the sentence of transportation, passed on him by the Magistrates for Perjury, in Consequence of no legal offence of that nature having been established against him) to remain in or near Sydney, His Excellency the Governor has been pleased to order that he shall be immediately removed to Moreton Bay.

Order for removal of D. McHugh to Moreton Bay.

I am accordingly directed to desire that you will cause him to be embarked *this day* on board of the Ship City of Edinburgh.

I have, &c.,

A true Copy:—F. A. HELY.

ALEX. MCLEAY.

A Copy:—ALEX. MCLEAY.

* Marginal note.—Dennis McHugh, Providence.

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Affidavit by
F. A. Hely in
contradiction of
libel published
by E. S. Hall.

1830.
22 Dec.

[Sub-enclosure No. 6.]

COLONIAL SECRETARY MACLEAY TO CAPTAIN LOGAN.

Colonial Secretary's Office, Sydney,

9th January, 1829.

Sir,

Special report
on D. McHugh.

Referring to the List of prisoners proceeding to Moreton Bay, which was transmitted in my letter of yesterday, and the note thereon that a Special Communication should be added relative to the prisoner named in the margin,* I am now directed by His Excellency the Governor to inform you of the following particulars concerning him.

He was Convicted before the Magistrates of wilful and corrupt Perjury, and sentenced in Consequence to be transported for three Years to Moreton Bay, but, on the motion of his Counsel, the proceedings were brought before the Supreme Court; it was found that no legal offence of this description had been established against him, and he was therefore ordered to be discharged from the Colonial Sentence.

It being nevertheless Considered improper to allow him to remain in or near Sydney, His Excellency has been pleased to order that he shall be immediately removed to Moreton Bay; he accordingly proceeds by the "City of Edinburgh" not as under Sentence of re-transportation, but as a prisoner in the ordinary service of the Crown.

Approval of
T. Cornwall
as overseer.

I also take this opportunity to inform you, in reply to the Second Paragraph of your letter of the 9th December, that His Excellency has sanctioned the employment of Thomas Cornwall, holding a Ticket of Leave as an Overseer, in compliance with your recommendation; but he does not proceed by the City of Edinburgh in Consequence of his not having called at this Office as from your letter it was expected he would.

I have, &c.,

ALEX. MCLEAY.

A true Copy:—ALEX. MCLEAY.

[Sub-enclosure No. 7.]

CERTIFICATE.

Certificate *re*
D. McHugh.

THIS is to Certify that Dennis McHue or McHugh, a Convict who arrived in this Colony per Ship Providence, and who was removed to Moreton Bay in January, 1829, was alive at the date of the last Accounts from that Settlement, which was the first of May, 1830.

Given under my Hand at Sydney, this 21st day of December, 1830.

ALEX. MCLEAY, Colonial Secretary.

[Sub-enclosure No. 8.]

MEMORANDUM BY MR. F. A. HELY.

Police report
re D. McHugh.

DENIS MCHUGH or McCue arrived in this Colony by the Ship Providence in 1811, a Convict for Life.

The first notice of him I find on record is on the 16th February, 1822, when he was tried and Convicted by the Sydney Bench of Magistrates for "receiving Stolen Property." That he was well known and had become notorious at that time, however, appears

* *Marginal note.*—Dennis McHugh, Providence.

evident from a statement of his trial published in the Sydney Gazette of the day, of which the following is a Copy:—

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“At a Bench of Magistrates held on Saturday last, a prisoner of the name of Denis McHugh, a householder in York Street, was charged with being a Common receiver of Stolen Goods; and it was stated he had been indulging that nefarious habit *only* for the last Twelve Years. The present Case, fortunately for the ends of justice, was clearly proved; and the prisoner received sentence of transportation to the Settlement of Port Macquarie, and is there to remain during the space of his original term which was pronounced by himself to be Life.”

Police report
re D. McHugh.

Vide Sydney Gazette, No. 953, 22nd February, 1822.

Of a number of men who were recalled from Port Macquarie in 1826, McHugh was one; and it was soon after his arrival in Sydney that, being sentenced for some misconduct to the Tread Mill, a bond of Messrs. Cooper and Levey for £100 Currency and a £5 note of the same were found on his person, handed over to me by Mr. Superintendent Connor, and subsequently deposited the first in the hands of the Colonial Treasurer, and the other in the Savings Bank of New South Wales, by order of His Excellency the Governor, where they still remain.

From this time until September, 1828, he had been repeatedly under the notice of the police for minor offences; but, on the last mentioned date for wilful and corrupt Perjury, in a Case of Stolen Notes of the Bank of Australia (in the robbery of which there is very good reason to believe he was implicated), he was convicted and sentenced by the Sydney Bench to 3 Years' transportation. This Sentence, however, appears to have been quashed by the Supreme Court on *legal grounds*, as the perjury, being Committed in the Office of the Bank, although before one or more Magistrates, was deemed *extra judicial*, and McHugh was discharged.

It being known, although proof could not at the time be adduced sufficient to satisfy a Court of Law, that McHugh was concerned with the robbers of the Bank, It was subsequently deemed advisable by His Excellency the Governor to order that he should be sent to Moreton Bay in the ordinary Service of the Crown.

Ann McHugh, the wife of Denis McHugh, was if possible more disreputable than her husband. Originally a Convict, her life was a Continued Course of the lowest and most disgusting debauchery. The last time I find her name on the record is in February (20th), 1829, when, being deemed on sufficient evidence and long experience an “*incorrigible rogue and vagabond*,” she was sentenced to three months' hard labor in the Factory as the House of Correction by the Sydney Bench.

Report re
A. McHugh.

Some months after this, her long life, which for many years had been but alternations of vicious indulgences and their retributive chastisement, was terminated in Sydney, where she died in great want and misery, it is said.

A Copy of the deposition taken in the last case is herewith transmitted.

From a letter addressed to the Colonial Secretary by McHugh, it appears that it was not his wish that his wife should be made any allowance out of his money in the Savings Bank; on the Contrary he prays that “no such request (his wife having applied for

Refusal of
money for wife
by D. McHugh.

1830.
22 Dec.

an allowance) should be granted," as she (his wife) was "the Cause of all his troubles and therefore unworthy of any support from his hard earned money, etc."

FREDK. A. HELY.

20th December, 1830.

Princl. Superintt. of Convicts' Office.

A true Copy:—ALEX. MCLEAY.

[Sub-enclosure No. 9.]

ATTORNEY-GENERAL BAXTER TO COLONIAL SECRETARY MACLEAY.

Sir,

Court House Chambers, 6th January, 1829.

Report by
A. M. Baxter
re discharge of
D. McHugh
from hulk.

In reply to your letter of yesterday Calling upon me to state the grounds upon which the prisoner named in the margin,* was discharged from the Phoenix Hulk, and where he now is;

I have the honor to state for the information of His Excellency that a peremptory order was made by His Honor Mr. Justice Dowling in open Court (upon a motion made by Counsel for a *Habeas Corpus* and *Certiorari* for the proceedings before the Magistrates to be brought before the Court in the Case in which Dennis McHugh had been Convicted of wilful and corrupt perjury) for his discharge from the Colonial Sentence, which had just been passed upon him, on the ground that such sentence was illegal, there being no Case of *legal perjury* Committed by the prisoner to warrant the record of the Conviction by the Magistrates. Several other objections also induced His Honor to direct that McHugh should be released from his Colonial Sentence, and it was with this view that I gave an order to have him removed from the Hulk, from information stated by his Counsel that he was about being transported to a Penal Settlement.

On inquiry, I am now informed that McHugh, immediately on his coming to Sydney, reported himself at the Convict Barracks, where he now is Confined in a Cell. I have, &c.,

ALEX. M. BAXTER,

H.M.'s Atty. Genl.

A true Copy:—ALEX. MCLEAY.

[Four letters and one deposition have been omitted as unimportant.]

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch per ship Marquis of Huntley.)

Sir,

Sydney, 22d Decemr., 1830.

Adverse
criticism of
administration
of R. Darling
in parliament.

The Discussions, which took place in the House of Commons in the Month of June last, when observations extremely injurious to my character appear to have been made by Mr. Hume,† having attracted the attention of my friends in England, who have naturally felt anxious to be informed of the grounds on which that Gentleman could have felt himself justified in speaking of me in the terms he did, I have in Consequence drawn up a Statement in reply to the Observations made by Mr. Hume, which will serve to place both his Conduct and mine in a true point of view. I do myself the honor to enclose a Copy of the Paper alluded to and should feel highly gratified if you would take an opportunity of putting the House in possession of at

* *Marginal note.*—Dennis McHugh, Providence.

† Note 199.

least the substance of my replies to Mr. Hume's observations and Assertions. It would be more satisfactory as coming from His Majesty's Secretary of State, under whom I am immediately employed, and would have more weight than if brought forward by any other person. I beg to mention that I have sent a Copy of the enclosed Paper to a friend at Home in order to its being printed or being otherwise made use of as may appear advisable. I regret that time does not permit of my writing you more fully on this matter.

I have, &c.,

RA. DARLING.

[Enclosure.]

REMARKS by Lt. Genl. R. Darling on certain Statements and Observations, reported in the "Mirror* of Parliament" and the "Times" Newspaper to have been made by Mr. Hume, M.P., with respect to the conduct of the Government, of New South Wales.

1830.
22 Dec.
Request for submission of replies to parliament.

Replies by R. Darling to criticism in parliament.

MR. HUME states as follows, vizt. :—

1st. That, if the Local Revenue was properly managed, it is quite sufficient to pay every Expence, and, that from the Year 1825 to the year 1829, the Expences of the Government have been increased from £77,000 to £138,000; that the progress of extravagance has been most enormous in every Department, for instance, the Police Establishment in 1828 cost £8,000, and now it is doubled.

Increase in colonial expenditure.

Reply. I shall not pretend to enter into the Question of the Revenue and Expenditure. It can be satisfactorily explained, if necessary, by the proper Authorities at Home. Besides, it would not be in my power to reply to the crude and undigested Statements of Mr. Hume. On this subject however, I will give one instance of his attention to facts from the Statement now adverted to, in order to enable the public to judge of his claim to attention in matters of this nature. He is represented to have said, "in whatever Departments we look to, we find a rapid increase; for instance, the Police Establishment in 1828 cost £8,000, and now it is doubled." Let us see how Mr. Hume is borne out in these Assertions; the fact is that the Expence of the "Police Establishment," instead of being only £8,000 in the Year 1828 as he states, was £20,556 8s. 2½d.; and in the Year 1829, it amounted to £21,632 3s. 5½d. It will thus be seen that this Statement of Mr. Hume's is, as I shall prove all his others to be, totally inconsistent with truth. I may be permitted to observe in this place, being prepared to prove it, notwithstanding the Assertions of Mr. Hume, that no Public Establishments of the same Extent are carried on in any part of the British Dominions at so moderate an Expence as in this Colony. Mr. Hume is perhaps not aware, or it may not have been convenient to him to acknowledge, that, when I took charge of this Government, most of the Officers employed received Fees, drew Allowances of various Kinds, and were accommodated without Expence in Houses belonging to the Government. This System appeared to me objectionable, and I immediately discontinued it; at present all the Officers and other Persons employed receive their Salaries only, with the exception of three, who are provided with Residences by the Government; and the Secretary of State has at my Suggestion authorised *their* being also placed on the same footing as the other Officers, as soon as

Inaccuracy of figures re police expenditure.

Change in method of paying government officers.

1830.
22 Dec.
Change in
method of
paying
government
officers.

circumstances will permit. It is not then surprizing that the Salaries of Individuals should appear comparatively large. But there are few, I apprehend, who would not prefer being placed on their former footing. It should be recollected generally that, while the *Salaries* appear larger than formerly, the Fees which the Individuals received are now in every case paid into the Public Treasury. The Houses, which they occupied, have been either sold or converted into Public Offices, and the Expence of the Maintenance and Clothing of the Servants, they were allowed, has been saved. The Fees, collected in the last Year, amounted to £6,232 6s. 7½d., the whole of which Sum was placed to the Credit of the Public. How then has Mr. Hume's Charge been borne out "That the progress of Extravagance has been most enormous in every Department, and that the Expence of the Police has been doubled in one Year?"

Application of
parliamentary
grants.

Of the Finances of the Colony generally, it may be remarked that the only Expences, which are defrayed out of Parliamentary Grants, are those of the Convict and such other Establishments, as are rendered indispensibly necessary by the circumstance of the Population being chiefly composed of Persons, who either are or have been Convicts.

Sufficiency
of revenue.

The Revenue of the Colony is fully sufficient to uphold all the Establishments and to defray all the Expences, which are strictly and purely Colonial; and yet there is no part of the British Dominions, where the Necessaries of Life (Clothing and House Rent excepted) are procurable at so cheap a Rate. Here is neither Poor Rate nor Tithe, In fact, no direct Tax of any kind, nor any duty upon any Article, the produce or manufacture of Great Britain, excepting Spirits. The Colonial Revenue is chiefly derived from a duty of 6s. 6d. per Gallon on Rum; and such is the proneness of the Inhabitants to drink this Spirit that there is reason to believe that the Duty might be raised so as to make the Amount of it sufficient to defray the whole of the Colonial Expenditure, without materially lessening the Consumption.

Power of
governor over
finances.

2ndly. This is not to be wondered at when it is considered that all is under the supremacy of an Individual, over whom there is no control, and who has three funds to draw on, namely, the Colonial Revenue, of which he gives no Account, Bills drawn on the Treasury, and the Commissariat Bills drawn on the Military.

Reply
unnecessary.

Reply. These Assertions need no Reply; they will not impose on persons of common Understanding, and Men of Business will at once detect their Absurdity.

Alleged neglect
to send
accounts.

3rdly. That the Secretary of State is in possession of no Accounts; and that, under all these circumstances, I would therefore impress upon the Right Honble. the Secretary of State for the Colonies the propriety of our having a Committee up Stairs; and one of the grounds, I go upon, is this: That the Right Honble. Gentleman himself knows nothing of what all the Money is required for and how it is expended, as the Governor will send Home no Accounts.

Regular
transmission
of accounts.

Reply. This is not the fact; The Accounts have always been regularly made up and forwarded to the latest possible period. Had it suited Mr. Hume's purpose, he would have recollected that those for 1829 could not have been received in London in June, 1830. It requires two or three Months to collect the Accounts from the distant Settlements of the Colony, and an ordinary Passage from Sydney to England is from 4 to 5 Months.

4thly. There is also gross mismanagement; for, on the arrival of Convicts, instead of being hired out to those who are anxious for them, they are sent in Gangs to the Lumber Yards and other Places, and placed at the disposal of a Board of Works in the Colony; that there is no necessity for such an Establishment, as every species of Work could be contracted for with Advantage.

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22 Dec.

Alleged
mismanagement
of convicts.

Reply. It may be necessary to inform Mr. Hume that it is not the practice, as he has been led to believe, to *hire* out the Convicts on their Arrival. People are not in general "anxious" to pay for that which they can obtain gratuitously. The following Statement will shew how well founded Mr. Hume's Assertion is:—

In the Year 1829, there arrived in the Colony 3,329 Male Convicts; of these, 2,753 were instantly assigned from the Ships to the Service of Settlers. In this Year, the number arrived is 2,209, of whom 1,762 were assigned in like manner. And, in addition to those Assignments from the Ships, 1,515 men were assigned to private Service in the last Year, and 1,746 in the present Year, from the Convict Barracks, being Men who had returned from Penal Settlements or from working on the Roads, pursuant to their Sentences, or who had become otherwise disposable. Thus the total Number of Male Convicts assigned to private Service in the last and present Years is 7,776, being actually 2,238 more than the total number arrived in the Colony in these Years.*

Number of
convicts
assigned to
private service.

Of the Convicts who arrive, many from their extreme Youth, old Age, blindness and other bodily Infirmities, would be totally useless to Settlers, if they were assigned from the Ships; and, therefore, they are necessarily otherwise provided for. A few Mechanics are occasionally sent to the Department of Public Works; but, as the Establishment of that Department is fixed, the most useful hands only are retained, and the Supernumeraries from time to time are returned for general Assignment.

Convicts
ineligible for
assignment.

Government has no occasion to retain "Gangs" of the newly arrived. The number of Men under punishment, by Sentence of the Courts and returned by their Masters for misconduct, is unfortunately much beyond the demands or necessities of the Government.

Convicts
maintained by
government.

Mr. Hume cannot be competent to form an opinion, whether the Department of Works is necessary or not, or whether every species of Work can be contracted for with Advantage, as he states. I assert, from experience and the most anxious attention to the subject, that the Department of Works *is necessary*, not only as a measure of œconomy but also because *no species* of Work can be contracted for *with Advantage*, a fact which I have no doubt some of my late Despatches will have proved to the satisfaction of the Secretary of State for the Colonies.

Necessity for
department
of works.

5thly. There is also another point which requires investigation; I mean the Arbitrary Conduct of the Governor, and this the rather, because he takes pains that the liberty of the Press should be extinguished. For instance, there are Mr. Hall and Mr. Hayes, who are in Jail for 15 months; and it is not in their power to bring the Governor to any Account for his Proceedings towards them. There have been no less than 14 Ex-Officio Informations against the Editors of Newspapers, and they were tried by Military Juries.

Allegations *re*
arbitrary
conduct towards
editors.

* N.B.—Since closing these observations three Ships have arrived with Male Convicts, about 550 in Number.

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Now what ought to be said to an Attorney General, who would institute such Prosecutions against Individuals? and to a Governor, who had the power of naming Five Officers to serve as Jurymen by his Brigade Major?

Formerly there were five permanent Officers for all Trials; but some of them not being found tractable, the five were chosen weekly.

Licentiousness
of press.

Reply. The Laws of the Colonial Legislature regulating the Press have been passed in conformity with Acts of the British Parliament. If true, as stated by Mr. Hume, that 14 Ex-Officio Informations have been filed against the Editors of Newspapers, this circumstance seems to furnish strong presumption that the Laws in question have not been needlessly enacted. It may not, however, be unimportant to observe here that the Editors as if to set the Laws at defiance, whilst suffering Imprisonment for the Libels they had published, persevered in outraging every feeling of common decency by the most gross and scandalous Statements. Does Mr. Hume mean that such Licentiousness is to be tolerated as essential to the liberty of the Press?

Juries
constituted
by statute.

The Act of Parliament, which provides for the Administration of Justice in New South Wales, determines the manner in which Juries shall be constituted, and, had Mr. Hume consulted this Act, which he assisted to pass, he would have discovered that *Seven Officers* and *not Five* are required to form a Jury. And, were he scrupulous as to the nature of his Assertions, he would not have ventured to affirm that there were formerly "Five permanent Officers for all Trials." The Juries are taken indiscriminately according to a Roster kept for that purpose.

Salary and
allowances of
A. Macleay.

6thly. Again I would ask why should Mr. McLeay receive £2,000 a Year as Secretary, £250 a Year for House Rent, and a Pension of £750, besides large Grants of Land. If the House would only permit the Enquiry, they will see the fatal influence of the Abuse of Power, beyond any thing they could suppose.

Denial of
statement *re*
house rent.

Reply. Mr. McLeay does not receive £250 a Year for House Rent as stated, or any other Sum on that Account. As to the Land which he has obtained, he has received it on precisely the same terms that Land has been granted and sold to other Public Officers and private Individuals, and not under any peculiar or more favorable conditions. May I not be permitted to ask, whether there is anything in this, that shews, as Mr. Hume has been pleased to express himself, the "fatal influence of the Abuse of Power."

Land granted
to A. Macleay.

I should ill discharge my duty as the Head of this Government, were I to omit this opportunity of expressing my opinion of Mr. McLeay's Services. He is indefatigable in the performance of his duties, which are very extensive and laborious, and has acquitted himself with a degree of Ability highly creditable to him.

Testimony to
services of
A. Macleay.

7thly. The Governor of New South Wales exercises such a vicious power, and the consequence is that he has made Grants to every Branch of his Family, and there is a whole Colony of Darlings, Brothers and Brothers in Law! plenty who hold both Offices and large Grants.

Alleged
indulgences
for relatives
of R. Darling.

Reply. The Statement contained in this Passage is so totally destitute of any foundation that it is impossible not to suppose that the object of the Person, who has furnished the information, was not so much to calumniate me as to expose Mr. Hume, by shewing that, in his greediness for information, he rejects nothing however

nauseous or incredible. His Informant must have been aware that I possessed ample means of proving that these Assertions are not only false but totally groundless.

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Facts in proof
of falsity of
statement.

The following simple facts will be sufficient for this purpose:—

1st. I have not given an inch of Land to any Member of my Family or any Individual connected with me.

2ndly. The "whole Colony of Darlings" consists of *one nephew*, an Officer,* whose Regiment is under Orders for India, and who neither wishes for Office or Land in New South Wales. Mr. Hume will, perhaps, reconcile the *mistake* he has fallen into in this case by having, in order to give the better effect to his Statements, had recourse to his usual figurative style of expression. The only other Persons in the Colony, who are connected with me, are two Brothers* of Mrs. Darling's, one of whom is my Private Secretary. The other is now a Settler having received a Grant of Land under the King's Regulations, the same as other Officers who settle here, on retiring from the Service. I appointed that Gentleman *temporarily* to the Situation of Treasurer, *but did not recommend either him or his Brother for the Office*, as Mr. Hume would seem to suppose.

Let Mr. Hume, if he does not think that attention to veracity is unnecessary to the Career he is pursuing, reconcile his Assertions with the above facts. It is due to the House of Commons, in which he made the Allegations, that he should prove himself a worthy Member of that honorable Body. It is also due to the Public, to whom his Statements have since been communicated; and they shall judge between us. I call on him to refute what I have said by proving his own Assertions. If he cannot do this, others will perhaps take the liberty of judging of his claim to attention in future by the Character of these Assertions. Let him shew where the Colony of Darlings exist, The "plenty" according to his peculiar and figurative Phraseology, "who hold both Offices and large Grants." Should he fail in this, I shall not envy him his feelings, when he next claims the attention of the House to the Statements he may wish to offer, or when he presents himself to his Constituents as a fit and worthy Representative.

3dly. The Auditor General,* however, is a Person whom the Governor brought from another Colony (the Mauritius) and is his Brother in Law.

Statement *re*
W. Lithgow.

Reply. If a Person, who readily becomes the Tool of a Faction and lends himself gratuitously to Party purposes, could merit compassion, Mr. Hume's Situation might possibly excite some feeling of pity. To an honorable mind, nothing can be more humiliating than a consciousness of having become the medium of a series of gross Untruths. It is not true that I brought the Auditor General from another Colony, or that he is my Brother in Law. He was here long before I was appointed to the Government, and on my Arrival I found him in the Situation of Auditor, for which his merit and Qualifications had recommended him to my Predecessor, who obtained the Appointment for him, from the Secretary of State.

Falsity of
statement.

4thly. So it is, that the Treasurer, the Auditor General and others have been placed by him in Office, and are his Creatures, so that the Accounts could be easily made up, as he pleased, as there would be no possibility of detecting either fallacy or imposition.

Alleged
influence on
accounts.

Reply. The matter or rather the palpable inference of this passage is such that, for the present, I shall leave it to share the fate

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of its no less spurious Brethren. It is sufficient for my present purpose to shew that the Premises like Mr. Hume's other Assertions are false; the conclusions therefore cannot be true.

Assertion *re*
"muzzling" of
press.

10thly. In addition to this, the Press is muzzled.

Reply. I certainly had supposed, until I came to this Passage of Mr. Hume's Speech, that he had principally derived his information from the Colonial Newspapers. But, had he been in the habit of perusing them, he could hardly have made an Assertion, which every Number of the "*Monitor*" and "*Australian*" proves to be directly contrary to the fact; or, had he taken the trouble to enquire into the truth of the matters upon which they usually descant, he would have ascertained that, so far from being "muzzled," they continue to indulge without reserve in the most licentious Remarks; and that not a Week passes without their uttering Calumnies fully as gross and scandalous as those which the "*Mirror of Parliament*" and the English Newspapers have imputed to him. There is, however, this difference, that generally speaking the Colonial Papers *merely* torture and distort Facts to suit their purpose. The Statements, which Mr. Hume has at the instance of his new Confederates given to the World, are, as I have shewn, unsupported by even a Shadow of truth.

Disposal of
convicts.

11thly. The Country might be saved an immense Expence in supporting Convicts at the Penitentiary, the Hulks and at the Dock Yards, if they were transported to New South Wales and Van Diemen's Land, and a proper System adopted, when they arrived there, of placing them out as Servants to the Settlers, instead of having them as they now are, wholly at the disposal of the Governor of the Colony, and made, as it were, part of his Patronage.

Reply. I have shewn in my Reply to No. 4 that the Convicts on their Arrival are placed with Settlers as Servants. They are assigned by a Board appointed for the purpose, according to the claims of the Applicants, and form no part of the Governor's Patronage.

Value of
patronage of
governor.

12thly. That the Patronage of the Governor of New South Wales is from £30,000 to £40,000 a year.

Reply. In expressing my regret that this Statement of Mr. Hume's like the others, which I have felt myself called on to refute, is totally without foundation, I cannot conceal my surprize that any one, putting Public Character and high Station out of the Question, should be so absurd as to hazard an Assertion, which no Man in his Senses will or can believe. The plain and simple fact is that the Governor of New South Wales has neither Power nor Patronage. Although at a distance of 16,000 Miles, he cannot incur an Expence exceeding £200, without special Authority from Home; nor is he permitted to appoint to any Office, the Salary of which exceeds £100 a Year, a Sum below the Wages of a second rate Workman in Sydney! Mr. Hume will, therefore, see that there is no fear of my ruining the Country by my Extravagance, nor endangering its safety "by the fatal effects of the Abuse of Power." It is a fact that, although every Office under the Government (with the exception of three or four at the utmost) has become vacant since the commencement of my Administration, *No friend or Relation of mine has obtained an Appointment.*

Total absence
of patronage.

13thly. Mr. Hume's opinion of the Character of General Darling was not formed from the facts, which arose out of the case of McHue, or of the Petitioner, Patrick Thompson, but from the

Opinion *re*
character of
R. Darling.

general tenor of that Gentleman's Conduct. It was rather a suspicious circumstance that the Governor was obliged to have recourse to a Jury of Military Officers, *selected* by one of his Adjutants, to try the unfortunate Editors, who incurred his displeasure.

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Reply. I think that I have every right to enquire from what sources Mr. Hume derives his information of "the general tenor of my Conduct." If from the "Sydney Monitor," from Mr. Wentworth's Pamphlet,* or from the Statements of discarded Public Servants. He ought to have hesitated before he proclaimed opinions founded upon such questionable Evidence.

Sources of
information.

Suspicion is inseparable from some minds. Mr. Hume might otherwise have been relieved from all doubts with respect to the formation of the Juries by consulting the Act of Parliament, which provides for the Administration of Justice in New South Wales.

14thly. With respect to the Document, which had been noticed yesterday, he begged to say that the Address was only signed by 115 Persons out of a Population of 30,000. That the Address had been prepared by the Colonial Secretary and had been carried about by Members of Council and by Magistrates for Signatures. It was signed by 45 Magistrates, 22 Persons who had only been six months in the Colony and 20 Individuals, Shopkeepers or Petitioners for Lands and other Benefits at the Governor's disposal. In such manner was the 115 made up.

Preparation
of address to
R. Darling.

He was prepared to prove that an Officer in the Colony had been dismissed from his Situation, because he refused to sign the Address. A number of those Persons, who had signed the Address, had since received Grants of Land from the Governor.

Reply. Mr. Hume's Information respecting the Address was no doubt drawn from the same pure source, that led him to form his opinion of the *general tenor of my Conduct*. As, in speaking of the Population, he has taken care to include *all the Convicts and Women and Children in the Colony*. I have no doubt, it appeared to him "rather suspicious" that the Address was not signed by all the *respectable Characters* in the several Jails, in Irons on the Roads, at the Penal Settlements, and by the Women in the Penitentiary; I will explain the cause; the Gentlemen, who set the Address on foot, entertaining different views from those of Mr. Hume, conceived that the Character of the Address would be better established by the respectability of the names attached to it than by the number of Signatures. Had Mr. Hume's ideas been acted on, it might indeed have appeared with a long list of names, as I have no doubt that every Convict working in Irons on the Roads would willingly have affixed his mark to it. But the Promoters of the Address carried it still further than Mr. Hume seems to "suspect." *No person in the Service of the Government or Emancipist was permitted to sign it!* Two of the Civil Officers, not being aware of this Prohibition, had put their names to it at the first moment, but they were afterwards erased.

The Assertion that the Address was prepared by the Colonial Secretary is totally without foundation. He carefully abstained from having any thing to do with it. There were in fact two Addresses,* and it was certainly very gratifying to me to perceive that they were signed by all the Members of Council and Magistrates, not holding Situations under the Government. The whole number of names to both Addresses was 139; and I have no hesitation in

* Note 201.

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stating that at the time there were not in the Colony 40 Persons of equal respectability unconnected with Government, who did not sign one or other of them. It was this, which rendered the Addresses important as being the spontaneous expression of the most respectable Classes in the Colony, who came forward to contradict the Assertions contained in Wentworth's Pamphlet, and to counteract the Proceedings of the Opposition Papers, whose object was to induce a belief that they expressed the feelings and Sentiments of this Community.

Alleged
dismissal of
officer for
refusal to sign
address.

As to Mr. Hume's *friend*,* who, he is ready to prove, was dismissed from Office for not signing the Address, it appears a little singular, considering his usual Caution, that he was not "rather suspicious" of that honest Gentleman's information! No, whatever those opposed to the Government assert is immediately believed without any reference to their object or Character, and is blazoned forth to the World with that attention to correctness, which Mr. Hume usually observes, and with all those Embellishments with which his flowery and figurative Eloquence can adorn it. I have already shewn that no Person in the Service of the Government was permitted to sign the Address. And I will tell Mr. Hume further, to serve as a Clue to his friend's real Character, that he was suspended from Office, after a long and painful investigation before the Council, for scandalous and highly immoral Conduct. Without at all knowing the fact, or thinking it necessary to enquire, I have very little doubt that some of those, who signed the Address, have since received Land under the Regulations, the same as other Applicants who did not sign it. Had I refused those Gentlemen, Mr. Hume might reasonably enough have considered it "rather suspicious," as he appears to have done in the case of my appointing Military Juries according to the Act of Parliament.

Willingness
to retract
assertions
if charges
disproved.

15thly. If the Charges against General Darling should be disproved, he would be ready and willing to retract what he had said.

Reply. Mr. Hume's Expression of his readiness to retract what he had said, should the Charges against me be disproved, will not satisfy me. Having held me up to the Public as guilty of every Crime, which his imagination could fancy or his Informers suggest, he very kindly promises, after his poison shall have been disseminated for 12 or 15 months, to allow me to *justify myself*! and, if I should be able to disprove what he has been *instructed* to assert, he will in the abundance of his justice and liberality *retract what he has said*. Mr. Hume must suppose me destitute of every feeling, if he thinks me capable of joining issue with him in any case. I have no doubt he can retract, as readily as he asserts, and that he would do so with just as little reason to suit his convenience. What I have written is the best proof of my desire to satisfy the *Public*, that the Stain, which Mr. Hume has endeavoured to attach to my Character, does not affect it.

As to Mr. Hume himself, I shall only observe that, considering the course which he has pursued towards me, it would be out of my power to receive any concession at his hands. Nothing, he could now offer as an Atonement, could excuse or palliate his unmanly Proceedings in endeavouring to prejudice the House and the Public against an absent Officer, filling, as I do, a highly responsible Situation, and that too on information obtained from the most impure and questionable Sources.

* Note 202.

*General Observations.*1830.
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Mr. Hume's assertions having been now replied to and disproved in detail, it is perhaps unnecessary to say more on the subject. A few general Observations, however, may be useful in shewing the unjust and unmanly advantage, which has been taken of an absent Officer, to load him with the foulest Abuse, and in forming a due Estimate of the nature of a Governor's situation here, if the Calumnies, published in the opposition Newspapers of a Convict Settlement, be accepted as undoubted truths and the Pages of a Pamphlet* like that of Mr. Wentworth's be resorted to for Evidence, on which he is to be held up to the World as guilty of the most flagrant Crimes and wanton Cruelties.

General observations by R. Darling. Advantage taken of absent officer.

To be charged with Offences of so deep a dye, even in such Publications, is of itself an infliction which, to be borne without pain, requires a knowledge of the object and principles of their Authors; but when Members of an Assembly, whose Proceedings are read with interest in every tongue of the Civilized World, are found to lend themselves to the views of Men like those opposed to my Government, and on *their* Statements venture to accuse an absent Individual of Crimes such as are laid to my Charge, an impression thus widely spread could be but partially effaced even by a formal avowal, made 12 Months after, that the Accusations were totally groundless. The situation of a Governor, more especially of New South Wales, is perilous indeed, if his Character be thus at the mercy of every hireling Writer, who, with the Press at his Command, chooses to misrepresent his Proceedings, because he does not find him sufficiently pliant for his purposes, and who, as it appears, has only to assert that he speaks the Sentiments of the Community, to insure his Statements, however gross or improbable, being echoed and proclaimed to the World by some Members of the House of Commons.

Misrepresentations in parliament.

The Artifice, resorted to by the Editor of the Sydney Monitor in this respect, appears to have been completely successful; and yet it is evident from his own shewing in his more recent Publications, as well as from the Addresses already alluded to (which were signed by the most respectable Inhabitants of the Colony), that he does not speak the Sentiments of the People here, but that his exertions to rouse or influence them have proved totally ineffectual. He candidly stated, on a former occasion, that, having found the Colonists no more worthy of the pains he had taken in their favor than the Convicts whom he had repeatedly reproached with being worse than Slaves, he would thenceforward write for the benefit and information of the English Public, being of course well aware that they possessed no means of judging of the truth of his Statements; and Mr. Hume was naturally selected as his Agent in this great and patriotic undertaking. If any thing further were necessary to prove that the Editor of the "Sydney Monitor" does not express the Sentiments of at least the people of property in the Colony, it might be sufficient to refer to his Paper of the 11th of this Month, in which he avows that he is unable to procure the Security, which the Law requires from him as Editor, although the Amount of that Security is no more than £300. Does not this clearly shew the Estimation in which Mr. Hall is held here? It may be said that the

Policy of E. S. Hall in *Monitor* newspaper.

Public opinion re E. S. Hall.

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circulation of his Paper is not inconsiderable; but this cannot surprise any one who has had an opportunity of knowing the taste of all small Communities for Scandal and Abuse.

Anticipations *re*
future policy of
press.

That such has been hitherto the Support of the "Sydney Monitor" in the Colony, there can be no doubt; but, now that its false Statements and wilful Misrepresentations are adopted by certain Members of Parliament, its poison is likely to become more mischievous than it has yet been; and, when it is discovered that Editors have only to deck their Papers in the Symbols of Mourning* to induce a belief that the Press is "Strangled," and that representations against the Government are greedily received, Messrs. Hume and O'Connell will be abundantly supplied with instances of wrong sustained by Convicts and Individuals, whose Conduct has rendered it necessary to remove them from office.

Real author
of letters.

I easily detect under various Signatures in the English Newspapers the false Statements published by a late Officer† of this Government, who appears to have induced Mr. Hume to believe that he had been dismissed, because he refused to sign the *Address* adverted to in the former part of this Paper. If a doubt should still exist as to this Gentleman's Character, it may be removed by stating that he gave information against his Brother-in-Law, which led to his being brought to a General Court Martial, in consequence of which he was dismissed the Service. The latter has since returned to England, and, though he may not be ignorant of the circumstance above alluded to, will no doubt prove an active Co-adjutor and contribute largely to that species of information, which Mr. Hume appears to have been so industrious in acquiring. But I caution him to receive as "suspicious" Statements coming from such questionable Sources, and to pause before he gives them publicity.

Proposed recall
of R. Darling.

Mr. O'Connell is reported to have intimated the necessity of my removal from this Government, because I have not shewn sufficient "tact" in the management of the people, that is, Messrs. *Hall* and *Wentworth*, who, without the People's concurrence, choose to assume the title of their Representatives and Champions, but who in fact have *no influence here whatever*.

Refusal by
R. Darling
to purchase
support of
press.

Had I not however preferred the direct line of my duty to Mr. O'Connell's "tact," I might easily have *purchased* the mercenary Suffrage of the opposition Newspapers, and in a way too which would have baffled detection; for I had only to direct that the Public Advertisements should be inserted in them, and it was intimated that opposition to my Government would cease. Indeed, in a Letter‡ addressed by Mr. Hall to the Secretary of State, dated so late as the 17th October, 1829, he solicits a *favor*, that the Printing of the *Government Notices, Orders, Acts of Council, Commissariat Advertisements*, and those of the *Church and School Corporation*, may be given to his Printing Office, equally with that of the Sydney Gazette, as "nothing" (he states) "would tend more to promote a good understanding between the next Governor and the INDEPENDANT Press of the Colony than such a measure." "I lament" he adds (meaning the cause no doubt, i.e., the Governor's obstinacy in not acceding to his terms of) "the disunion between the present Government and the INDEPENDANT Press! !!" Can any one read this without being satisfied as to the real object of the Writer. But, as every necessary publicity is given to the Government Orders and Notices without incurring the Expence of *conciliating the Independant*

* Note 203.

† Note 202.

‡ Note 204.

Press, I have evinced my want of "tact" in saving the Public Money, preferring the simple and direct course of my Duty to what appears to be considered by one of my Assailants the Path of Safety.

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I claim no merit, however, for rejecting propositions of this description, having no faith in the efficacy of such Expedients nor any desire for Newspaper Popularity in New South Wales.

That this Government can ever be conducted with equal satisfaction to all the various Classes of Inhabitants is to suppose that Felons will become enamoured of their Chains, and that the profligate and Licentious will willingly submit to restrictions necessary to controul their vicious propensities.

Difficulties of
government in
N.S.W.

In order to form a just estimate of some of the difficulties of this Government, it is necessary to consider the peculiar and anomalous nature of the Population; and it will be seen how arduous a task it is to manage a Community so composed. The mass of Criminals congregated in this Spot, Adepts in every Species of Villainy, who frequently commit acts of the most *wanton* Atrocity in order to their being brought to Sydney for Trial and thus obtain a chance of Escape (I speak from facts and a very recent instance has occurred at Norfolk Island) are not easily to be controuled, and certainly not by the exercise of feelings of sympathy and compassion.

I do not pretend to "tact"; but I feel that I have some claim to approbation for the exertions I have used in the performance of the duties of as arduous a Situation as any under His Majesty's Government.

It may not be altogether unimportant to add a few words with reference to some observations, which are understood to have been made with respect to the treatment of Convicts in this Colony. It is stated, in the Report of the Proceedings of 11th June last, that, "in a Week after their Arrival out at the Colony, some of the Convicts appeared abroad without any restraint; that they lived in a style of Affluence, which they could not support in England." Those interested in these matters may be assured that no such case has occurred during my Administration.

Treatment
of convicts.

The Rules laid down, and which have been strictly adhered to, are as follows, vizt. :—

Men transported for 7 Years receive a "Ticket of Leave," which is exemption from compulsory Labour, at the expiration of 4 Years after their Arrival in the Colony, provided their Conduct during that period has been good. Those transported for 14, receive their Tickets after 6 Years; and Men transported for Life, at the end of 8 Years. These periods may in some degree be shortened by Acts of meritorious Conduct in bringing Culprits to justice; The instances are specified in the Regulations, and the Scrutiny in these Cases is very strict.

The "Educated Convicts," as they are termed, have been sent in the first instance to Wellington Valley, a Government Establishment in the Interior about 250 Miles from Sydney; and, after undergoing a reasonable probation, the well conducted have been withdrawn from time to time and assigned to Persons requiring their Services as Clerks, or for other purposes. The Establishment at Wellington Valley has now been broken up in order to save the Expence of maintaining it, which, however, was inconsiderable; and there will consequently be some difficulty in disposing of Persons of this description in future.

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Alleged
instances of
severity of
treatment.

Mr. O'Connell, on the other hand, speaks of the Severity with which Convicts are treated in this Colony, and instances* the injustice done to a Man of the Name of *McHue*, who, after having been convicted of perjury and known to be a Receiver of Stolen property, was considered an improper person to be allowed near Sydney, and was therefore removed to a Penal Settlement, *not under punishment, but as in the ordinary Service of the Government.* He speaks also of the rigorous treatment of a Prisoner named *Lockaye*, a Man (who had been brought up as an Attorney) of most dangerous and infamous Character, who, having been detected in attempting to escape a *Second* time from the Colony, was sent to Norfolk Island, and there put an end to his existence, having twice before attempted to do so (when at the Cape and on board the Hulk here) considering Life, when deprived of the power of doing mischief, no longer desirable.

Countercharges
of lenity and
severity.

The Public will judge of the difficulty of a Governor's Situation, who, at one moment, is supposed to defeat the intention of the Legislature by shewing too much lenity to the Convicts, and, in the next, is charged with treating them with improper severity. Surely, the Governor of this receptacle for hopeless criminals is not to be made accountable for the death of every unhappy Wretch, who commits Murder or Suicide!

Duties of
administration.

I have no desire to claim any undue merit for the manner in which I have conducted this Government. It is not easy to describe what I have had to contend with, nor is it necessary at the present moment. I have acted according to the best of my Judgement, and apprehend no difficulty in justifying my Conduct. In addition to forming the Civil Government, and making the necessary Arrangements for carrying on the duties of the several Departments belonging to it, I have had to provide for the controul and management of a numerous body of Convicts. It is unnecessary to point out the difficulties of restraining within proper bounds people of this description, more especially when aware, as they have been, that the Editors of the opposition Papers and a few other factious Individuals were eagerly looking out for every opportunity to abuse and vilify the Government and whose object has been to magnify or distort every occurrence, and to persuade these people that they have been treated with unnecessary Severity. So far from finding that I have any thing to regret, it may be considered rather extraordinary that, after an Administration of 5 Years, the Faction, by which I have been opposed with all their subtily and vigilance, can produce only two instances of what they were pleased to term oppression. These admit of the easiest and most satisfactory explanation. I will not ask, if it is equitable, to weigh the proceedings of the Governor of such a Colony with that nice Balance, which might be reasonable in other Cases, as it might be supposed I was conscious of having acted unjustly. I am influenced by no such feeling, being satisfied that, under all the extraordinary circumstances of my situation and of this Government, I have done injustice to no one; I have been strict in the management of the Convicts, and, as the good of the Colony and of these Individuals appears to me to render it necessary, I shall continue to act as I have done in this respect, so long as I have the honor to hold the Situation I now fill. I am influenced by no feeling of arrogance in making this declaration, but by a consciousness of having discharged my duty with fidelity. If the Governor of this Colony is to

Character of
administration.

* Note 205.

be arraigned on the information of every factious Malcontent or by Individuals dismissed for improper Conduct, no man, who regards either his peace or his reputation, would accept the Situation. Let these Men carry their point and obtain such a Governor as would be agreeable to them, a Man of their own Stamp and Character, and Parliament will then indeed have enough to attend to. I will yield to no one in point of Zeal for the public Service. No man can have labored with more anxiety to benefit the Colony at large, and do justice to all Classes; and I persuade myself my exertions have not been wholly ineffectual. I doubt not that, in the House of Commons, the motives and characters of my opponents will be discovered, and that mine will receive that support, which is due to my Situation and Services.

1830.
22 Dec.
Character of
administration.

I have only to observe in conclusion that I pretend not to that species of "tact," which one of my assailants appears to think necessary to good Government or to those principles and talents, which so eminently distinguish another.

VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 2, per ship Eleanor.)

Sir, Downing Street, 23d Decr., 1830.

23 Dec.

I have received your dispatch marked "separate" of the 21st of July last, transmitting, in compliance with the Instructions of my Predecessor, conveyed to you in Mr. Twiss's Letter of the 7th of Novr., 1829, a statement of facts drawn out by the Colonial Secretary of the case of Patrick Clynch, a Bushranger, whom Mr. E. S. Hall, the Editor of the Sydney Monitor, asserts to have been ordered to be shot by Captain Wright, the Commandant of Norfolk Island, after the Prisoner had been captured by the Constables and was in safe custody in lieu of being sent to Sydney for Trial.

Exoneraton of
T. E. Wright
from all guilt
in shooting of
P. Clynch.

It is due to Captain Wright, and to every principle of justice, that he should be informed that His Majesty's Government consider him to be entirely free from any, the remotest suspicion of his having in any degree merited the imputations cast upon him with reference to the case of Patrick Clynch; and I desire that you will make a communication to that effect to Captain Wright.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 4, per ship Eleanor.)

Sir, Downing Street, 25th Decr., 1830.

25 Dec.

The Lords Commissioners of His Majesty's Treasury having transmitted to me a Copy of the letter addressed by you to their Lordships, dated the 20th of October, 1829, respecting the

1830.
25 Dec.
Instructions
for reduction
in office of
auditor.

Establishment of the Office of Accounts, from which it appears that, although a considerable portion of business hitherto performed by the Auditor (sufficient to employ two Clerks) has been transferred to the Commissary of Accounts, no reduction has taken place in the Auditor's Establishment; and, their Lordships having acquainted me that the reason assigned for this circumstance does not appear to them to be by any means satisfactory, I have to desire that a Reduction corresponding to the diminution of business in that Department may immediately take place.

I am, &c.,
GODERICH.

—
VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 6, per ship Eleanor; acknowledged by Governor Darling, 14th July, 1831.)

27 Dec.
Transmission
of letter from
W. Raymond.

Sir, Downing Street, 27th Decr., 1830.

I transmit, herewith, for your information, the copy of a Memorial, addressed to me by a Person named Raymond, who, on applying for a Grant of Land in New South Wales, appears to have been called upon, under a Regulation of the Local Government, to give a Bond in the sum of £500 that he would reside in the Colony for a period of three years.

Claims of
W. Raymond.

There may be circumstances in this case with which I am at present unacquainted; but, supposing that there is no strong reason against such an indulgence, I think that Mr. Raymond has a fair claim to a Grant from the inconvenience suffered by him from a Regulation, which, however proper it may have been in itself, he had reasonable ground to complain of, as no allusion is made to it in the printed paper which he obtained from this Department prior to his departure from the Colony. I have, under these circumstances, deemed it proper to inform Mr. Raymond that a Grant will be made to him, and you will therefore confirm to him an allotment consisting of 2,560 acres, on the conditions mentioned in the letter, which has been addressed to him by my direction, a copy of which I also enclose.

I am, &c.,
GODERICH.

Land to be
granted.

[Enclosure No. 1.]

MR. W. RAYMOND TO VISCOUNT HOWICK.

22 Thayer Street, Manchester Square,
9th December, 1830.

My Lord,

Proposal to
settle in N.S.W.

May I humbly beg to trouble your Lordship with the following statement:—In the year 1828, I frequently heard the favorable reports of Sydney, New South Wales, and, having fully considered the very liberal offer of His Majesty's Government to persons emigrating there, I applied by letter in the usual way on the

3rd of August, 1828, to the Rt. Honble. the Secretary of State, Downing St., and received on the 7th same month, The Terms upon which Land is granted to Settlers at Sydney, New South Wales, and Van Dieman's land, also the letter No. 1, stating that it would be unnecessary on arrival to be provided with any other letter from the Colonial Department.

1830.
27 Dec.
Terms received
from colonial
office.

Relying on the accuracy of this statement that there would not exist the least difficulty in obtaining Land, particularly as I had fully complied with the requisite forms in England, I immediately gave up my profession as Master Mariner, shipped my furniture and apparel about thirteen tons on board the Ship Elizabeth, Thos. Collins, Master, passage money, freight, and other expences amounting to £500; I also shipped Plate, Wines, and other property including £900 in cash, making a total of £4,500.

That, on arrival at Sydney, I found the papers I had received from the Colonial Department, and in which I had placed implicit confidence, was of no use, unless I entered into a printed Bond of £500 to reside in the Colony three years. My pursuits in life were such as might call me in one or two years to India, where I then had Friends and some property, the latter requiring occasional attendance, tho' my family would constantly reside at Sydney, and self nearly always so; I therefore could not conscientiously enter into this Bond; and, having ascertained Land could not otherwise be obtained from the Government at Sydney, I attempted to purchase, but being a stranger and the land offered so situated I could not attempt to a settlement especially on account of a scarcity of water at all times and the great distance from Sydney, I was obliged to abandon my intentions.

Bond required
for personal
residence.

Inability to
give bond.

The whole of my views were now frustrated, and I had nearly expended one thousand pounds; and, as something was to be done before ruin overtook me, I humbly endeavoured to establish An Australian Whale Fishery Company at Sydney, taking as an example the sudden prosperity of those Individuals engaged in that very lucrative branch of Commerce; but such was the depressed state of the Colony in general, then labouring with a continued three years' draught, tho' the proposal was favorably received by the public, it was found impossible to raise the necessary funds.

Proposed
whaling
company.

I did myself the honor to wait with the proof sheet on His Excellency General Darling's Secretary, in the hope of obtaining some Patronage to a proposal so highly beneficial to a new Colony, for the same Company would have maintained its disabled and wounded Seamen, formed an Asylum and held out such lasting encouragement to good Sailors, that the Port of Sydney, as the Whale Fishery prospered, would become a School and Nursery for Sailors, Nature having greatly favor'd that Colony for the Whale Fishery.

But unfortunately the time of my arrival was one of great distress, unhappiness, and discontent; and, having by various attempts greatly decreased my funds and made great sacrifices in the sale of my property without obtaining the real object I left England for, I was forced to return Home with my family reduced in circumstances, having expended nearly all I possessed.

Return to
England.

When all the circumstances of my case is taken into consideration by your Lordship, I humbly hope I may be deemed entitled to at least the original grant of 2,560 acres being confirmed to me.

Request for
land grant.

I have, &c.,

WALTER RAYMOND.

1830.
27 Dec.

[Sub-enclosure No. 1.]

UNDER SECRETARY TWISS TO MR. W. RAYMOND.

Colonial Office, Downing Street, London,

7th October, 1828.

Sir,

I am directed by The Secretary of State to acquaint you, in reply to your letter of the 3rd Instant, that the printed Memorandum, which I enclose, will explain to you the Conditions upon which Persons are permitted to hold Lands at New South Wales and Van Diemen's Land; and, if, under such circumstances, you should think it advisable to proceed to either of those Settlements with a view to Agricultural objects, the Governor will, on your making the necessary application to him for that purpose, and provided he shall be satisfied of your possessing sufficient Capital to enable you to fulfil those Conditions, make to you a Grant of Land accordingly.

I am directed further to acquaint you, that the general Instructions with which the Governor has been furnished, will render it unnecessary for you on your proceeding to the Colony, to be provided with any other letter from the Colonial Department, than this.

I am, &c.,

HORACE TWISS.

[Sub-enclosure No. 2.]

[*This was the usual printed form* of conditions for a land grant.*]

[Enclosure No. 2.]

VISCOUNT HOWICK TO MR. W. RAYMOND.

Sir,

Downing Street, 24 December, 1830.

I am directed by Viscount Goderich to acknowledge the receipt of your letter, dated the 9th Instant, stating the circumstances under which you left this Country for New S. Wales, and complaining of the existence of a local Regulation (which you observe is not to be found in any part of the printed paper received by you from this Department before you quitted England), by which you were precluded from obtaining a Grant of land, without giving a Bond to the amount of £500 that you would reside in the Colony for a period of three years.

The Regulation, of which you complain, and which you consider to bear so peculiarly hard upon your case, was adopted for the purpose of checking an abuse, which had too frequently occurred, of Captains of Trading Vessels and other persons, whose residence in the Colony was necessarily uncertain, obtaining Grants of Land without any intention of settling upon them. The printed paper to which you advert, was issued by this Department for the information of those persons only who intended to become permanent Settlers in the Colony; consequently it could only be in the case of those persons who proceeded thither with other views than the paper contemplated who would experience any inconvenience from being called upon to give the Bond in question; and Lord Goderich cannot therefore admit that you have suffered any hardship by the existence of that Regulation.

There are circumstances however in your case, which have induced Lord Goderich to do all in his power to alleviate it; and he will instruct the Governor of New S. Wales to confirm to you the

* Note 206.

Transmission
of conditions
for settlers.

Letter
acknowledged.

Reasons for
regulations.

Original Grant of 2,560 acres referred to in your letter, provided you consent to employ a free person to superintend the cultivation of such Grant, and that your Agent should constantly reside thereon, until you shall be able to attend to the management of this property yourself. Should the 2,560 acres, for which you apply, have been disposed of subsequently to your departure from the Colony, Lord Goderich cannot of course disturb the party in whose possession this land may now be; but, in that case, the Governor will be directed to allow your Agent to select elsewhere an allotment to a similar extent.

I am, &c.

Howick.

1830.
27 Dec.Conditional
land grant.

VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 7, per ship Eleanor.)

Sir,

Downing Street, 28 Decr., 1830.

28 Dec.

I have received your dispatch marked separate, dated the 24th of July, 1830, enclosing the Memorial of Mr. F. Girard and the documents relating to the transactions it refers to. I have much pleasure in stating that I think you have sufficiently proved his charges against you to be entirely without foundation, and I have, in consequence, directed my Under Secretary of State to reply to him in the letter of which the enclosed is a copy.

Approval of
reply to charges
by F. Girard.

After expressing my opinion that you have completely disproved the charges brought against you, I regret that, with respect to the transactions out of which they have arisen, I should feel compelled to add any further observations, which you may perhaps understand as conveying some degree of censure on one point of your conduct, but which are intended as hints which may not be useless for your future guidance. That you judged rightly in not permitting Mr. Girard to obtain the contract for the supply of bread for the year 1830 is not, I think, to be doubted; but I regret that, in rejecting his tender, you did not assign as your reason for doing so, that which I understand to have been the real one, vizt., the insufficiency of the security he had to offer and the repeated breach of his former engagements. Had this course been pursued he would not have been able to have shewn even a seeming ground of complaint, while, in consequence of the terms made use of in the Colonial Secretary's letter of the 25th of Novr., 1829, he has had it in his power to represent the rejection of his offer as being the result of his declining to surrender possession of a piece of land, his title to which he asserted, and professed his readiness to submit to the consideration of the Officers of Government. If Mr. Girard retained possession of land, which did not belong to him, by instituting legal proceedings, he might have been compelled to surrender it; but the rejection of a tender which he had made, supposing it to have been otherwise objectionable, was certainly not

Disapproval
of certain
transactions.

1830.
25 Dec.
Instructions
re tenders.

a proper means of enforcing his obedience. When a Contract for the Public Service is required, it is not a matter of favour, but of right, on the part of the Person making the lowest offer to obtain the preference, unless, as in this case, he is unprovided with the proper security. In affairs of this kind, it is of such extreme importance that not even a suspicion should be thrown on the conduct of Government, and that there should not even be the remotest appearance of favour towards particular Individuals, that I think it would be well, in all instances, strictly to adhere to the Rules, which have been laid down for the regulation of such transactions. Had less indulgence been previously shewn to Mr. Girard, and had the penalties, he had incurred by repeated breaches of his contract, been rigidly enforced, the necessity of rejecting the lowest tender for the present year would probably have been avoided.

Application
by F. Girard
for land.

There is another circumstance connected with this case, which has likewise attracted my attention. It appears that Mr. Girard applied for an allotment of land, adjoining to some which he had purchased at a considerable price. His request could not be complied with, but, as I understand, the land was subsequently disposed of by Grant to another Individual. I hope that in this case there was no departure from the principle, laid down in the Minute of 12th of June, 1828, which was enclosed in your dispatch of the 2d of August, 1828. In that Minute, you proposed that where Lands, from their local situation or other circumstances, possessed a peculiar value, they should not be disposed of except in the manner prescribed by the Royal Instructions of 17 July, 1825. Now these Instructions required that no land should be granted until it had been publicly advertised for sale; but, from it's having been necessary to inform Mr. Girard of the alienation of the lands for which he applied, it would seem to follow that, with respect to them, the Public advertizement had been omitted; if so, I should be glad to have an explanation of the reasons which led to a departure from the rule laid down in the Minute already quoted in a case, to which it was peculiarly applicable from the apparent value of the Land in question and from it's vicinity to Sydney.

Proposed
dismissal of
H. Halloran.

With reference to the suggestion you have made of the propriety of dismissing Mr. Halloran from the situation which he holds, it is not my opinion that the mere fact of his having copied out this Memorial (highly objectionable as it is) is of itself sufficient to call for so extreme a course; a caution as to the impropriety of his conduct, and the obvious duty of abstaining from taking part in the political dissensions, to which New South Wales Society is so peculiarly liable, will, I should hope, be

sufficient to induce him to be more cautious in future without enforcing upon you the irksome duty of proceeding at once to the full extent of dismissal. He should, however, be distinctly given to understand that your readiness, sanctioned by authority from hence, to overlook the error into which he has fallen, does not proceed from any indifference, felt either by yourself or by the Secretary of State either to it's character or it's consequences.

1830.
28 Dec.

H. Halloran to
be cautioned.

You have truly stated, "that a Colony, composed as this is, must always abound with troublesome and dangerous characters"; but the greater the difficulties with which you have to contend, the stronger is the necessity for the utmost caution and moderation in the exercise of your authority; and I feel persuaded that the obstacles, you may meet with, are to be overcome not so much by obtaining additional powers, as by a firm but at the same time a temperate use of those which you already possess.

Necessity for
caution and
moderation.

I am, &c.,

GODERICH.

[Enclosure.]

VISCOUNT HOWICK TO MR. F. GIRARD.

Sir,

Downing Street, 28th Decr., 1830.

I am directed by Lord Goderich to inform you that General Darling has transmitted the Memorial, addressed by you to the Secretary of State, complaining of certain unjust proceedings, which you allege to have been adopted towards you. Lord Goderich conceives himself bound thoroughly to investigate every charge of injustice, which may be brought against those to whom the Government of the British Colonies is entrusted, and, when such charges shall appear to be well founded, to afford the redress, which the injured party has a right to expect. The confidence, however, to which every person in so high and respectable a situation is fairly entitled, requires that no accusation against him shall be entertained, if it shall appear that it is made upon insufficient grounds, still less if, in making it, there be any indication of a wish to suppress or pervert the truth, or of a vindictive and malignant motive.

Memorial from
F. Girard
acknowledged.

In the present instance, Lord Goderich is of opinion that, without the complete and satisfactory answer which the Governor has made to the Charges, which you have brought against him, there is quite enough in your Memorial, and in the Documents you have affixed to it, to induce him to receive it with extreme suspicion. He finds that, in the 3d page of the Memorial, you have stated you received no answer to the letter, which you wrote to solicit naturalization; yet the second number of your Appendix is a letter from the Colonial Secretary, informing you "that the Instructions of His Excellency the Governor do not admit of the naturalization of Foreigners in this Colony, but that there is no objection to your renting a piece of Land for the scite of a Mill, provided the Land you apply for be disposable."

Criticism of
memorial.

Misstatements.

In complaining of the refusal you experienced of your tender to supply the Troops with bread, you state that the Officers had surveyed it and pronounced it good. You do not however send any evidence of the fact; and it appears, from the documents furnished

1830.
23 Dec.

by the Governor, that whatever may have been the decision of the Officers on the particular occasion you refer to, on others, the bread you furnished had been condemned, and penalties awarded against you. You also state that no attempt was made to detect or furnish the individuals concerned in an attack made upon your property by the Soldiers of the Garrison, whereas an official copy of a General Order, issued upon the occasion, clearly proves the reverse to have been the fact. Under these circumstances, and upon the principle I have already stated, without going into the particulars of the charges you have made and of the Governor's defence, Lord Goderich has no other course to pursue than to dismiss your complaint.

I am, &c.,

HOWICK.

Dismissal of
complaint.

VISCOUNT GODERICH TO GOVERNOR DARLING.
(Despatch No. 8, per ship Eleanor.)

30 Dec.

Sir,

Downing Street, 30 Decr., 1830.

It has occurred to me that much of the inconvenience, which is occasioned to poor persons residing in the United Kingdom by the delay in recovering the property of their Relatives, who may have died in the Australian Provinces, might be avoided by the transmission to this Country of periodical Returns of property, which may have been left by Europeans in those Colonies. At present, it is impossible to give applicants any information with respect to the property of deceased persons without previously communicating with the local authorities; and the great lapse of time, which takes place before the recovery of the property is effected, has in many instances been of great prejudice to the Claimants. I have therefore to desire that you will instruct the Registrar of the Ecclesiastical Courts at New South Wales, with as little delay as possible, to prepare a list of those persons, who have died intestate in the Colony, but whose property still remains unclaimed, together with an Inventory of their effects and such other information, as may facilitate the recovery of the property by the Heirs. When this List shall be completed, you will transmit it to me for the purpose of being lodged in the Office of the Colonial Agent.

I have also to desire that you will instruct the Registrar to prepare, in future, a Quarterly Return of the same nature (commencing from the first of Jany. next), to which should be added a List of the Estates, which may in the interval have been claimed, and the names of the parties by whom recovered. This Return you will transmit to me as soon after the termination of the Quarter as may be practicable.

I am, &c.,

GODERICH.

Instructions
for returns re
intestate
estates.

Quarterly
returns to be
transmitted.

COMMENTARY.

COMMENTARY

ON

DESPATCHES,

TO AND FROM GOVERNOR DARLING,

JUNE, 1829—DECEMBER, 1830.

Note 1, page 9.

A Letter from the Secretary to the Treasury.

This letter and its enclosures contained instructions, which were similar to those transmitted by Earl Bathurst with his despatch, dated 13th March, 1824 (see pages 242 and 243, volume XI). The letter was dated 2nd June, 1829.

Note 2, page 11.

Under Secretary Twiss to Governor Darling.

The original of this despatch is preserved in the office of the state governor at Sydney; but there is no record of its transmission, and the enclosure is missing.

Note 3, page 16.

Every Legislative Act of your Government be transmitted in manuscript.

By these instructions, the practise was initiated of transmitting authenticated copies of all acts of council on parchment. Similar copies were also preserved in the colony; and several bound volumes of these are now extant in the office of the registrar-general at Sydney.

Note 4, page 17.

Also page 716.

Any legal Title.

A note on the growth of the system of land tenure in the town of Sydney will be found numbered 162 in volume XIV.

Note 5, page 19.

The Minute of Council, dated 23rd March, 1829.

The following extract from the minutes of the council related to town grants:—

“In reference to the Proceedings at the last Meeting, His Excellency the Governor again brought under the consideration of the Council the subject of Town Grants, and certain additions and modifications to the Regulations then proposed, having been suggested, as embodied in the following Resolutions, the Council now recommended that the same should be adopted, vizt.:

" 1st. The Several Towns throughout the Colony are to be divided into four Classes, with relation to the advantage of situation.

" 1st. Sydney; 2nd. Seaport Towns; 3rd. Towns situated at the head of navigable waters; 4th. Inland Towns.

" 2nd. The Blocks or spaces of Building Ground between the main Streets are to be divided into portions, each containing a front of one chain in length and a depth of five chains, the corner allotments and those fronting the cross or inferior Streets are to be two chains square.

" 3rd. An allotment for building is to consist of any number of the above portions, not exceeding four, according to the means and respectability of the applicant.

" 4th. Town allotments will be granted in fee simple, subject to a perpetual Annual Quit Rent, not redeemable at the following Rates, vizt.:—

" 1. Sydney, 6d. per Rod; 2. Sea Port Towns, 5d. per Rodd; 3. Towns at the head of navigable waters, 4d. do.; 4. Inland Towns, 2d. do.

" 5th. The Grantees of such allotments, except in the Towns of Sydney, Parramatta and Windsor, shall not be liable to the payment of any Quit Rent, until after seven years from the date of their receiving authority to take possession.

" 6th. The Crown reserves to itself the right of making Drains and Sewers through any allotment, remunerating the Grantee for the damage which any Building may sustain thereby.

" 7th. The width to be reserved for Main Streets, which should always, if possible, be rectilinear, shall be 100 feet, 80 of which is to be a carriage way, with a footpath on each side of 10 feet; and the cross or inferior Streets 84 feet in width, 66 feet as a carriage way and 9 feet as a footpath, the cross Streets to be laid down at right angles to the main Streets.

" 8th. No persons shall be permitted to build at a greater or less distance from the footpath than 14 feet, which space is to be appropriated to an open Verandah, or such plantations as may be desired.

" The distance between the Houses will thus be 128 feet in the main Streets and 112 feet in the cross or inferior Streets.

" 9th. With the view of preserving a general continuity of line, the space of 14 feet in front of the Houses shall be enclosed with an open fence; or where it may be desirable to have free ingress and egress, as to Shops, etc., there shall be posts at ten feet apart.

" 10th. In order to preserve uniformity, the door sill of each Building shall be one foot above the level of the crown of the Street immediately opposite to such door, and in no case shall any steps projecting into the Streets be permitted.

" 11th. Grantees shall engage bona-fide to complete the erection of a Dwelling House or Stores within three years from obtaining authority to take possession.

" 12th. Grantees shall bind themselves to make, and to maintain in good repair, a flagged footpath opposite to their allotments, when so required by the Director of public works or the person duly appointed for that purpose.

" 13th. Grantees shall be required to construct Drains from any Building which they may erect, leading into the nearest common Sewer.

" 14th. The non-performance of the conditions required, or any of them, shall be followed by a forfeiture on the part of the Grantee of his Allotment.

" 15th. With the view of rendering the above Regulations applicable to persons who may already have received Grants of Building Allotments, it will be necessary to enforce them by an Act of the Colonial Legislature; as

also to provide for the proper Drainage of Towns, and to impose Fines on Nuisances, as well as to oblige Builders to enclose the spaces (which must be defined) in which they deposit their Building materials.

"The foregoing recommendations relate to the general form and manner of erecting Buildings throughout the several Towns of the Colony; but, as difficulties from the nature of the grounds may render it necessary to deviate therefrom in certain cases, such grounds will be laid out in such manner as the local position and nature thereof may from time to time suggest.

"The Meeting then adjourned."

The minutes of the previous meeting of the council were as follows:—

"With reference to the proceedings of Council of the 15th October, 1828, His Excellency the Governor again brought under the consideration of the Council the Report of a Board appointed to consider the subject of Town Grants.

"Captain Wm. Dumaresq being in attendance upon the Council, as President of the Board in question, was introduced, and the Report having been read by the Clerk, the Council came to the following Conclusions, and recommended accordingly, vizt.:—

"1st. That for Town Allotments Grants in perpetuity should be given, the Grantee paying an Annual Quit Rent, not redeemable.

"2nd. Towns of the first class, namely Seaports (with the exception of Sydney at which the rate is already established at 6d.) to be subject to a Quit Rent of five pence a rod.

"3rd. Towns of the Second Class, being at the head of navigable waters, to be subject to a Quit Rent of four pence a rod.

"4th. Towns of the 3rd Class or Inland Towns, to be subject to a Quit Rent of Twopence a rod.

"5th. That the Grantees of such Allotments, except in the Towns of Sydney, Parramatta and Windsor shall not be liable to the payment of any such Rents as aforesaid until seven years after receiving such allotments.

"6. That the width of the Streets shall be 84 feet, 66 of which as a Carriage way, having on each side Nine feet for a Footpath.

"7. That no person shall be permitted to build at a greater or less distance from the Footpath than 14 feet, which space is to be appropriated to a Verandah or such plantations as may be convenient. The entire opening between the Houses would thus be 112 feet.

"8. That with the view of preserving the general continuity of line, the space of 14 feet in front of the Houses shall be enclosed with a neat open fence, or where it may be desirable to have free ingress and egress, as to shops, etc., there shall be posts at 10 feet apart.

"9. That for the sake of uniformity, the sill of the door of each building shall be one foot above the level of the crown of the Street, immediately opposite such door.

"10. That the Grantees shall engage within three years from obtaining possession bona fide to complete the erection of a Dwelling House or Stores.

"11. That the Grantees shall bind themselves to keep in good repair the Footpath opposite their allotments.

"12. That the non-performance of the conditions required shall be followed by a forfeiture on the part of the Grantee of his allotment.

"13. That a Legislative enactment be passed to regulate the alignments of the Houses and drainage, and to impose Fines on Nuisances; as well as to oblige Builders to enclose the spaces (which should be defined and limited) in which they may deposit their building materials.

"The Council then adjourned."

Note 6, page 20.

A certain Order.—The order.

By the government order dated 8th June, 1829, forty-three "Parcels of Land in the town of Sydney" were declared to be reserved for public purposes, and a detailed description of the lands was given.

By the government order dated 29th May, 1829, the form of application for grants in fee-simple of town allotments was published, and it was announced that in future no leases would be given. The following conditions were imposed:—

"1. That the Rates of Annual Quit Rent in the several Classes of Towns shall be as under:—1st. *Sydney*, Six-pence per Rod. 2nd. *Sea-port Towns*, Five-pence per Rod. 3rd. *Towns at the Head of Navigable Rivers*, Four-pence per Rod. 4th. *Inland Towns*, Two-pence per Rod.

"2. That the said Quit-rents shall be irredeemable for ever, but that they shall not commence until Seven Years from the Date of the Authority to take Possession, except in the Towns of Sydney, Parramatta and Windsor.

"3. That the Grantee shall complete a permanent Dwelling-house, Store or other suitable Building within Three Years after obtaining Authority to take Possession.

"4. That he shall construct Drains from every Building he may erect leading into the nearest common Drain or Sewer.

"5. That the Government shall have the Power of conducting through the Allotment all Drains and Sewers, required for the public Convenience, on giving Three Months' Notice and paying for the Damages which any Building may sustain thereby at a Valuation to be fixed by Arbitration.

"6. That the Government shall, as at present, have the Power of resuming any Part or the Whole of the Land, if required at any Time for public Purposes, on giving Twelve Months' Notice and paying for the Fee Simple and the Buildings at a Valuation which is to be fixed by Arbitration.

"7. That, in every Case of Arbitration, one Arbitrator shall be appointed by the Government and the other by the Individual interested, with Liberty for these two to elect a third as Umpire in the Event of their disagreeing. But that, if the Individual refuse or neglect to appoint an Arbitrator within One Month from being required to do so, the Government shall have the Power of appointing both.

"8. That the Grantee shall observe the general Regulations for the Order and Regularity of Towns contained in the Government Order of the 27th Instant, above referred to, and such others as may be deemed Expedient from Time to Time.

"9. That the Deed of Grant and all Claim to the Land and Buildings shall be forfeited, if the Deed be not taken up and the Fees paid within Six Months after Notice being given in the Gazette, or otherwise, of its being ready for Delivery.

"10. That, in the Event of a Breach of any of the foregoing Conditions, or of the prescribed Quit-rent being at any Time Twenty Days in Arrear, the Land and Buildings shall be forfeited, and it shall be lawful for the Government upon giving One Month's Notice to re-enter and re-grant the same."

Note 7, page 26.

Also pages 76, 80, 178, 211, 241, 243, 284, 308, 324, 355, 368, 379, 478, 533, 566 and 768.

Under Secretary Hay to Governor Darling.

Copies of these despatches are preserved in the record office, London, but there is no record of their transmission to the colony.

Note 8, pages 26 and 50.

Sir Edward Parry.

William Edward Parry was born on the 19th of December, 1790. In the year 1803, he entered the navy, and served at different times in the North sea and Baltic and on the north American station until 1817, when he returned to England. In 1818, he commanded the brig *Alexander* under the orders of John Ross on an expedition to the Arctic seas. In 1819, he was given command of an expedition in the ship *Hecla* to explore the north-west passage *via* Behring's strait; but he was successful only in reaching Melville island. He returned to England in the autumn of 1820. In May, 1821, in command of the ship *Fury*, he sailed through Hudson's strait and examined Hecla strait. He passed two winters in the ice and returned to England in 1823. In May, 1824, he sailed in command of the ships *Hecla* and *Fury* *via* Lancaster sound. In July, 1825, the *Fury* was lost, and the two crews returned to England in the *Hecla*. In April, 1827, he again sailed in the *Hecla* with the object of reaching the pole in sledges from Spitzbergen. He was successful in reaching latitude $82^{\circ} 85' N.$, which remained the farthest north reached by civilised men until 1876. Parry returned to London in October, 1828, and was knighted in April, 1829. After his return to London, he was hydrographer to the admiralty until May, 1829, when he resigned to accept office as commissioner of the Australian agricultural company.

Note 9, page 26.

My Despatch, No. 60/1829.

This despatch was dated 19th May, 1829 (*see* page 758 *et seq.*, volume XIV).

Note 10, page 30.

My Despatch No. 61.

This despatch was dated 20th May, 1829 (*see* page 762 *et seq.*, volume XIV).

Note 11, page 34.

Also page 840.

Some of their Notes.

The bank of Australia was situated in George-street. It contained a strong-room under the ground floor, surrounded by the foundations which were nine feet thick. Between Saturday night and Monday morning, the 13th and 15th of September, 1828, this strong-room was entered by robbers, who had excavated a tunnel from a drain which had been opened on the other side of George-street. Sterling silver money to the value of £700 and a large number of notes of the bank, principally in denominations of £50, £20, £10 and £5, were stolen, but the gold and plate was left untouched.

Note 12, page 34.

She was declared by the Judges.

The judgments by the three judges of the supreme court in the case of Jane New will be found on page 765 *et seq.*, volume XIV.

Note 13, page 34.

My Brother Alfred.

Alfred Stephen was the third son of John Stephen, who was appointed a judge of the supreme court of New South Wales on the 17th of August, 1825.

Alfred Stephen was born at St. Christopher, West Indies, on the 20th of August, 1803. He was called to the bar at Lincoln's Inn in November, 1823, and was appointed solicitor-general in Tasmania in the year 1825 (*see* also note 65, volume IV, series III). He was afterwards chief justice and lieutenant-governor of New South Wales.

Note 14, page 52.

His Estate.

This estate was known as Regentville and was situated on the banks of the Nepean river about two miles south of Penrith. Sir John Jamison inherited the estate from his father, Thomas Jamison, who arrived in the colony in the first fleet as surgeon's first mate on H.M. ship *Sirius* and afterwards became principal surgeon of the colony. A large stone residence with extensive out-buildings was erected on the estate on a hill overlooking the eastern bank of the Mulgoa creek. Of this mansion, the extensive foundations alone remain, as it was destroyed by fire many years ago, and the stone has been removed for modern houses in the district; but many evidences of former intense cultivation are extant in the terracing of the slopes of the hill, a stone dam, etc. For many years, Regentville was a model estate with a vineyard of about sixteen acres and a large stud of horses and cattle. At Regentville in the year 1839, Sir Henry Parkes, one of the principal originators of the Commonwealth of Australia, obtained his first employment in the colony on a salary at the rate of £25 a year and a ration and a half during the vintage season.

Note 15, page 52.

A Letter.

A copy of this letter, which was dated 9th April, 1829, is not available. Part of its contents were mentioned by Sir George Murray in his reply dated 14th December, 1829 (*see* pages 282 and 283) and by Governor Darling in his letter dated 18th August, 1830 (*see* pages 712 and 713). In June, 1829, John Stephen, jr., was dismissed from the magistracy and suspended from office as commissioner for apportioning the territory.

Note 16, page 52.

The Orders respecting him.

In a despatch dated 10th September, 1826 (*see* page 561 *et seq.*, volume XII), Earl Bathurst severely censured Sir John Jamison, and instructed Governor Darling on no account whatever to employ him in any civil situation under the colonial government.

Note 17, page 53.

Fifteen Months' imprisonment.

On the 10th of April, 1829, E. S. Hall was sentenced to twelve months' imprisonment for a libel on Governor Darling, and on the 15th to three months' imprisonment for a libel on F. C. Crotty, the sentences to be cumulative (*see* page viii, volume XIV).

Note 18, page 53.

The statements.

The "statements" were contained in a despatch dated 24th November, 1828 (*see* page 475 *et seq.*, volume XIV).

Note 19, page 53.

Also page 810.

Tyler was directed to be withdrawn from Hall's Service.

A statement by E. S. Hall in reference to this incident will be found on page 59 *et seq.*; criticism by Sir George Murray on pages 463, 811 and 812; and a justification by Governor Darling on pages 822 and 823 in this volume. A summary of the facts relating to the episode will be found on page xi in volume XIV.

Note 20, page 53.

Also page 62.

The Government Notice.

After reciting the necessity for regulating the depasturing of stock on government lands, it was announced:

"Notice is hereby given that Settlers in authorised Possession of Land, whether by Grant or by Purchase, will be allowed to occupy the unlocated Crown Lands, *immediately adjoining* their respective Possessions, at a Rent after the Rate of Two Shillings and Sixpence per Annum for every Hundred Acres; but it is clearly to be understood that Government reserves to itself the Right of disposing of all Lands, which shall be occupied under this Tenure, and to give Possession of it to any other Party, upon giving One Month's Notice to the Occupant."

The only condition imposed was that applications to lease such lands must be made in writing to the colonial secretary.

Note 21, page 54.

Eleven different characters.

On the recommendation of Messrs. Thornton and Wilberforce and Sir James Shaw, under secretary Peel authorised a grant of land and the usual assistance as a settler to E. S. Hall in a despatch dated 20th December, 1810 (*see* pages 349 and 350, volume VII). Hall arrived in the colony on the ship *Minstrel* on the 25th of October, 1812. In October, 1814, Governor Macquarie reported him as "a Useless and discontented Free Gentleman Settler." He had then tired of residing on his farm and had commenced business as a merchant in Sydney. In October, 1814, he was one of the promoters of the proposed "New South Wales New Zealand Company" for trading with New Zealand. On the 27th of February, 1817, he was appointed cashier and secretary to the bank of New South Wales at a salary of £200 *per annum*. In 1818, he applied to Earl Bathurst for permission to practise as an attorney, which was refused. In the same year, he was appointed coroner of the territory of New South Wales by Governor Macquarie. In a despatch dated 15th December, 1826, Governor Darling stated that he was an "apostate missionary." In May, 1826, he established the *Monitor* newspaper of which he was editor, printer and part proprietor, the second proprietor being Arthur Hill.

The characters, alluded to in the *Sydney Gazette*, dated 29th April, 1824, were "preacher, bank cashier, merchant's clerk, coroner, dairyman, farmer, shopkeeper, and now an Attorney's underling, and preacher in the Market-house Rotunda to a sect (I suppose) denominated *Crawlers*."

Note 22, page 54.

A late Act.

This was the imperial statute, 5 Geo. IV, c. lxxxiv.

Note 23, page 56.

Our Sydney land board.

In a despatch dated 14th July, 1825 (see page 20, volume XII), Earl Bathurst recommended the appointment of a "Land Board," and, on the 5th of May, 1826, Governor Darling reported that he had constituted the board, the first members being William Stewart the lieutenant-governor, William Lithgow the colonial auditor, and J. T. Campbell formerly secretary to Governor Macquarie. The board considered and made a report to Governor Darling on all applications for land grants and for the assignment of convicts as servants.

Note 24, page 58.

A former letter.

This letter was dated 17th November, 1828 (see page 579 *et seq.*, volume XIV).

Note 25, page 60.

Copies.

In the issues of the *Sydney Monitor* dated 9th and 16th February, 1829, E. S. Hall devoted thirteen columns to a criticism of the administration of F. C. Crotty as commandant at Port Macquarie, alleging corruption and trafficking with prisoners against him.

Note 26, page 61.

November last.

In the issue dated 22nd November, 1828, E. S. Hall alleged that Governor Darling exercised undue and improper influence in the selection of the military juries for criminal trials, and the letter from E. S. Hall to Sir George Murray (see page 579 *et seq.*, volume XIV), dated 17th November, 1828, was published.

In the issue dated 29th November, 1828, the letter to Sir George Murray dated 26th November, 1828, was published (see page 596 *et seq.*, volume XIV).

Note 27, page 61.

Only one conviction.

The reference was to the conviction of E. S. Hall on the 29th of September, 1828, for a criminal libel on the Reverend T. H. Scott (see note 153, volume XIV).

Note 28, page 63.

I have been refused.—A letter.

The refusal of E. S. Hall's application to lease land was dated 23rd October, 1828, and the letter was dated 17th November, 1828 (see pages 583 and 579 *et seq.*, volume XIV).

Note 29, page 64.

Argyle is an exceedingly barren Country.

By government order, dated 14th October, 1829, the county of Argyle was defined as: "Bounded on the north by the River Guinecor, from its junction with the Wolondilly to its source near Burra Burra Lagoon on the dividing range. On the west by the dividing range from Burra Burra, by Cullarin to Lake George, including the three Bredalbane Plains. On the south by the

northern margin of Lake George to Kenny's Station; from Lake George to the Alianoyonyiga Mountain, by a small gully descending to the lake; from Alianoyonyiga, by the ridge extending south-east to the hill of Wolowolar, and from Wolowolar by Boro Creek to the Shoalhaven River. On the east by the Shoalhaven River to the junction of the Rivulet from Barber's; by the Rivulet from Barber's to its source; across a narrow neck of land to the head of the Uringalla; by the Uringalla to its junction with the Wolondilly; and by the Wolondilly to the junction of the Guinecor abovementioned." The modern limits of the county are the same; and it is erroneous to describe it as "an exceedingly barren County."

Note 30, page 64.

Two acts.

These were the acts of council 9 Geo. IV, Nos. 11 and 12, passed on the 24th of July and 2nd of August, 1828. They were entitled respectively:

"An Act to authorize the erection of Pounds and for regulating the Impounding of Cattle."

"An Act to regulate the dividing Fences of adjoining Lands."

Note 31, page 70.

The "Impeachment" transmitted by Mr. Wentworth.

A copy of the "impeachment" will be found on page 800 *et seq.*, volume XIV.

Note 32, pages 70 and 82.

The Editors of the "Monitor" and "Australian."

The editors were E. S. Hall and A. E. Hayes. The details of their convictions will be found on page viii, volume XIV.

Note 33, page 76.

The General Order.

A copy of this order will be found on pages 485 and 486, volume XIII.

Note 34, page 76.

The Boundaries of the land.

A description of these boundaries will be found on page 370, volume XIV.

Note 35, page 77.

Per brig Ionia and ship Alice.

The despatches on pages 77, 82, 83, 88, 91, 92, 93, 94, 95, 96, 102, 104 and 117 were transmitted by the brig *Ionia* to Hobart town and thence by the ship *Alice* to England.

Note 36, page 83.

Realised.

In the enclosures to this despatch, the second address was not transcribed, but the following was inserted after the signatures to the first address:—

"N.B.—An address similar to the above has been sent in by the Settlers of the Lower District of Hunter's River, signed by the following Individuals." Then followed the signatures (*see* page 74).

Note 37, page 99.

The extensive Legislative Functions.

The changes introduced by the statute 9 Geo. IV, c. lxxxiii, in the constitution and functions of the legislative council were summarised by Sir George Murray in his despatch, dated 31st July, 1828 (*see* page 265 *et seq.*, volume XIV). A note on these functions is also contained in the introduction to this volume.

Note 40, page 125.

Also page 743.

The line of Road.

A description of this road will be found in note 68, volume XIII.

Note 41, page 131.

His right to a Pew in St. James' Church.

A summary of the details relating to the claim of E. S. Hall to a pew in the church of St. James and the consequent lawsuits will be found in note 118, volume XIV.

Note 42, page 132.

The Instructions.

These instructions were contained in a despatch from Earl Bathurst, dated 21st December, 1824 (*see* page 419 *et seq.*, volume XI).

Note 43, page 146.

The duties of which office were to be discharged alternately.

The details of G. Panton's engagement as wharfinger were recorded in a letter to Earl Bathurst dated 7th March, 1825 (*see* page 174 *et seq.*, volume XII).

Note 44, page 162.

Copies . . . have been forwarded.

A copy of the Reverend C. P. N. Wilton's letter will be found in a volume in series VII; an extract is printed on page 164. Archdeacon Scott's letter, dated 3rd April, 1829, will be found on page 745 *et seq.*, volume XIV.

Note 45, page 162.

Also page 164.

Fictitious bills.

The method, adopted by the bank of New South Wales to increase its capital, was detailed by Governor Darling in a despatch dated 29th December, 1828, and by Archdeacon Scott in a letter dated 3rd April, 1829 (*see* pages 550 and 746, volume XIV).

Note 46, page 164.

I proceeded to suspend a Master of the same school.

The papers relating to the suspension of William Walker as master of the female orphan school were forwarded by Governor Darling with his despatch dated 7th May, 1826 (*see* page 273 *et seq.*, volume XII).

Note 47, page 174.

My Letters of the 3rd and 23rd April.

The letters were dated 3rd April (*see* page 745 *et seq.*, volume XIV), and 23rd June, 1829 (*see* page 162 *et seq.* in this volume).

Note 48, page 179.

The Old Bank of New South Wales.

The bank of New South Wales was established in the year 1817, and was granted a charter of incorporation by Governor Macquarie (*see* page 223 *et seq.*, volume IX). Counsel in England in the year 1818 gave an opinion that this charter was null and void as the governor was not legally empowered either by his commission or instructions to grant it (*see* page 320, volume I, series IV). Notwithstanding this opinion, Sir Thomas Brisbane renewed the charter when it expired in the year 1824. Although these charters of incorporation were granted, the bank was nevertheless, "in contemplation of law, only a joint stock company from the period of its establishment." In the year 1827, the proprietors decided to remodel and continue the bank, and agreed that the charter of incorporation granted by Sir Thomas Brisbane, should cease to be acted upon after the 31st of December, 1827.

The "old bank" was therefore the proprietors trading under a nominal charter of incorporation, and the "new bank" the same proprietors avowedly trading as a joint stock company.

Note 49, pages 185 and 803.

Compensation for the loss . . . of the Ship "Sydney."

The ship *Sydney* was chartered (*see* page 699 *et seq.*, volume V) by Governor King to procure a cargo of provisions for the colony. She cleared for Calcutta on the 14th of April, 1806, and during the outward voyage was wrecked on a reef off the coast of New Guinea. After protracted negotiations, Earl Bathurst, on the 3rd of January, 1825 (*see* page 461, volume XI), granted compensation to R. Campbell in the form of a payment of £2,000 and a grant of land and cattle to the value of £2,000.

Note 50, page 187.

James Hardy Vaux.

J. H. Vaux was the notorious swindler and thief. He was born in the year 1782, and at the age of eighteen was sentenced to transportation to New South Wales for seven years. In 1806, he received a free pardon from Governor King with whom he returned to England in H.M. ship *Buffalo*. He immediately resumed his former habits. In February, 1809, he was tried and convicted of theft and sentenced to death. This sentence was commuted to transportation for life. In the year 1819, he published a volume of memoirs.

Note 51, page 194.

The New Act of Parliament.—The Warrant.

The "new act" was 9 Geo. IV, c. lxxxiii. The warrant was transmitted by Sir George Murray with his despatch dated 1st February, 1829 (*see* pages 623 and 624, volume XIV).

Note 52, page 195.

The 13th and 16th Sections.

The thirteenth section was:

"And be it further enacted, That it shall be lawful for His Majesty, by any such Charters or Letters Patent as aforesaid, or by any Order or Orders

to be by Him made, with the Advice of His Privy Council, to institute Circuit Courts, at such Times, and in such Districts or Counties within the said respective Colonies, as shall from time to time be deemed necessary; and the said Circuit Courts shall be holden by any One Judge of the said Supreme Courts respectively, and shall have such ministerial Officers as His Majesty shall appoint or direct; and the said Circuit Courts shall be Courts of Record, and shall have Jurisdiction to hear and determine Crimes and Misdemeanors committed within the said Colonies respectively, and to try all Issues in Fact, and to enquire into and assess Damages in any Action at Law commenced in the said Supreme Courts respectively, and shall proceed in the like Form and Manner as the said Supreme Courts, and shall be and stand in the same relation to the said Supreme Courts as Courts of Oyer and Terminer and of Assize and Nisi Prius in *England* are and stand in relation to the King's Superior Courts of Record at *Westminster*."

Section XVI provided that the judges of the supreme courts should have power to make rules for regulating the various courts, for which provision was made in the previous sections of the statute.

Note 53, page 199.

They have so totally failed.

The first veteran company in New South Wales was formed by Governor Macquarie early in the year 1810. The establishment was one hundred rank and file with the usual proportion of serjeants and drummers. It was composed, of old soldiers of the 102nd regiment or New South Wales corps. It was employed in furnishing town guards and small posts throughout the colony. In 1817, Governor Macquarie proposed to disband the company, as the men were "generally quite worn out through long Service, age or infirmities." No action was taken; and, in 1822, Sir Thomas Brisbane again urged the proposal "in the strongest terms."

In the year 1826, it was decided to send three companies of the royal veterans to the colonies; and, on the 23rd of July, Governor Darling reported the arrival of the first company. Two companies were quartered in New South Wales and one in Tasmania for employment as police and overseers of convicts. The men proved an utter failure; and on the 8th of February, 1827, Governor Darling reported that they were mutinous and "the most drunken, disorderly, worthless set of fellows that ever existed." He at the same time proposed that the companies should be disbanded, in which proposal he was supported by G. Arthur, the lieut.-governor in Tasmania. The proposal was repeated by Governor Darling in November, 1827, and March, 1828. Finally in May, 1828, authority was given for the companies to be disbanded. Governor Darling detailed the procedure for this purpose in a despatch dated 20th January, 1829 (*see* page 612 *et seq.*, volume XIV).

Note 54, page 200.

The expeditions.

Notes, numbered 85 and 168, on John Oxley's two expeditions in 1817 and 1818 will be found in volume IX. On the first expedition, John Oxley reported that Charles Fraser had made "extensive and Valuable Collections of Plants" in association with Allan Cunningham, and, on the second expedition, that Fraser had "added near 700 new specimens to the already extended Catalogue of Australian plants."

In 1819, John Oxley was sent with the brig *Lady Nelson* and the cutter *Mermoid* to examine Port Macquarie and the river Hastings, and was accompanied by C. Fraser (*see* page 180 *et seq.*, volume X).

In 1820, John Thomas Bigge visited Tasmania. After his return to Sydney, he crossed the Blue mountains, inspected the settlements at Bathurst, travelled across country to the county of Argyle, and returned *via* the southern road.

In 1827, James Stirling was sent in H.M. ship *Success* to examine Swan river with a view to settlement (*see* volume VI, series III).

In 1828, Allan Cunningham proceeded to Moreton bay with the object of discovering a route from the coast to the Darling downs. He was successful in finding a practical route *via* Cunningham's gap (*see* page 668 and note 132, volume XIV. In note 132, Charles Fraser is erroneously called James Fraser).

C. Fraser participated in these expeditions.

Note 55, page 201.

My report on Moreton Bay.—That on Swan River.

At Moreton bay, C. Fraser reported on the disadvantages of any readily accessible sites on the Brisbane river for the purposes of penal settlements.

The report on Swan river was forwarded as enclosure No. 2 to James Stirling's letter to Governor Darling, dated 18th April, 1827 (*see* volume VI, series III).

Note 56, page 205.

An Act of Council.

This was the act 10 Geo. IV, No. 7, passed on the 29th of September, 1829, and entitled "An Act for instituting and regulating Courts of General and Quarter Sessions in New South Wales."

Note 57, page 212.

Also pages 314 and 345.

Archdeacon Broughton.

William Grant Broughton was born in London on the 22nd of May, 1788. In January, 1797, he entered the King's school, Canterbury, and received a King's scholarship. Having left school, he was appointed in 1805 a clerk in the treasury department at East India house. He was desirous of entering the church, and, in October, 1814, he entered Pembroke hall, Cambridge. In January, 1818, he obtained the degree of bachelor of arts, and in the same year was ordained deacon and priest. He first spent four years as a curate in Hampshire, where he wrote some religious books. He was then appointed to a curacy at Farnham. In 1828, the duke of Wellington nominated him to the chaplaincy of the Tower, and a few months later offered him the vacant arch-deaconry in New South Wales. After some hesitation, Broughton accepted this appointment. His subsequent career will be noted in succeeding volumes.

Note 58, page 214.

The Instructions.

These instructions were contained in a despatch, dated 30th August, 1828 (*see* page 360, volume XIV).

Note 59, page 216.

Experience has already shewn it to be hazardous.

The reference was to the proceedings in the case of William Walker, master of the female orphan school (*see* page 274 *et seq.*, volume XII).

Note 60, page 218.

The King's Commission of Inquiry.

On the 5th of January, 1819, a commission (*see* page 3, volume X) was granted to John Thomas Bigge to inquire into the general administration and condition of the colony. At that time, T. H. Scott had not taken clerical orders, and was appointed secretary to the commission with the right of succession to J. T. Bigge in the event of the latter's death or incapacity (*see* page 147, volume X). As secretary, Scott assisted Bigge in all his inquiries.

Note 61, page 218.

This is the first instance of a youth born in this Colony having been sent to England to receive a University Education.

This statement by Archdeacon Scott was erroneous. William Charles Wentworth, the son of D'Arcy Wentworth, was born at Norfolk island in October, 1793. At the age of seven years, he was sent to school in England, and returned to Sydney in 1810. He was associated with G. Blaxland and W. Lawson in discovering the passage across the Blue mountains in 1813. In 1816, he sailed for England, and then matriculated at Cambridge university, where he wrote his well known poem on Australia. In 1819, whilst studying for the bar, he published *A Statistical, Historical and Political Description of the Colony of New South Wales and its dependent Settlements in Van Diemen's Land*. On the 4th of February, 1822, he was called to the bar at the Middle Temple, and later returned to the colony.

Note 62, page 219.

I reported.—My letter of the 27th June and 30th Dec., 1828, and 30th April and 23rd June, 1829.

Archdeacon Scott submitted a report on the church and school establishments, dated 1st May, 1826. The reference to the orphan schools will be found on pages 312 and 313, volume XII.

A copy of the letter, dated 27th June, 1828, is not available. The letter dated 30th December, 1828, and a letter dated 3rd *vice* 30th April, 1829, will be found on pages 562 *et seq.* and 745 *et seq.*, volume XIV. The letter dated 23rd June, 1829, will be found on page 162 *et seq.* in this volume.

Note 63, pages 239 and 240.

Also pages 251 and 298.

The Instructions.—The favourable terms.

The instructions were contained in a despatch from Earl Bathurst, numbered 13 and dated 24th July, 1818 (*see* pages 823 and 824, volume IX).

The concessions on land grants for military officers were established by orders, dated 8th June, 1826, and 16th May and 24th August, 1827 (*see* pages 595 and 596, volume XII, and pages 485, 486 and 596, volume XIII).

Note 64, page 243.

Three letters.

The letter, dated 17th November, 1828, will be found on page 579 *et seq.*, volume XIV. The letter, dated 29th November, 1828, was probably identical with that dated 26th November, 1828 (*see* page 596 *et seq.*, volume XIV). The letter, dated 2nd January, 1829, is not available. The letter, dated 16th March, 1829, was probably identical with that dated 12th March, 1829

(see page 54 *et seq.*). The letter, dated 2nd May, 1829, will be found on page 61 *et seq.* The letter, dated 6th June, 1829, was printed in the issue of the *Monitor* newspaper of the same date.

Note 65, pages 245 and 594.

It was published.—A Letter.

In the letter dated 6th June, 1829, E. S. Hall criticised the addresses presented to Governor Darling on his impeachment by W. C. Wentworth (see pages 71, 72, and 74) and supported the latter in his charges. He also commented on the shooting of P. Olynch at Norfolk island (see page 594 *et seq.*).

Note 66, page 252.

The Instructions.

These instructions were contained in a despatch, dated 1st November, 1828 (see pages 410 and 411, volume XIV).

Note 67, page 255.

Another Expedition.

On his first expedition, Charles Sturt left Wellington valley on the 8th of December, 1828, and returned on the 16th of April following, after tracing the Macquarie river and discovering the Bogan and Darling rivers (see note 172, volume XIV).

On the 3rd of November, 1829, Sturt, accompanied by George Macleay as a companion and some soldiers and convicts, commenced his second expedition. He carried with him the materials for a whaleboat and a smaller boat. The course was directed to the Murrumbidgee river, which was reached at Jugiong. From thence, the Murrumbidgee river was followed to about twelve miles above its junction with the Lachlan river. Here Sturt decided to build his boats and to proceed by water. The boats were rapidly constructed, and six men were selected to accompany himself and Macleay, the remaining men being ordered to return to Goulburn plains. On the 7th of January, 1830, the party embarked and commenced the voyage, during which the Murrumbidgee was navigated to its junction with the Murray river, and the latter river to its outlet in lake Alexandrina, which was entered on the 9th of February, and the sea was reached two days later. After the most severe hardships and privations, the return journey was accomplished, Yass plains being reached on the 12th of May and Sydney eleven days later.

Note 68, page 256.

A large Lagoon.—That River.

The lagoon was lake Alexandrina. On the 2nd of February, 1829, Charles Sturt discovered the Darling river and followed its course for some distance below the junction of the Bogan river. The general course of the Darling river was south-west in that locality.

Note 69, page 260.

Also page 268.

Mr. Commissioner Bigge when at the Cape of Good Hope.

Shortly after his return to England from conducting the commission of inquiry into the general administration of New South Wales, John Thomas

Bigge was given a similar commission to inquire into the state of Cape Colony. This commission lasted for several years, and Bigge did excellent work in exposing the corruption amongst the officials employed there.

Note 70, page 262.

A Letter dated the 20th April, 1828.

A copy of this letter, dated 10th April, 1828, will be found on page 731 *et seq.*, volume XIV.

Note 71, page 280.

The 28th Section of that Act.

The twenty-eighth section of the statute, 10 Geo. IV, c. vii, was as follows:—

“ And whereas Jesuits and members of other religious orders communities or societies of the Church of Rome bound by monastic or religious vows are resident within the United Kingdom and it is expedient to make provision for the gradual suppression and final prohibition of the same therein Be it therefore enacted That every Jesuit and every member of any other religious order community or society of the Church of Rome bound by monastic or religious vows who at the time of the commencement of this Act shall be within the United Kingdom shall within six calendar months after the commencement of this Act deliver to the Clerk of the Peace of the county or place where such person shall reside or to his deputy a notice or statement in the form and containing the particulars required to be set forth in the Schedule to this Act annexed which notice or statement such Clerk of the Peace or his deputy shall preserve or register amongst the records of such county or place without any fee and shall forthwith transmit a copy of such notice or statement to the Chief Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland or if in Great Britain to one of His Majesty's Principal Secretaries of State and in case any person shall offend in the premises he shall forfeit and pay to His Majesty for every calendar month during which he shall remain in the United Kingdom without having delivered such notice or statement as is hereinbefore required the sum of fifty pounds.”

Note 72, page 283.

His Relative.—Alfred Stephen.

John Stephen, the judge of the supreme court, had two elder brothers, William Stephen who was a doctor, and James Stephen who represented Tralee in the house of commons. James Stephen had a son James, who in 1829 was counsel to the colonial office. John Stephen, the judge, had five sons, Sydney, John, Alfred, Francis and George Milner.

Note 73, page 298.

Form of letter.

An example of this form of letter will be found on page 472.

Note 74, page 299.

Also pages 300, 331 and 332.

A person of the name of Shelly.

On several occasions, E. S. Hall had alleged in the *Sydney Monitor* that Governor Darling had exercised favoritism in the distribution of lands, and, in the issue dated 21st November, 1829, an inflammatory leader was published in which it was stated that J. D. Shelley had been wrongfully treated.

On the 20th of December, 1829, when Governor Darling was leaving the church of St. James, Shelly approached him and said, "You are a damned scoundrel, Sir!" He was arrested, and, when searched, two pistols loaded with ball and a knife were found on him.

On the following day, an inquiry was held by seven magistrates. A. Macleay, T. Macquoid, T. de la Condamine, H. Dumaresq, M. T. Hare (lieutenant on H.M. ship *Crocodile*), N. Allan, and C. Thornton (a constable) gave evidence as to the incident and the arrest of Shelly. W. Cummings, at whose hotel Shelly lodged, and W. Wright gave evidence as to threats uttered by Shelly against Governor Darling, of his practising with a pistol, and of his intention to commit suicide. Shelly in his defence stated that owing to his ill-treatment by Governor Darling he had determined to destroy himself.

The magistrates ordered Shelly to find sureties to keep the peace towards Governor Darling, himself in £600 and two in £300 each, in default of which he was sent to gaol. His pistols were retained by the police.

Note 75, page 308.

The answer.

The "answer" was dated 15th July, 1829 (*see* page 77).

Note 76, page 311.

Mr. Rodd's case.

The report of the board of inquiry into charges against John Tremayne Rodd with his replies will be found on page 127 *et seq.*

Note 77, pages 312 and 313.

Despatches.

These despatches were principally covering letters to the enclosures. Those enclosures, which are available, will be found in volumes of the series to which they belong.

Note 78, page 321.

The Argyle Road.

This was the first main southern road which crossed the Mittagong range about one mile and a half to the east of the present tunnel on the railway line between Mittagong and Bowral railway stations. The country, which it was intended to survey, is very broken. The supposition was incorrect that the route proposed would lie in the watershed of the Shoalhaven river, as all waters north of the Wingecarribee swamps flow into the Nepean river or its tributaries.

Note 79, page 322.

Cutter's or Bowman's.

"Cutter's" was the Kangaroo-inn kept by George Cutter. It was built near the seventy-third mile post on the southern road where the ascent of the Mittagong range commences. The locality is now known as lower Mittagong.

"Bowman's" was the inn near the bridge at Bong Bong. It was afterwards known as Lozeby's-inn.

Note 80, page 323.

The Path towards Five Islands.

The five islands lie off the coast between Wollongong and lake Illawarra. The "path" practically followed the modern Robertson road.

Note 81, page 326.

As required by Law.

By the twenty-first section of the statute 9 Geo. IV, c. lxxxiii, it was enacted: "Provided always that no Law or Ordinance shall be passed or made, unless the same shall first, by the said Governors respectively, be laid before the said respective Councils, nor unless Notice of the general Objects thereof shall have been sent by the Governor of the Colony, for which such Law or Ordinance shall be proposed, to One or more of the Newspapers of such Colony for Insertion Eight clear Days at least before such Law or Ordinance shall be passed, or unless, in case there be no Newspaper, such Notice shall be given by some other Mode of Public Advertisement, except when the Governor of such Colony shall consider the Circumstances of that Colony to be such as to make it probable that actual Danger would arise from the said Delay of Eight Days, in which Case the Governor and Council shall have Power to pass such Law or Ordinance in such Emergency as they shall deem requisite without any such Notice as aforesaid."

Note 82, page 330.

Hannibal Hawkins McArthur.

In the warrant for the appointment of the members of the legislative council (*see* pages 623 and 624, volume XIV), J. T. Campbell and H. H. Macarthur were the first and second nominees for vacancies. When the warrant was received in the colony, P. P. King, one of the original members, was absent from the colony and J. T. Campbell had taken his seat. H. H. Macarthur was a nephew of John Macarthur of Camden park.

Note 83, page 332.

The Sydney Gazette of the 5th inst.

In the leading article, it was stated that J. D. Shelly had arrived in the colony without letters of introduction and without friends and acquaintances. Shortly after his arrival, he made application for land to the colonial secretary, and, according to the usual practise, was referred to the land board for inquiry. He stated to the board that he had brought £400 to the colony and possessed estates in England worth £3,000. When asked to produce the £400 or to lodge it in a bank and produce the cashier's certificate, he declined, and the board was compelled to refuse his application. A second application was refused in a similar way.

Note 84, pages 332 and 333.

Servants.

The signatories to the address, dated 21st December, 1829, were:

W. J. Brown; Wm. Lithgow; F. A. Hely; George Innes; B. Langa; Thomas Icely; Charles Howard; Alexr. Still; W. Jones; W. Longford; George Bunn; James Raymond; C. Fraser; Thomas Barker; Ambrose Hallen; Henry Vaux; T. C. Harrington; J. B. Bettington; F. N. Rossi; Nichol Allen; E. Lockyer; Augustus Birch; R. M. Bailey; J. W. Wilson; T. C. Cotton; J. E. Manning; J. Laidley; G. T. Savage; Richard Jones; J. W. Smith; — Philips; J. Spurrer; G. Brown; J. Osborne, R.N.; A. McLeay; E. D. Thomson; Thomas Raine; E. Wollstonecraft; J. Nicholson; Cors. Prout; W. Cummings; John Paul; J. Ranken; Grayson Hartley; Andrew Gibson; Benjamin Watson; G. B. Vine; Wm. Evans, R.N.; R. Futter; W. P. Faithful; W. Faithful; D. Allan; G. W. Paul; A. Berry; Thomas McVitie; James Atkinson; J. Odell; W. Wilks; R. Sutter; S. Ryrie; W. G. Broughton,

Archdeacon; H. Osborne, R.N.; H. Osborne; H. Colombine; G. Vine; Wm. Bean; P. Cavenagh; Wm. Bowen; T. G. Petman; E. Fisherwick; Thomas Street; Matthew Gregson; Robert Jones; E. B. Moale; James Chisholm; Wm. Danvers; G. Greenaway; N. Aspinall; J. Robertson; E. Sandwell; G. T. Palmer; Thomas Hart; T. Macquoid, Sheriff; George Miller; Edward Hallen; J. James; W. Parker; John Black; R. Campbell; M. Hindson; C. Cooper; J. Betts; H. K. James; T. D. Edwards; W. Forster; W. Cooper; S. Leigh; R. Fitz; M. Anderson; H. M. McArthur; G. B. Suttor; J. McDougal; P. Connolly; J. Weston; M. R. Weston; F. M. Stokes; F. Matthews; W. Fellows; W. J. Dowling; H. J. Drinkwater; H. Donnison; H. Jenkins; P. Gardener; W. Wright; M. Philips; W. S. Parker; J. Bowman; J. Macarthur; W. Macarthur; P. Mitchell; L. McAllister; W. Klensendorfe; J. Palmer; S. Owen; T. L. Mitchell; A. Byrne; James Barker; R. Ball; J. B. Montefiore; R. H. Maddox; E. Ferraby; M. Mitchell, Lt., R.N.; E. Bush; A. Kemmis; R. Mansfield; G. Allen; J. C. Brown; W. Tranter; Henry Brooks; W. Wiseman; Robert Cooper; J. Norton; T. D. Rowe; H. Bennett; John Lamb; J. Brown; S. A. Perry; J. Busby; Samuel Hawkins; John Busby; F. Fowler; H. B. W. Allan; John Maughan; Gregory Blaxland; F. W. Unwin; H. M. Burrows; W. Greville; O. Sproule; S. Stephen; —. Clarkson; W. Hall; J. Williamson; J. S. Jackson; G. W. Jackson; Charles Staples; William McGarvie; J. J. Moore; Richard Allen; C. Tompson; C. Tompson, Junr.; Saul Lyons; A. Foss; J. Blaxland, Junr.; G. M. Blaxland; T. Smeathman; S. Nolbrow; Charles Throsby; Charles Farrell; W. A. Steel; H. Steel; W. Carter; Richard Hill; W. McPherson; J. J. Montefiore; G. S. Brodie; A. J. Seddington; Charles Nye; Roger Therry; W. Rodgers; J. H. Potts; G. Galbraith; C. Windeyer; C. J. Windeyer; A. Kennedy; J. Scott; J. Thompson; Thomas Walker; J. Connell; L. Iredale; W. Newton; J. Hoskins; Melville and Andrews; W. Marsden; C. McIntosh; D. Fagan; P. L. Bemis; H. Halloran; J. Edwards; J. Tayler; W. McKenzie; R. Campbell, Junr.; J. Mellor; Samuel Terry; T. Nowlan; Richard Mosman; J. Jamison; G. Davis; J. Wesgate; G. Jilks; G. Tomlins; T. Lambert; T. Anderson; A. Anderson; S. Greenhill; David Duncan; W. Walker; C. Wilson; C. Wilson, Junr.; R. C. Pritchett; James Farmer; A. E. Innes; J. R. McLeay; Henry Dower.

The signatories to the address, dated 6th January, 1830, were:

J. Harris; C. P. N. Wilton; J. H. Blanchard; C. W. Wall; N. Cavillon; James Thorn; Matthew Hyland; Richard Wall; Richd. Rouse; Edd. Lockyer; W. Lawson, Senr.; George Blaxland; Joseph Miers; J. Williamson; Francis Oakes; R. V. Dulhunty; Francis Dickson; P. F. Neyle; George Erskine; James Orr; R. C. Lethbridge; Samuel Marsden; John Palmer; Thomas Hassall; William Shelley; Thomas Dean; Charles Whalan; Luke Hyland, Junr.; John Betts; M. Anderson; Gregory Blaxland; Robert Lethbridge; Nelson Lawson; G. B. Suttor; William Ellis; William Sherwin; L. V. Dulhunty; H. Whitaker; William Aird; A. C. Innes; W. H. Zurkorst; John Grose; Hugh Taylor; W. Wells; John Bishop; John Thorne; John Ellison; Robert Smith; Richard Mortimer; J. H. Grose; Gilbert Smith; R. Hunt; W. R. Tress; Nathaniel Payton; James Elder; R. Farrington; Samuel Gilbert; William Knight; J. C. Thornton; Daniel Thurston; Thomas Reynolds; James Bates; William Batman; William Hall; A. Kennedy; William Dean; John Hodges; John Jones; Charles Stuart; William Stuart; George Howell; John Condron; James Byrne; W. Walker; J. W. Brown; James Hassall; Samuel Mason; R. Armstrong; W. Rafter; George Smith; William Tuckwell; John Eyre; J. Watsford; John Moore; James Foulcher; William Smith; Thomas Pye; Humphrey Thorn; W. Bennett; William Pritchard; Robert Gooch; Thomas Arkell; Andrew Nash; S. W. Mansfield; Hugh Hughes; Matthew Peare; William Hall; Thomas Barber; William

Barnes; James Pye; W. O. Davies; John Owen; J. Smith, Surveyor; J. Smith, Publican; Edward Smith; William Cox; Edward Dillon; William Beaumont; William Batman; Hugh O'Donnell; Henry O'Donnell; T. W. Bowden; James Hatton; Thomas Small; Arthur Devlin; Edward Goodin; William Goodin; John Goodin; John Eggleton; William Mobbs, Senr.; William Mobbs, Junr.; Isaac Mobbs; J. W. Hancy; William Harvey; William Fishburne; Simon Moulds; John Pye, Senr.; William White; John Smith; J. W. Smith; William Burgen; George Hopkins; Richard Proctor; Richard Proctor; Thomas Foreman; John Walker; John Haywood; John Ward; Isaac Williams; T. C. Farnell; W. Lutherburrow; James Devlin; James Shepherd; James Bradley; John Hackett; Thomas Hackett; John Pye, Junior; John Williams; John Smith; Daniel Brian; Hugh Kelley; Michael O'Brien; John Greenslad; Thomas Harley; John Moulds; Francis Sherwood; F. Meurant; William Hathaway; Wm. Newport; Wm. Dean; Wm. Weatherall; John Staff; John Piesley; Thomas Bowden; Thomas Pidding, Surgeon; James Wright; Samuel Barber; John Whalan; John Gilbert; John Good; M. W. Piere; W. T. Pierce; John England; John Norris; John Herbert; William Suttor; Francis Piesley; Robert Gordon; J. Hargreaves; John Martin; John Tunks; Henry Bergan; John Dane; Thomas Cosier.

Note 85, pages 333 and 355.

Also pages 339, 344, 395 and 441.

Libels at the last Sessions.—An Act of Council.

In the month of April, 1829, E. S. Hall was convicted of libels on Governor Darling and F. C. Crotty, and A. E. Hayes of libel on Governor Darling. In the month of December following, E. S. Hall was convicted of libels on Governor Darling, F. A. Hely, J. Laidley and A. Macleay (*see* pages viii, x and xi, volume XIV).

The act of council was 11 Geo. IV, No. 1. This act was disallowed by Viscount Goderich in his despatch, dated 6th January, 1831.

Note 86, pages 334 and 339.

A Letter.

This letter (*see* page 340) was printed in the issue of the *Australian* newspaper, dated 9th January, 1830.

Note 87, page 334.

Mr. Moore, the Solicitor, of Turf Club Memory.

W. H. Moore was suspended by Governor Darling from his office as crown solicitor on account of participation in certain proceedings at the turf club in October, 1827 (*see* page 642 *et seq.*, volume XIII).

Note 88, page 334.

Our poor Attorney-General.

The attorney-general was A. M. Baxter. Governor Darling described him as "a person without any experience, deficient in the ordinary legal acquirements, and without talents," and "withal does not compensate these defects by application."

Note 89, page 334.

His Marriage License.

There is no report from R. Darling available in reference to this marriage license.

Note 90, pages 335 and 337.

The leading Article.

In this article, there appeared "the following chronology of Facts:—

" May 1st, 1829, Mr. Sellwood writes to the Government for a grant of land, stating his capital to be (*observe*) exactly £500.

" May 6th, five days after, a letter in reply is addressed to Mr. Sellwood, desiring him to attend the Land Board.

" May 12th, six days after, Mr. Sellwood appears before the Land Board, when, strange as it may appear, his capital is found to have increased, within the eleven days, from £500 to £630, as proved by the receipt for that amount in cash of the Managing Director of the Bank of Australia, which receipt he produces.

" May 15th, three days after, the Board makes its report on his case.

" May 18th, three days after, a communication is addressed to Mr. Sellwood, stating that, notwithstanding the discrepancy between his first and second statements as to the amount of his capital, the Government has directed he shall receive 960 acres, although in fact he had a claim to only 640.

" July 16th, nearly two months after, he writes to say that the land he has selected appearing to form part of a 'reserve,' he wishes to know whether he can be put in possession of it.

" July 18th, two days after, his letter is answered and he is referred to the Surveyor-General.

" July 23d, five days after, he reports that he has made a second selection, which, being unobjectionable, is sanctioned, and he enters into the usual bond; and on

" September 5th, he receives final authority to take possession of his land; but on

" September 11th, six days after, he writes that it is his intention to return to England, and requests that the bond may be cancelled. The wish is granted, and here the drama ends."

Note 91, page 335.

His Excellency's Reply.

The enclosures to this despatch were printed copies of the addresses and replies with the imprint "Sydney: Printed by R. Mansfield, for the Executors of R. Howe."

The signatures to the addresses were printed in alphabetical order, the surnames preceding the Christian names. There were also some alterations in the spelling of the names, and most of the Christian names replaced the initials.

Note 92, page 345.

The enclosed Extract.

This was the leading article from the issue of the *Sydney Gazette* dated 19th January, 1830. It extended to more than one column and a half, and strongly supported the bill, then under consideration, for the regulation of the press.

Note 93, page 346.

The Enactment.

The ninth section of the statute, 9 Geo. IV, c. lxxxiii, provided: "And Whereas by a certain Act passed in the Fifth Year of the Reign of His present Majesty intituled *An Act for the Transportation of Offenders from Great Britain*, Provision is made for vesting in the Governor of the Colony to which Offenders may be transported, or to such other Person as therein

mentioned, the Property in the Service of such Offenders, and it is expedient to make further Provision in that Behalf, so far as respects the said Colonies of *New South Wales* and *Van Diemen's Land*;' Be it further enacted, That any Offender, who hath heretofore been or shall hereafter be assigned to any Person or Persons within the said Colonies respectively, under and in pursuance of the said Act, shall not, by any such Assignee or Assignees, be assigned over to any other Person or Persons, except with the written Consent and Licence of the Governors of such Colonies respectively; and that it shall and may be lawful for the Governors of the said Colonies respectively from time to time, as to them shall seem meet, to revoke any such Assignments of Offenders, as may have been or as shall hereafter be made in pursuance of the said Act, and to grant to any Offender or Offenders transported to the said Colonies such temporary or partial Remissions of their Sentences as to such Governors may seem best adapted for the Reformation of such Offenders, and such temporary or partial Remissions from time to time to revoke and renew, as Occasion may require; any thing in the said Act, or in any other Act of Parliament, to the contrary in anywise notwithstanding."

Note 94, page 349.

His argument.

The opinion by F. Forbes *ex parte* Jane New will be found on page 765 *et seq.*, volume XIV.

Note 95, page 350.

The maintenance of a certain number of Convict Servants.

The stipulation for the maintenance of one convict servant for each one hundred acres granted was introduced into land grants by Sir Thomas Brisbane in 1822 (*see* page 630 *et seq.*, volume X).

Note 96, page 351.

The Statutes.

These statutes were:

4 Geo. I, c. xi.—"An Act for the further preventing Robbery, Burglary and other Felonies, and for the more effectual Transportation of Felons and unlawful Exporters of Wool, and for declaring the Law upon some Points relating to Pirates."

6 Geo. I, c. xxiii.—"An Act for the further preventing Robbery, Burglary and other Felonies, and for the more effectual Transportation of Felons."

8 Geo. III, c. xv.—"An Act for the more speedy and effectual Transportation of Offenders."

19 Geo. III, c. lxxiv.—"An Act to explain and amend the Laws relating to the Transportation, Imprisonment and other Punishment of certain Offenders."

24 Geo. III, c. lvi.—"An Act for the effectual Transportation of Felons and other Offenders, and to authorise the Removal of Prisoners in certain Cases, and for other Purposes therein mentioned."

28 Geo. III, c. xxiv.—"An Act . . . for continuing and amending several Laws relating to the Imprisonment and Transportation of Offenders."

30 Geo. III, c. xlvii.—"An Act for enabling His Majesty to authorize the Governor or Lieutenant Governor of such Places beyond the Seas, to which Felons or other Offenders may be transported, to remit the Sentences of such Offenders."

43 Geo. III, c. xv.—"An Act to facilitate and render more easy the Transportation of Offenders."

55 Geo. III, c. clvi.—“An Act to amend the Laws relative to the Transportation of Offenders to continue in force until the First Day of May, One thousand, eight hundred and sixteen.”

56 Geo. III, c. xxvii.—“An Act to amend several Laws relative to the Transportation of Offenders, to continue in force until the First Day of May, One thousand, eight hundred and twenty one.”

5 Geo. IV, c. lxxxiv.—“An Act for the Transportation of Offenders from Great Britain.”

Note 97, page 354.

Also page 587.

Bardsicy for selling Spirits.

A copy of the proceedings in this case is not available.

Note 98, page 356.

The other at Parramatta.

This was the first proposal for the foundation of the present King's school at Parramatta, and thus the forerunner of the great public schools in New South Wales.

Note 99, page 358.

The Charter.

A draft of the charter of incorporation for the management of the church and school estates will be found on page 444 *et seq.*, and the reference to the maintenance and control of schools on pages 451 and 452, volume XI.

Note 100, page 373.

Dr. White in his Work.

The work was a *Journal of a Voyage to New South Wales*, published at London in 1790 by John White, who was the first principal surgeon of the colony. On page 227, it was stated that the oil of the peppermint tree “was found by Mr. White to be much more efficacious in removing all cholicky complaints than that of the English Peppermint, which he attributes to its being less pungent and more aromatic.”

Note 101, page 375.

An Epidemic Catarrh.—Dysentery.

The “epidemic catarrh” was noted by most contemporary writers, and it seems practically certain that it was the first epidemic of influenza in the colony.

The accounts, which are extant, of the “dysentery” indicate that a large number of the cases were true enteric fever.

Note 102, page 375.

It was supposed to be introduced.

The introduction of whooping-cough was reported by Governor Darling in his despatch dated 28th August, 1828 (*see* page 347 *et seq.*, volume XIV).

Note 103, page 376.

No aboriginal Native has ever been subjected to Vaccination.

In 1805, a native of Tasmania was inoculated successfully with vaccine lymph (*see* page 346, volume I, series III).

Note 104, page 376.

The census returns.

These returns were prepared under the act of council, 9 Geo. IV, No. 4, entitled, "An Act for ascertaining the Number, Names and Condition of the Inhabitants of the Colony of New South Wales, and also the Number of Cattle, and the Quantity of located, cleared and cultivated Land within the said Colony," which was passed on the 30th of June, 1828.

Note 105, page 389.

23rd and 24th Clauses of the Instructions.

These clauses will be found on page 486, volume XII.

Note 106, page 395.

The admission of Dr. Wardell.

In the trial of E. S. Hall for libel on Governor Darling in alleging undue influence on military juries, R. Wardell acted as counsel for E. S. Hall. In his address to the jury, he stated that "it was not asserted that any individual had sustained an injury by this mode of trial." The trial was held on the 10th of April, 1829.

Note 107, page 399.

Mr. Davidson.

Walter Davidson arrived in the colony in the year 1805, and received a grant of two thousand acres of land on the west bank of the Nepean river near Menangle. This land now forms a part of the Camden park estates. He sailed from the colony in the ship *Admiral Gambier* in the year 1809.

Note 108, page 410.

The Acts.

The statute, 6 Geo. IV, c. cxiv, was entitled "An Act to regulate the Trade of the British Possessions Abroad," and the statute, 7-8 Geo. IV, c. lvi, "An Act to amend the Laws relating to the Customs."

Note 109, page 412.

An allotment.—Extensive Contracts.

Robert Campbell purchased land, held under lease by John Baughan a master carpenter, and by H. Waterhouse commander of H.M. ship *Reliance*. Baughan's lease was situated on the west side of Sydney cove, north of and adjoining the land on which the Mariners' church was erected at a later date.

Waterhouse's lease adjoined the above lease on Baughan's northern and western boundaries. It comprised an area of two acres, two quarters and sixteen rods, and was divided by a road, 60 feet wide, leading to Dawes fort. The lease, dated 4th June, 1799, was for a period of fourteen years at a quit rent of two shillings and sixpence *per annum*.

A grant of part of these lands was made to R. Campbell on the 29th of June, 1814.

Three contracts for the importation of cattle by R. Campbell are available, dated 10th March, 1801, 19th May, 1804, and 14th June, 1808 (*see* page 29 *et seq.*, volume III; page 641, volume IV; and pages 645 and 646, volume VI).

Note 110, page 417.

Something unpleasant took place at Honduras.

The reference was to the trouble between G. Arthur and major Bradley, when the former held the appointments of superintendent and commandant at Honduras (*see* page xi, volume IV, and page 33 *et seq.*, volume VI, in series III).

Note 111, page 418.

Hall the Editor of the Monitor, resisted the order.

The accounts of this incident by Governor Darling and E. S. Hall will be found on pages 648 *et seq.* and 56 *et seq.*

Note 112, page 418.

The opinion.

This was the opinion given in the case of Jane New against the power of the governor to revoke the assignment of convicts (*see* page 765 *et seq.*, volume XIV).

Note 113, page 419.

The Sydney Gazette.

In the issue dated 18th March, 1830, an extended report was published on the suit of E. S. Hall against F. N. Rossi, W. J. Browne, G. Bunn and E. Wollstonecraft. The suit was tried before J. Dowling and a special jury, Wentworth and Keith being counsel for the plaintiff and Foster and Therry for the defendants. The jury awarded the plaintiff £10 damages with costs.

In the issue dated 20th March, 1830, the trials of the suits of A. E. Hayes against F. A. Hely and E. S. Hall against F. A. Hely were reported. These suits were tried before F. Forbes and a special jury. In the first suit, the jury awarded the plaintiff £50 damages, and in the second £25.

Note 114, page 421.

Earl Bathurst's order.

The order was contained in a despatch, dated 1st October, 1825 (*see* page 62, volume XII).

Note 115, page 422.

The Scots Church.

This church still stands at the corner of Jamison and York streets, Sydney. The foundation-stone was laid by Sir Thomas Brisbane on the 1st of July, 1824.

Note 116, page 428.

An unmerited censure on the Revd. Mr. Marsden.

This censure was contained in a despatch, dated 4th August, 1826 (*see* pages 466 and 467, volume XII).

Note 117, page 429.

Mr. Howe . . . was drowned.

Robert Howe was drowned off Fort Denison, then known as "Pinchgut," on the 29th of January, 1829.

Note 118, page 442.

My Journal.

The letter to Sir George Murray, published in the issue of the *Sydney Monitor* dated 17th October, 1829, bore the same date. The letter filled eleven columns of the paper, and was devoted to a criticism of the administration of criminal justice with special reference to the trial of T. E. Wright (*see* pages 597 and 598).

Note 119, page 444.

Copy of the Notes.

These notes have been omitted. On the 27th of March, 1829, J. Burton and J. Collins were tried for the murder of W. Fisher at Gondero, Argyle. Collins was acquitted, and Burton was sentenced to death. On the 3rd of April, J. Collins was tried for the murder of M. Connolly also at Gondero and was again acquitted.

Note 120, page 450.

P. de Mestre.

On the 30th of August, 1825, an act of council, 6 Geo. IV, No. 17, was passed to naturalize Prosper de Mestre. In this act, it was recited that he was a citizen of the United States of America and was desirous of settling in the colony. It was provided that, so soon as he had subscribed certain oaths and declarations of allegiance, he should be deemed a natural-born subject of Great Britain with all rights, privileges and advantages, "save and except only the holding or exercising of any place or office of trust in the Courts of Law or what relates to the Treasury of the said Colony or its Dependencies."

Note 121, page 457.

An additional Judge.

By section eight of the warrant, dated 18th August, 1823, for a charter for a supreme court in Tasmania (*see* page 481, volume IV, series III), John Lewes Pedder was appointed "the first Chief Justice of the said Supreme Court." He arrived at Hobart town on the 22nd of March, 1824, and presided in all jurisdictions of the supreme court until the arrival of an assistant judge.

Note 122, page 463.

You have exercised the power of revoking Assignments in two cases only.

The particulars of these two cases were detailed by E. S. Hall in his letter, dated 12th March, 1829 (*see* page 56 *et seq.*).

Note 123, page 466.

The Commissioners . . . in pursuance of the Royal Instructions.

The instructions for the appointment of the commissioners will be found on page 113 *et seq.*, volume XII.

Note 124, page 470.

My Letters of the 1st and 2nd of March last.

Copies of these letters are not available, nor are most of Governor Darling's despatches to the war office.

Note 125, page 472.

The General Orders.

These orders will be found on pages 595 and 596, volume XII, and pages 485, 486 and 596, volume XIII.

Note 126, page 473.

Any such Law.

No act of council for the regulation of the hulk and gaols was passed in consequence of this despatch. But, prior to the 12th of May, 1830, three acts of council had been passed for the regulation of the hulk, viz.:

6 Geo. IV, No. 15, entitled "An Act for the temporary regulation of the Hulk or Floating Prison in Sydney Harbour" (10th August, 1825).

7 Geo. IV, No. 1, entitled "An Act for the regulation of the Hulk or Floating Prison in Sydney Harbour" (17th February, 1826).

9 Geo. IV, No. 5, entitled "An Act for the better Regulation of the Hulk or Floating Prison in Sydney Harbour and for establishing Houses of Correction in the Colony" (30th June, 1828).

Note 127, page 473.

His application.

R. Therry was granted an allotment on the old south head road adjacent to the library allotments.

Note 128, page 495.

The Annexed Sketch.—At A.

This was a sketch of the river and its banks, with a dam across from a point D on the right bank to a point B on the left. The point A was marked in the middle of the dam on its lower side, and the point C on the upper side of the dam near the left bank. About two chains above D, a sluice was situated, giving entrance to a mill stream, which ran underground for about five chains to the mill building, and thence as an open drain to the river some distance below the dam. The mill building was situated about three chains from the right bank of the river; and, closer to the same bank, there were erected a dwelling-house, a forge, and one building containing the curing-house, boiling-house and store.

Note 129, page 532.

Mr. Hall's reply.

This reply will be found on page 633 *et seq.*

Note 130, page 532.

The device of the Coffin.

In the issue of the *Sydney Monitor* dated 20th February, 1830, and in subsequent issues, there was printed on the leader page a coffin lid, bearing the inscription, "Heu vixit! Imperante Thoma Brisbane, equite, natu est (scribendi) Libertas. Imperante Rodolpho Darling, Armigero, Strangulata, 29th Januarii, A.D. 1830. Resurgam." Beneath the lid, the following was printed:—"(Literal translation) Under the Government of Sir Thomas Brisbane, Knight, Liberty (of the Press) was born. Under the Government of Ralph Darling, Esquire, it was strangled on the 29th Day of January, 1830. I shall rise again."

Note 131, page 538.

The circumstances attending his suspension.

The suspension of W. H. Moore as crown solicitor was reported by Governor Darling in his despatch, dated 14th December, 1827 (*see* page 642 *et seq.*, volume XIII).

Note 132, pages 539 and 540.

The same letter.—Copy of Earl Bathurst's instructions.—Your letter.

The letter or despatch was dated 30th August, 1828, and the reference to W. H. Moore was made in the fifteen paragraph (*see* page 364, volume XIV). The instructions were contained in a despatch dated 13th February, 1814 (*see* page 139, volume VIII).

Note 133, pages 544 and 545.

The precedent.—The Brig Harrington.

The brig *Harrington* was seized by convicts on the 5th of May, 1808, whilst lying at anchor in Port Jackson. In September, 1812, William Campbell, the owner, submitted a claim for compensation. In June, 1813, Governor Macquarie reported that he intended to settle the claim by a grant of two thousand acres of land with indulgences of "Six Government men on the Store for the Usual Period, together with twelve Cows from the Government Herds on a Credit of three Years" (*see* pages 519, 520 and 726, volume VII).

Note 134, page 545.

He transmitted.

Sir Thomas Brisbane's despatch was dated 27th September, 1825 (*see* page 848, volume XI).

Note 135, page 560.

Our Commission.

The commission will be found on page 99 *et seq.*, volume XII.

Note 136, page 573.

The margin.

The marginal notes are not available.

Note 137, page 575.

The public Seal.

This was the third seal of the colony. The first seal was received by Governor Phillip in September, 1791, and the second by Governor Macquarie in August, 1817 (*see* note 97, volume IX). The necessity for the second seal was due to certain alterations in the royal arms. On the demise of the sovereign, a new seal was necessary. When H.M. George III died, a warrant was issued for continuing the use of the seal until a new one was prepared. This new seal, with a warrant for its use, was transmitted by Earl Bathurst with a despatch, dated 10th December, 1826 (*see* page 735, volume XII).

Note 138, page 578.

The communication lately made to you.

The reference was probably to the report on the contract with T. Raine, dated 25th May, 1830 (*see* pages 534 and 535).

Note 139, page 586.

A Letter . . . in the Sydney Gazette.

This letter was signed "Observer," and dated 1st September, 1829. It replied to complaints that female convicts were unnecessarily retained in the factory. There were five hundred and thirty-one women in the factory, of whom forty-five had children. Of these women, twenty-nine, including nurses, were in the hospital; one hundred and fifty-eight in the third class; one hundred and fifty in the second; and one hundred and ninety-four in the first. The third class consisted of women undergoing sentences imposed by the supreme court or benches of magistrates, and the second of women serving a term of probation. These two classes were not available for assignment. The first class was eligible for that purpose; but many in this class were useless from age, infirmities, vicious habits and encumbrances of young children.

Note 140, page 607.

A Grant of Fifty acres.

The land granted to A. Macleay was fifty-four acres, defined by certain boundaries; but, by subsequent survey, its area was found to be fifty-six acres and thirty-seven perches. It was first held under a promise given by Governor Darling before the 4th of October, 1826, which was confirmed by grant dated 19th October, 1831. The land lies on the eastern side of the modern Macleay-street, commencing from near the corner of Elizabeth bay road and extending to the waters of the harbour in Elizabeth and Rusheutters' bays.

Note 141, pages 612 and 617.

Mr. Barker.—Mr. Barker's Mill.

The property owned by Thomas Barker was afterwards known as Roslyn hall, and included an area of nine acres and one rood. The windmill was erected close to the modern corner of Roslyn and Macleay streets.

Note 142, page 616.

The Five-mile Stone.

This stone was situated near the spot where the road to Rose bay leaves the old south head road on the boundaries of the present golf club lands. Formerly there was a bridge over a small stream at this spot, and a swamp on each side of the road. The Sydney racecourse was at one time located at the swamp to the east of the road.

Note 143, page 622.

Mr. John Dickson of the Steam-engine.

John Dickson arrived in the colony in October, 1813, and imported the first steam-engine. He was given a grant of fifteen acres, three roods and four perches of land, which is situated on the west side of George-street to the south of Liverpool-street, and extended to the stream which was formerly at the head of Cockle bay or Darling harbour. On this grant, he erected the steam-engine.

Note 144, page 626.

Reply to the slanderous Charges.

The charges by W. C. Wentworth were contained in his "impeachment" which with Governor Darling's replies will be found on page 793 *et seq.*, volume XIV.

The charges by A. and E. Lockaye with Governor Darling's replies will be found on pages 165 *et seq.* and 731 *et seq.*, volume XIV, and on page 256 *et seq.* in this volume.

The charges by E. S. Hall with Governor Darling's replies will be found on page 578 *et seq.*, volume XIV, and on pages 53 *et seq.* and 442 and 443 in this volume.

The charges by R. Robison with Governor Darling's replies will be found on page 105 *et seq.*, volume XIV, and on pages 199, 470 and 471 in this volume.

Note 145, page 629.

The late Commandant at Port Macquarie.

The commandant was F. C. Crotty. A commission of inquiry in 1828 reported that many of the charges against him were false (*see* pages 514 and 515).

Note 146, page 630.

Two several Prosecutions.

A note on these prosecutions will be found on page xv, volume XIV (*see* also pages 418 and 649 *et seq.* in this volume).

Note 147, page 635.

General Darling is now prosecuting me with that intent.

On the 19th of December, 1829, a motion was granted by the supreme court to estreat the recognizance of £500, given by E. S. Hall to be of good behaviour for twelve months following the judgment in his trial for libel on the Reverend T. H. Scott in the previous January. This motion was granted because Hall was convicted of libels after entering into the recognizance.

Note 148, page 638.

Also page 642.

A libel.

The reply by Governor Darling to the address will be found on page 73.

Note 149, page 640.

The Supreme Court . . . decided that I acted legally in refusing.

Governor Darling's report on this action will be found on page 648 *et seq.*

Note 150, pages 642 and 643.

The general order.—The letter.—For Murder.

By the general order dated 18th March, 1829, the fee of two shillings and eight pence paid by convicts on tickets of leave was abolished. And it was ordered:

“There being also reason to apprehend that Money has been exacted from Individuals under Pretence of obtaining Indulgencies for them and facilitating their Applications, His Excellency further requests that the Magistrates will take an opportunity of guarding Individuals against such Imposition, and will report when any Person shall be detected in practices of this Nature in Order that he may be dismissed from Employment.”

The letter, dated 20th March, 1829, was published in the *Sydney Monitor* on the 23rd. It discussed the charges of maladministration against F. C. Crotty and the dismissal of Smith and Bell commissariat officers at Port Macquarie.

The proceedings at the trial of T. E. Wright for murder will be found on pages 597 and 598.

Note 151, page 644.

*The circumstances of Captain Wright's Trial are stated in reply to
Accusation No. 2.*

The reference is inaccurate. T. E. Wright was tried for the murder of P. Clynych, whereas the prosecution of E. S. Hall for libel was at the suit of Samuel Wright.

Note 152, page 648.

The case of Jane New.

The judgments in the case of Jane New will be found on page 765 *et seq.*, volume XIV.

Note 153, page 649.

His case.

On the 15th of March, 1830, E. S. Hall obtained a verdict of £10 damages with costs against F. N. Rossi and the magistrates and of £25 damages with costs against F. A. Hely.

Note 154, page 650.

The case.—The cases.

These were the suits initiated by the editors of the *Australian* and *Monitor* for the withdrawal of their assigned servants (*see* note 113).

Note 155, page 652.

Also page 659.

The Charges.—The Address and Reply.

The charges will be found on page 800 *et seq.*, volume XIV, and the address and reply on page 71 *et seq.* in this volume.

Note 156, page 660.

The written Report.

That portion of the written report, which was omitted from the printed report in the *Sydney Gazette*, will be found on pages 653 and 654.

Note 157, page 664.

The Despatch.

This despatch was dated 30th August, 1828 (*see* pages 364 and 365, volume XIV).

Note 158, page 665.

A paper.

This paper will be found on page 608 *et seq.*, volume XIII.

Note 159, page 666.

Mr. Huskisson's new bill.

This bill was passed as the statute 9 Geo. IV, c. lxxxiii.

Note 160, page 668.

I wrote.—His Excellency in reply.

These letters will be found on pages 715 and 716, volume XIV.

Note 161, pages 670 and 671.

The Prisoner had been tried.—Its opinion.

The particulars of the trial will be found on page 29 in this volume, and the "opinion" on page 765 *et seq.*, volume XIV.

Note 162, page 672.

Mr. Threlkeld.—The Mission.

On the 8th of February, 1825, Sir Thomas Brisbane submitted for approval to Earl Bathurst a deed conveying ten thousand acres of land at Lake Macquarie to trustees in behalf of the London missionary society for the purposes of establishing a mission to the aborigines. This deed was approved by Earl Bathurst on the 31st of July, 1825 (*see* page 512 *et seq.*, volume XI, and page 46, volume XII).

Lancelot Edward Threlkeld was appointed to the charge of the mission, and evidence of his labours is still extant in *An Australian Grammar* and *A Key to the Structure of the Aboriginal Language*, published at Sydney in 1834 and 1850.

Note 164, page 677.

A representation.

This representation will be found on page 473, volume XIV.

Note 165, page 677.

The Instructions.

The instructions to James Stirling will be found in volume VI, series III.

Note 166, page 677.

Under the Orders.

The settlement at King George's sound was founded on the 30th of December, 1826, as a dependency of New South Wales, and thus the first settlement was established within the boundaries of the modern state of West Australia (*see* volume VI, series III).

In a despatch, dated 12th January, 1829 (*see* page 610, volume XIV), Sir George Murray informed Governor Darling that a new settlement was to be formed under James Stirling at Swan river, and that its administration was to be independent of New South Wales.

By giving orders on the 11th of August, 1830, that the military at King George's sound should be under the officer commanding at Swan river and should receive supplies from Swan river, the control of the settlement at King George's sound was virtually removed from the jurisdiction of the governor of New South Wales. Thus the settlements in West Australia became an independent colony.

Note 167, pages 678 and 679.

His examination before the Council.—The Minutes.

The minutes of the executive council in the case of Jane New will be found on page 35 *et seq.*

Note 168, page 683.

This affidavit.

The affidavit will be found on page 48.

Note 169, page 702.

The limits of Control.

The eastern limits of the jurisdiction of the governors of New South Wales were never defined (*see* page ix and notes 7 and 45, volume I, series IV).

Note 170, page 710.

He was the original framer.

The New South Wales bill, 4 Geo. IV, c. xcvi, was drafted by Francis Forbes (*see* pages 734, 745 and 746, volume I, series IV).

Note 171, page 714.

The instructions.

These instructions were contained in a despatch, dated 26th July, 1826 (*see* page 447, volume XII).

Note 172, page 720.

The Petition.

The first petition for trial by jury and taxation by representation was forwarded in January, 1827 (*see* page 51 *et seq.* and note 15, volume XIII).

Note 173, page 721.

The circumstances recently reported.

This report will be found on page 654 *et seq.*

Note 174, page 722.

1st, 2nd and 3d Sections.

In reference to the colonies of New South Wales and Tasmania, it was provided,

by section one, that felons, ordered to be put on shore in the one colony but put on shore in the other, and those removed from one colony to the other, should be subject to the same rules as other convicts in the same colony;

by section two, that the governor of the one colony may receive felons, who are ordered to be delivered in the other colony;

and, by section three, that the governor of one colony may remove felons to the other colony.

Note 175, pages 723 and 797.

The Regulations.

These regulations will be found on pages 595 and 596, volume XII, and on pages 485, 486, 596 and 668, volume XIII.

Note 176, page 724.

A portion of Land.

After his arrival in Sydney, John Kinchela resided in the house, which was first known as Juniper hall and afterwards as Ormond house. It stands on the northern side of the old south head road, now Oxford-street, on the opposite corner to the Paddington town hall, and has for some years been used for the purposes of the children's court.

Note 177, page 727.

The Churches.

The names of the churches were St. James and St. Phillip.

Note 178, page 729.

The recognizance required by Act of Council.

By section 5 of the act of council 11 Geo. IV, No. 1, it was provided that editors, printers and publishers of newspapers should enter into recognizances with sureties to pay all penalties they might incur in cases of libel. The penalty for publishing without recognizance was fixed at £100 for each offence.

Note 179, pages 731, 732 and 734.

My former Despatch.—A Check.—The Conditions.—The engagement.

The despatch was dated 29th December, 1828 (*see* page 549 *et seq.*, volume XIV).

The "check" was the appointment of one director on the nomination of the government.

The conditions and engagement will be found on pages 555 and 556, volume XIV.

Note 180, page 736.

The two Establishments.

The bank of New South Wales was founded in the year 1817. In the year 1826, it was involved in financial difficulties (*see* page 296 *et seq.*, volume XII). Application was made for a loan from the government, which was granted on the condition that three new directors should be appointed with the approval of government, and that certain new business methods should be introduced.

A new establishment was thus created, and continued until the end of 1827, when a new bank was formed as recorded in note 48.

Note 181, page 740.

His Memorial.

A copy of the memorial is not available. It was transmitted with a despatch dated 1st June, 1830 (*see* page 536).

Note 182, page 757.

The case of Hall against Hely.

This was the suit of E. S. Hall against F. A. Hely for the withdrawal of a convict assigned to Hall. On the 15th of March, 1830, the supreme court awarded Hall £25 damages with costs, the total of damages and costs being £294 9s. 5d., exclusive of £94 10s., the fee to counsel.

Note 183, page 769.

Donahoe.

Jack Donahoe was one of the most notorious bushrangers of the first epoch in bushranging or highway robbery in New South Wales. He arrived in the colony as a convict, and, during his career, committed several murders. After he was shot, a pipemaker was permitted to take a cast of his head showing a wound in the forehead. One of these casts is still extant. The pipemaker made clay-pipes, the bowl bearing a reduced facsimile of the cast, and these pipes had a large sale. A song was composed called "Bold Jack Donahoe," and, as this song had an evil influence, its singing was prohibited in any public house on pain of the loss of license.

Note 184, pages 771 and 780.

Act of Council No. 8.—5th Sect.

The act of council was passed on the 9th of October, 1829, and was entitled "An Act for regulating the constitution of Juries for the Trial of Civil Issues in the Supreme Court of New South Wales."

By the fifth section of the statute 9 Geo. IV, c. lxxxiii, the juries were constituted of "Seven Commissioned Officers of His Majesty's Sea or Land Forces, whether on Full or Half Pay."

Note 185, pages 779 and 783.

Qualified to sit as Special Jurors.—21st Section.

The twenty-first section of the act of council, 10 Geo. IV, No. 8, was as follows:—

"And be it further enacted, That every man, described in the said jurors' book as an Esquire or person of higher degree, or as a Bank Director, or as a Justice of the Peace, or as a merchant (such merchant not being a general retail dealer), shall be qualified to serve on special juries for the trial of issues in the Supreme Court as aforesaid, and shall, in consideration of such qualifications, be exempted from serving except with his own consent on any common jury as aforesaid."

Note 186, page 784.

A letter to the Magistrates.

This letter was dated 23rd September, 1825 (*see* page 894, volume XI).

Note 187, page 789.

9 Geo. 4, c. 32.

This statute was entitled "An Act for amending the Law of Evidence in certain Cases."

Note 188, page 792.

The House.—The Catholic Chapel.

The house was the northern detached wing of the general hospital. It was vacated by J. Bowman and used for the accommodation of the legislative council and the board for assignment of convicts. It now forms the central portion of the parliament house in Macquarie-street.

The catholic chapel was erected on the present north-eastern corner of College and Cathedral streets. This chapel was destroyed by fire on the 29th of June, 1865, and its ruins were demolished a few years ago to provide for the southern extension of St. Mary's cathedral.

Note 189, page 801.

I appealed.

The "appeal" of W. H. Hovell to Governor Darling will be found on pages 726 and 727, volume XIV.

Note 190, page 801.

The expedition of Discovery.

This was the expedition in which an overland route to Port Phillip was discovered (*see* note 151, volume XI).

Note 191, page 810.

Under Secretary Hay to Governor Darling.

This letter is a copy of the book entry of an abbreviation of the usual form of a letter in recommendation of a military settler (*see* page 472).

Note 192, page 813.

The Gentleman.

The notification of the appointment of Edward McDowell as solicitor-general was contained in a despatch dated 23rd July, 1830 (*see* page 601).

Note 193, page 813.

Mr. Moore's statement.

This statement will be found on page 454 *et seq.*

Note 194, page 815.

The Colonial Secretary's Correspondence.

Copies of these letters dated 26th August, 1824, and 21st February, 1825, are not available. After the conclusion of the engagement of S. L. Harris, George Cookney was employed as civil architect, and he also made a claim for commission on the erection of the gaol (*see* page 526 *et seq.*, volume XIII).

Note 195, page 815.

A new Gaol.

This was the southern portion of the gaol buildings at Darlinghurst, which are now in process of conversion for the use of a technical school.

Note 196, page 820.

The Sophia Jane.

The steamship *Sophia Jane* entered Port Jackson on the 14th of May, 1831. She was built in 1826 by Barnes and Millar, who were pupils of Watt. The length of her deck was 126 ft.; her breadth, 20 ft.; her burthen, 256 tons; and her engines were 50 horse-power. Her speed was eight miles *per* hour in smooth water, and her draught six feet. She had been employed in the passenger traffic between England and France. She had three cabins, one for gentlemen, one for ladies and one for steerage passengers. Sixteen beds were provided in the first, eleven in the second and twenty in the third, and in emergency seven extra beds could be provided. Her engines were adapted for the use of wood or coal. Her original cost was £8,000.

Note 197, pages 832 and 851.

The Mirror of Parliament.

The "Mirror of Parliament" was a report on the debates in the houses of lords and commons edited by John Henry Barrow, barrister-at-law.

Note 198, page 836.

The enclosed Sketch.

On this sketch, the outline of lake Bathurst was drawn, and on one side of the lake there were delineated twelve blocks of land of one square mile each. Of these blocks, three had frontage on one side to the lake. The twelve

blocks were grouped into three grants, each grant including one of the blocks on the lake. E. S. Hall held the central grant with the grants to D. Cooper and H. Hall on either side. In the grant to D. Cooper, a large swamp was charted extending into the grant to E. S. Hall. Between this swamp and the shores of the lake, E. S. Hall had erected a fence, thereby encroaching on the grant to D. Cooper.

Note 199, page 850.

Mr. Hume.

Joseph Hume was born in the year 1777. He entered parliament in the year 1812, and became one of the leaders of the radical party, a position he held for thirty years.

Note 200, page 855.

An Officer.—Two Brothers.—The Auditor-General.

The officer was Charles H. Darling, an ensign in the 57th regiment; the two brothers were Henry and William Dumaresq; and the auditor-general was William Lithgow.

Note 201, pages 857 and 859.

Mr. Wentworth's Pamphlet.—Two Addresses.

The pamphlet contained the "impeachment" (see page 800 *et seq.*, volume XIV). The two addresses will be found on pages 71, 72 and 74.

Note 202, pages 858 and 860.

Mr. Hume's friend.—A late Officer.

The reference was to John Stephen, jr. (see pages 28 *et seq.* and 678 *et seq.*).

Note 203, page 860.

The Symbols of Mourning.

In the issues of the *Sydney Monitor* containing the device of the coffin lid (see note 130), the leader page was surrounded by a heavy mourning border.

Note 204, page 860.

A Letter.

This letter will be found on pages 442 and 443.

Note 205, page 862.

Instances.

Reports on the cases of Dennis McHugh and Alexander Lockaye will be found on pages 837 *et seq.* and 256 *et seq.*

Note 206, page 866.

The usual printed form.

A copy of these conditions will be found on page 454 *et seq.*, volume XI.

SYNOPSIS OF DESPATCHES.

(a in the column containing references to pages indicates that the despatch has been omitted and is noted on page 575 or 576, volume XIV.)

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknowledgment.
Murray, Sir George	Darling, Governor	1829.	No. 116	Ship Guilford	1		1830.
Darling, Governor	Murray, Sir George	1 June	No. 69	Ship Vesper	3		.....
Murray, Sir George	Darling, Governor	2 June	No. 117	Ship Guilford	6	Darling, Governor	13 Jan.
Darling, Governor	Murray, Sir George	2 June	No. 70	Ship Vesper	8		.....
Do	do	3 June	No. 71	do	a		.....
Twiss, Under Secretary	Darling, Governor	3 June	.....	Ship Guilford	9		.....
Do	do	4 June	.....	do	.....		.....
Darling, Governor	Murray, Sir George	4 June	No. 72	Ship Vesper	a		.....
Murray, Sir George	Darling, Governor	5 June	No. 118	Ship Guilford	10		.....
Do	do	6 June	No. 119	do	11		.....
Twiss, Under Secretary	do	8 June	.....	do	11		.....
Darling, Governor	Twiss, Under Secretary	8 June	.....	Ship Vesper	11		.....
Hay, Under Secretary	Darling, Governor	19 June	Private	Ship Lucy Davidson	12		.....
Murray, Sir George	do	20 June	No. 120	do	13	Darling, Governor	11 Jan.
Darling, Governor	Murray, Sir George	20 June	No. 73	Ship Alfred	14	Murray, Sir George	17 Dec.
Do	Twiss, Under Secretary	20 June	.....	do	15		.....
Murray, Sir George	Darling, Governor	21 June	No. 121	Ship Lucy Davidson	16		.....
Do	do	22 June	No. 122	do	16		.....
Darling, Governor	Murray, Sir George	22 June	No. 74	Ship Alfred	16		.....
Murray, Sir George	Darling, Governor	23 June	No. 123	Ship Lucy Davidson	17		.....
Darling, Governor	Murray, Sir George	23 June	No. 75	Ship Alfred	17	Murray, Sir George	1830.
Murray, Sir George	Darling, Governor	24 June	No. 124	Ship Lucy Davidson	20		21 Aug.
Darling, Governor	Murray, Sir George	24 June	No. 76	Ship Alfred	21		.....
Twiss, Under Secretary	Darling, Governor	25 June	.....	Ship Lucy Davidson	21	Darling, Governor	1829.
Darling, Governor	Murray, Sir George	25 June	No. 77	Ship Alfred	22		2 Dec.
Do	do	26 June	No. 78	do	23	Murray, Sir George	1830.
Do	do	27 June	No. 79	do	24	do	4 Jan.
Hay, Under Secretary	Darling, Governor	28 June	No. 80	do	26	do	5 Jan.
Darling, Governor	Murray, Sir George	28 June	No. 81	Ship Alfred	26		1829.
Do	do	29 June	.....	do	28		18 Dec.
					25	Murray, Sir George	22 Dec.

From	To	Dated	Despatch endorsed	Transmitted per—	See page	Acknowledged by—	Date of acknow- ledgment.
Darling, Governor	Twiss, Under Secretary	1830.		Ship Alfred	49		1830.
Murray, Sir George	Darling, Governor	30 June			50		
Darling, Governor	Murray, Sir George	4 July	No. 82	Ship Alfred	51	Murray, Sir George	5 June.
Do	Twiss, Under Secretary	4 July		do	53		
Do	Murray, Sir George	6 July	No. 83	do	53		
Do	do	6 July	No. 84	do	a		
Twiss, Under Secretary	Darling, Governor	7 July		Ship Lacy Davidson	67	Darling, Governor	1829,
Darling, Governor	Murray, Sir George	7 July	No. 85	Ship Alfred	68		20 Dec.
Do	Twiss, Under Secretary	7 July		do	70		
Twiss, Under Secretary	Darling, Governor	8 July		Ship Lacy Davidson	75		
Hay, Under Secretary	do	10 July			76		
Twiss, Under Secretary	do	13 July			76		
Do	do	14 July			76		
Do	do	15 July		Ship Morley	77		
Darling, Governor	Hay, Under Secretary	15 July		Brig Ionla	77		
Twiss, Under Secretary	Darling, Governor	16 July		Ship Morley	78		
Murray, Sir George	do	17 July	No. 125	do	79	Darling, Governor	30 Dec.
Twiss, Under Secretary	do	18 July			80		
Do	do	19 July		Ship Claudine	80		
Do	do	21 July			80		
Murray, Sir George	do	22 July	No. 126	Ship Morley	81		
Darling, Governor	Murray, Sir George	27 July	No. 86	Brig Ionla	82	Murray, Sir George	1830,
Do	do	28 July	No. 87	do	83		6 April.
Do	do	29 July	No. 88	do	83		
Murray, Sir George	Darling, Governor	30 July	No. 127	Ship Morley	90	Murray, Sir George	24 Feb.
Do	do	1 Aug.	No. 141	Ship Dunveagan Castle	90		
Do	do	1 Aug.		do	91		
Darling, Governor	Murray, Sir George	1 Aug.	No. 89	Brig Ionla	91	Murray, Sir George	6 April.
Do	do	3 Aug.	No. 90	do	92		
Do	do	4 Aug.	No. 91	do	93	Murray, Sir George	6 April.
Do	do	5 Aug.	No. 92	do	94	do	6 April.
Do	do	6 Aug.	No. 93	do	95	do	6 April.
Do	do	6 Aug.	Separate	do	95		
Do	do	7 Aug.	No. 94	do	96		
Do	do	8 Aug.	No. 128	do	a	Murray, Sir George	6 June.
Murray, Sir George	Darling, Governor	9 Aug.	No. 129	Ship Claudine	101	Darling, Governor	21 Sept.
Do	do	10 Aug.	No. 130	do	a		

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Darling, Governor	Twiss, Under Secretary	1829.	Brig Ionia	102	1830.
Murray, Sir George	Darling, Governor	10 Aug.	No. 131	Ship Claudine	a
Do	do	11 Aug.	No. 132	do	103	.....	.....
Do	do	12 Aug.	No. 133	do	103	.....	.....
Darling, Governor	Murray, Sir George	13 Aug.	No. 95	Brig Ionia	104	.....	.....
Do	do	13 Aug.	No. 96	do	a	.....	.....
Do	Twiss, Under Secretary	13 Aug.	.....	do	117	Hay, Under Secretary	6 April.
Do	Murray, Sir George	17 Aug.	No. 97	Ship Harmony	117	Murray, Sir George	7 June.
Do	Twiss, Under Secretary	18 Aug.	.....	do	123	.....	.....
Do	do	18 Aug.	.....	do	124	.....	.....
Do	do	18 Aug.	.....	do	125	.....	.....
Twiss, Under Secretary	Darling, Governor	20 Aug.	.....	Ship Sarah	a	.....	.....
Darling, Governor	Murray, Sir George	20 Aug.	No. 98	Ship Harmony	125	Murray, Sir George	21 April.
Twiss, Under Secretary	Darling, Governor	22 Aug.	.....	Ship Sarah	126	Darling, Governor	1 Jan.
Darling, Governor	Twiss, Under Secretary	24 Aug.	.....	Ship Harmony	126	.....	.....
Murray, Sir George	Darling, Governor	25 Aug.	No. 134	Ship Dunveagan Castle	131	.....	.....
Darling, Governor	Murray, Sir George	25 Aug.	No. 99	Ship Harmony	131	Murray, Sir George	20 May.
Do	do	25 Aug.	No. 100	do	140	do	21 June.
Murray, Sir George	Darling, Governor	26 Aug.	No. 135	Ship Dunveagan Castle	145	.....	.....
Darling, Governor	Murray, Sir George	26 Aug.	No. 101	Ship Harmony	146	Murray, Sir George	13 April.
Do	Twiss, Under Secretary	26 Aug.	Private	do	147	.....	.....
Murray, Sir George	Darling, Governor	27 Aug.	No. 136	Ship Dunveagan Castle	148	Darling, Governor	20 April.
Do	do	28 Aug.	No. 137	do	149	.....	.....
Do	do	28 Aug.	Circular	do	149	.....	.....
Peel, Sir Robert	do	28 Aug.	.....	Ship Katherine Stewart	150	.....	.....
Do	do	.....	.....	Forbes.	.....	.....	.....
Darling, Governor	Hay, Under Secretary	28 Aug.	No. 138	Ship Harmony	150	.....	.....
Murray, Sir George	Darling, Governor	29 Aug.	.....	Ship Dunveagan Castle	151	Darling, Governor	4 May.
Do	do	30 Aug.	No. 139	do	151	.....	.....
Do	do	31 Aug.	No. 140	do	152	.....	.....
Do	do	1 Sept.	No. 142	do	152	Darling, Governor	12 July.
Do	do	2 Sept.	No. 143	do	153	.....	.....
Do	do	3 Sept.	No. 144	do	153	.....	.....
Do	do	4 Sept.	No. 145	do	154	.....	.....
Darling, Governor	Twiss, Under Secretary	5 Sept.	.....	Ship Harmony	155	.....	.....
Twiss, Under Secretary	Darling, Governor	5 Sept.	.....	Ship Dunveagan Castle	156	.....	.....
Darling, Governor	Murray, Sir George	7 Sept.	No. 102	Ship Harmony	161	.....	.....
Do	Twiss, Under Secretary	9 Sept.	do	174	Hay, Under Secretary	9 May.
Do	Murray, Sir George	15 Sept.	No. 103	do	174	Murray, Sir George	9 April.

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		1830.					
Twiss, Under Secretary.....	Darling, Governor.....	16 Sept.	Ship Harmony.....	a	1830.
Murray, Sir George.....	do.....	19 Sept.	Ship Duuveagan Castle.....	176
Twiss, Under Secretary.....	do.....	19 Sept.	.....	do.....	177	.....	.....
Hay, Under Secretary.....	do.....	22 Sept.	.....	do.....	177	.....	.....
Do.....	do.....	25 Sept.	.....	.....	178	.....	.....
Darling, Governor.....	Murray, Sir George.....	25 Sept.	No. 104.....	Ship Harmony.....	178	Murray, Sir George.....	21 April.
Murray, Sir George.....	Darling, Governor.....	26 Sept.	No. 146.....	Ship Duuveagan Castle.....	179	.....	.....
Twiss, Under Secretary.....	do.....	26 Sept.	No. 147.....	do.....	179	.....	.....
Murray, Sir George.....	do.....	27 Sept.	No. 148.....	Ship Katherine Stewart.....	180	.....	.....
Do.....	do.....	28 Sept.	.....	Forbes.....	181	.....	.....
Darling, Governor.....	Murray, Sir George.....	28 Sept.	No. 105.....	Ship Harmony.....	181	.....	.....
Twiss, Under Secretary.....	Darling, Governor.....	29 Sept.	.....	Ship Katherine Stewart.....	182	.....	.....
Do.....	do.....	29 Sept.	Circular.....	do.....	184	.....	.....
Murray, Sir George.....	do.....	30 Sept.	.....	do.....	184	.....	.....
Twiss, Under Secretary.....	do.....	30 Sept.	Circular.....	do.....	185	Darling, Governor.....	1 July
Murray, Sir George.....	do.....	1 Oct.	No. 149.....	do.....	185	.....	.....
Darling, Governor.....	Murray, Sir George.....	1 Oct.	No. 106.....	Ship Harmony.....	185	Murray, Sir George.....	21 April.
Do.....	Twiss, Under Secretary.....	1 Oct.	.....	do.....	187	.....	.....
Murray, Sir George.....	Darling, Governor.....	2 Oct.	No. 150.....	Ship Katherine Stewart.....	188	.....	.....
Do.....	do.....	2 Oct.	.....	Forbes.....	188	.....	.....
Darling, Governor.....	Murray, Sir George.....	2 Oct.	No. 107.....	Ship Harmony.....	188	Murray, Sir George.....	21 April.
Murray, Sir George.....	Darling, Governor.....	3 Oct.	No. 151.....	Ship Katherine Stewart.....	191	.....	.....
Do.....	do.....	4 Oct.	.....	Forbes.....	192	.....	.....
Twiss, Under Secretary.....	do.....	8 Oct.	Circular.....	Ship Mermaid.....	192	.....	.....
Murray, Sir George.....	do.....	8 Oct.	.....	.....	193	.....	.....
Darling, Governor.....	Murray, Sir George.....	8 Oct.	No. 108.....	Ship Harmony.....	193	Murray, Sir George.....	16 May.
Murray, Sir George.....	Darling, Governor.....	9 Oct.	Separate.....	Ship Mermaid.....	198	Darling, Governor.....	10 May.
Darling, Governor.....	Murray, Sir George.....	9 Oct.	No. 109.....	Ship Harmony.....	200	Murray, Sir George.....	10 April.
Murray, Sir George.....	Darling, Governor.....	10 Oct.	Separate.....	Ship Mermaid.....	202	.....	.....
Do.....	do.....	11 Oct.	No. 152.....	do.....	204	Darling, Governor.....	24 May.
Do.....	do.....	12 Oct.	No. 153.....	do.....	204	.....	.....
Darling, Governor.....	Murray, Sir George.....	12 Oct.	No. 110.....	Ship Harmony.....	205	Murray, Sir George.....	22 April.
Do.....	do.....	12 Oct.	No. 111.....	do.....	207	.....	.....
Do.....	do.....	12 Oct.	No. 112.....	do.....	209	Murray, Sir George.....	23 April.
Twiss, Under Secretary.....	Darling, Governor.....	13 Oct.	.....	Ship Mermaid.....	209	.....	.....
Darling, Governor.....	Twiss, Under Secretary.....	13 Oct.	Ship Harmony.....	209
Murray, Sir George.....	Darling, Governor.....	14 Oct.	No. 154.....	Ship Mermaid.....	210

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		1839.					1839.
Twiss, Under Secretary.....	Darling, Governor.....	15 Oct.	No. 155	Ship Mermaid.....	211
Murray, Sir George.....	do.....	16 Oct.	No. 156	do.....	211	.....	.....
Do.....	do.....	17 Oct.	No. 157	do.....	212	.....	.....
Do.....	do.....	18 Oct.	No. 158	do.....	212	.....	.....
Darling, Governor.....	Murray, Sir George.....	18 Oct.	No. 113	Ship Harmony.....	236	Murray, Sir George.....	12 June.
Murray, Sir George.....	Darling, Governor.....	19 Oct.	No. 158	Ship Mermaid.....	236	.....	.....
Darling, Governor.....	Murray, Sir George.....	21 Oct.	No. 114	Ship Harmony.....	237	Murray, Sir George.....	23 April.
Do.....	Twiss, Under Secretary.....	21 Oct.	No. 114	do.....	239	Hay, Under Secretary.....	11 April.
Do.....	Darling, Governor.....	2 Nov.	No. 159	Ship Mermaid.....	239	.....	.....
Murray, Sir George.....	do.....	3 Nov.	No. 160	Ship Mermaid.....	241	.....	.....
Twiss, Under Secretary.....	do.....	4 Nov.	No. 160	Ship Roslyn Castle.....	241	.....	.....
Murray, Sir George.....	do.....	4 Nov.	No. 160	do.....	241	.....	.....
Twiss, Under Secretary.....	do.....	5 Nov.	No. 161	do.....	243	.....	.....
Do.....	do.....	6 Nov.	No. 161	Ship Mermaid.....	243	.....	.....
Murray, Sir George.....	do.....	7 Nov.	No. 162	do.....	245	Darling, Governor.....	21 July.
Twiss, Under Secretary.....	do.....	8 Nov.	No. 162	do.....	245	.....	.....
Murray, Sir George.....	do.....	9 Nov.	No. 163	do.....	246	Darling, Governor.....	25 May.
Do.....	do.....	10 Nov.	No. 164	do.....	246	.....	.....
Do.....	do.....	11 Nov.	No. 165	do.....	247	.....	.....
Do.....	do.....	12 Nov.	No. 165	do.....	248	.....	.....
Do.....	do.....	12 Nov.	No. 166	do.....	249	.....	.....
Do.....	do.....	13 Nov.	No. 167	do.....	249	.....	.....
Do.....	do.....	14 Nov.	No. 167	do.....	249	.....	.....
Do.....	do.....	15 Nov.	No. 168	do.....	249	.....	.....
Do.....	do.....	15 Nov.	No. 168	do.....	250	.....	.....
Do.....	do.....	16 Nov.	No. 169	do.....	250	.....	.....
Darling, Governor.....	Murray, Sir George.....	19 Nov.	No. 115	Ship Doncaster.....	252	Murray, Sir George.....	23 July.
Do.....	do.....	20 Nov.	No. 116	do.....	252	.....	.....
Do.....	do.....	21 Nov.	No. 117	do.....	253	Murray, Sir George.....	24 April.
Do.....	do.....	21 Nov.	No. 118	do.....	255	.....	.....
Do.....	do.....	23 Nov.	No. 119	Ship Villalia.....	256	.....	.....
Do.....	do.....	23 Nov.	No. 119	Ship Mermaid.....	270	.....	.....
Do.....	Darling, Governor.....	29 Nov.	Circular	do.....	270	Darling, Governor.....	12 May.
Do.....	do.....	30 Nov.	Circular	do.....	271	.....	.....
Do.....	do.....	2 Dec.	No. 170	Ship Villalia.....	271	.....	.....
Do.....	do.....	5 Dec.	No. 170	Ship Nithsdale.....	271	.....	.....
Do.....	do.....	6 Dec.	No. 171	do.....	272	.....	.....
Do.....	do.....	7 Dec.	No. 172	do.....	273	.....	.....
Do.....	do.....	8 Dec.	No. 173	do.....	274	.....	.....
Do.....	do.....	8 Dec.	No. 120	do.....	274	.....	.....
Do.....	Murray, Sir George.....	8 Dec.	No. 10	Ship Villalia.....	274	.....	.....
Do.....	Somerset, Lord Fitzroy.....	8 Dec.	No. 10	do.....	274
Do.....	Darling, Governor.....	9 Dec.	No. 174	Ship Nithsdale.....	276

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Murray, Sir George	Darling, Governor	1829, 9 Dec.	No. 175	Ship Nithsdale	276	1831.
Do	do	10 Dec.	No. 176	do	277	.....	.....
Do	do	11 Dec.	No. 177	do	278	.....	.....
Do	do	12 Dec.	No. 178	do	279	.....	.....
Do	do	12 Dec.	Circular	Ship Roslyn Castle	280	Darling, Governor	29 March.
Darling, Governor	Murray, Sir George	12 Dec.	No. 121	Ship Vibilia	280	.....	1830.
Murray, Sir George	Darling, Governor	14 Dec.	Separate	Ship Nithsdale	282	Darling, Governor	10 June.
Darling, Governor	Murray, Sir George	14 Dec.	No. 122	Ship Vibilia	a	.....	.....
Twiss, Under Secretary	Darling, Governor	15 Dec.	.....	Ship Nithsdale	284	Darling, Governor	25 May.
Hay, Under Secretary	do	15 Dec.	.....	.....	284	.....	.....
Darling, Governor	Murray, Sir George	15 Dec.	No. 123	Ship Vibilia	284	.....	.....
Murray, Sir George	Darling, Governor	16 Dec.	No. 179	Ship Nithsdale	286	.....	.....
Darling, Governor	Murray, Sir George	16 Dec.	No. 124	Ship Vibilia	286	.....	.....
Murray, Sir George	Darling, Governor	17 Dec.	No. 180	Ship Nithsdale	288	.....	.....
Darling, Governor	Murray, Sir George	17 Dec.	No. 125	Ship Vibilia	288	Murray, Sir George	9 July.
Murray, Sir George	Darling, Governor	18 Dec.	No. 181	Ship Nithsdale	292	.....	.....
Darling, Governor	Murray, Sir George	18 Dec.	No. 126	Ship Vibilia	293	Murray, Sir George	9 July.
Twiss, Under Secretary	Darling, Governor	19 Dec.	.....	Ship Nithsdale	294	.....	.....
Darling, Governor	Murray, Sir George	19 Dec.	No. 127	Ship Vibilia	294	Murray, Sir George	24 July.
Twiss, Under Secretary	Darling, Governor	20 Dec.	.....	Ship Nithsdale	297	.....	.....
Do	do	21 Dec.	.....	Ship Jane	298	.....	.....
Murray, Sir George	do	22 Dec.	No. 182	Ship Nithsdale	299	.....	.....
Darling, Governor	Twiss, Under Secretary	22 Dec.	.....	Ship Vibilia	299	.....	.....
Murray, Sir George	Darling, Governor	23 Dec.	No. 183	Ship Nithsdale	301	.....	.....
Do	do	23 Dec.	No. 184	do	301	.....	.....
Darling, Governor	Murray, Sir George	24 Dec.	No. 128	Ship Jane	302	.....	.....
Twiss, Under Secretary	Darling, Governor	26 Dec.	.....	Ship Nithsdale	303	Murray, Sir George	21 July.
Darling, Governor	Murray, Sir George	26 Dec.	No. 129	Ship Jane	304	Murray, Sir George	10 July.
Do	do	26 Dec.	.....	do	304	.....	.....
Murray, Sir George	Twiss, Under Secretary	26 Dec.	No. 185	Ship Nithsdale	307	.....	.....
Twiss, Under Secretary	Darling, Governor	28 Dec.	.....	do	308	.....	.....
Do	do	28 Dec.	.....	do	308	.....	.....
Darling, Governor	do	28 Dec.	.....	Ship Jane	309	.....	.....
Do	Hay, Under Secretary	28 Dec.	.....	do	309	.....	.....
Do	Twiss, Under Secretary	29 Dec.	.....	do	309	.....	.....
Do	Murray, Sir George	30 Dec.	No. 130	do	300	Murray, Sir George	22 Aug.
Do	do	30 Dec.	.....	do	310	Hay, Under Secretary	11 July.
Do	Twiss, Under Secretary	31 Dec.	do	311	do	17 June.
Do	Hay, Under Secretary	31 Dec.	do	311	do

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Darling, Governor	Twiss, Under Secretary	1830.	No. 1.	Ship Jane	313	Darling, Governor	1831.
Murray, Sir George	Darling, Governor	1 Jan.	No. 2.	Ship Koslyn Castle	313		11 Feb.
Twiss, Under Secretary	do	3 Jan.	No. 3.	do	314		
Murray, Sir George	do	4 Jan.	No. 4.	do	314		
Do	do	5 Jan.	No. 5.	do	315		
Darling, Governor	Twiss, Under Secretary	5 Jan.	No. 6.	Ship Jane	313		
Twiss, Under Secretary	Darling, Governor	6 Jan.	No. 7.	Ship Koslyn Castle	315		
Darling, Governor	Hay, Under Secretary	6 Jan.	No. 8.	Ship Jane	320	Hay, Under Secretary	1830.
Twiss, Under Secretary	Darling, Governor	9 Jan.	No. 9.	do	324		18 June.
Do	do	11 Jan.	No. 10.	Ship Koslyn Castle	324		
Darling, Governor	Murray, Sir George	11 Jan.	No. 11.	Ship Jane	325	Murray, Sir George	12 July.
Do	do	11 Jan.	No. 12.	do	326	do	13 July.
Do	do	12 Jan.	No. 13.	do	330		
Do	do	13 Jan.	No. 14.	do	331		
Do	Twiss, Under Secretary	13 Jan.	No. 15.	do	331	Hay, Under Secretary	20 July.
Do	Hay, Under Secretary	13 Jan.	No. 16.	do	333		
Murray, Sir George	Darling, Governor	14 Jan.	No. 17.	Ship Koslyn Castle	336	Murray, Sir George	14 July.
Darling, Governor	Murray, Sir George	14 Jan.	No. 18.	Ship Jane	336		
Do	Twiss, Under Secretary	14 Jan.	No. 19.	do	337		
Do	Murray, Sir George	14 Jan.	No. 20.	do	312		
Twiss, Under Secretary	Darling, Governor	15 Jan.	No. 21.	Ship Koslyn Castle	337		
Murray, Sir George	do	15 Jan.	No. 22.	do	338		
Darling, Governor	Twiss, Under Secretary	20 Jan.	No. 23.	Ship Jane	339	Goderich, Viscount	1831.
Do	do	20 Jan.	No. 24.	do	340		6 Jan.
Do	Murray, Sir George	23 Jan.	No. 25.	do	340	Murray, Sir George	1830.
Do	Hay, Under Secretary	23 Jan.	No. 26.	do	344		8 Aug.
Do	Murray, Sir George	25 Jan.	No. 27.	Ship Sovereign	345	Murray, Sir George	15 July.
Murray, Sir George	Darling, Governor	26 Jan.	No. 28.	Ship Koslyn Castle	346	Darling, Governor	9 Aug.
Twiss, Under Secretary	do	30 Jan.	No. 29.	do	354		
Darling, Governor	Murray, Sir George	30 Jan.	No. 30.	Ship Sovereign	354	Murray, Sir George	16 July.
Twiss, Under Secretary	Darling, Governor	1 Feb.	No. 31.	do	355		
Do	do	2 Feb.	No. 32.	do	355		
Darling, Governor	Murray, Sir George	4 Feb.	No. 33.	Ship Sovereign	355	Goderich, Viscount	1831.
Do	do	4 Feb.	No. 34.	do	356		6 Jan.
Hay, Under Secretary	Darling, Governor	11 Feb.	No. 35.	do	368		
Murray, Sir George	do	12 Feb.	No. 36.	Ship Koslyn Castle	370		
Darling, Governor	Twiss, Under Secretary	12 Feb.	No. 37.	Ship Sovereign	371		

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Murray, Sir George	Darling, Governor	1830. 16 Feb.	No. 7	Ship Roslyn Castle	378	1830.
Darling, Governor	Murray, Sir George	16 Feb.	No. 11	Ship Sovereign	312	.....	.....
Twiss, Under Secretary	Darling, Governor	18 Feb.	.....	.....	379	.....	.....
Darling, Governor	Twiss, Under Secretary	20 Feb.	.....	Ship Sovereign	380	.....	.....
Do	do	23 Feb.	.....	do	314	.....	.....
Murray, Sir George	Darling, Governor	24 Feb.	No. 8	Ship Lady Faversham	381	.....	.....
Darling, Governor	Murray, Sir George	16 Mar.	No. 12	Ship Percy	382	Murray, Sir George	15 Nov.
Do	do	16 Mar.	Separate	do	382	.....	.....
Hay, Under Secretary	Darling, Governor	20 Mar.	Private	Ship Lady Faversham	383	.....	.....
Do	do	29 Mar.	Private	do	383	Darling, Governor	1 Sept.
Darling, Governor	Murray, Sir George	1 April	No. 13	Ship Surrey	312	.....	.....
Do	do	2 April	No. 14	do	385	.....	.....
Do	do	3 April	No. 16	do	312	.....	.....
Do	do	5 April	No. 17	do	312	.....	.....
Murray, Sir George	Darling, Governor	6 April	No. 9	Ship Marquis of Huntley	387	Darling, Governor	23 Sept.
Do	do	6 April	No. 10	do	387	.....	.....
Do	do	6 April	No. 11	do	388	.....	.....
Do	do	6 April	No. 12	do	388	.....	.....
Do	do	6 April	No. 13	do	388	.....	.....
Do	do	6 April	No. 14	do	390	.....	.....
Do	do	6 April	No. 15	do	390	.....	.....
Do	do	6 April	No. 16	do	391	.....	.....
Do	do	6 April	.....	do	392	.....	.....
Hay, Under Secretary	Twiss, Under Secretary	6 April	.....	Ship Surrey	393	.....	.....
Darling, Governor	Darling, Governor	7 April	No. 17	Ship Marquis of Huntley	394	.....	.....
Murray, Sir George	do	7 April	No. 18	do	395	.....	.....
Do	do	7 April	.....	do	397	.....	.....
Hay, Under Secretary	do	7 April	.....	do	.....	.....	.....
Do	do	7 April	.....	do	389	Darling, Governor	1831. 22 Jan.
Do	do	7 April	.....	do	403	do	7 June.
Do	do	7 April	.....	do	.....	.....	1830. 1 Oct.
Do	do	7 April	Private.	do	404	do	1831. 31 Jan.
Murray, Sir George	do	9 April	No. 19	Ship Adrian	406	do	1830. 10 Nov.
Darling, Governor	Murray, Sir George	9 April	No. 18	Ship Asia	407	Murray, Sir George	.....
Murray, Sir George	Darling, Governor	10 April	No. 20	Ship Adrian	409	.....	.....
Do	do	10 April	Circular	Ship Lord Melville	410	.....	.....
Hay, Under Secretary	do	11 April	.....	Ship Adrian	411	.....	.....
Darling, Governor	Murray, Sir George	11 April	No. 19	Ship Asia	411	Murray, Sir George	25 Oct.

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Murray, Sir George	Darling, Governor	1830	No. 21	Ship Adrian	413	Darling, Governor	1830, 1 Oct.
Darling, Governor	Murray, Sir George	12 April	No. 20	Ship Asia	418	.....	.....
Murray, Sir George	Darling, Governor	13 April	No. 22	Ship Adrian	419	Murray, Sir George	28 Sept.
Darling, Governor	Murray, Sir George	14 April	No. 21	Ship Asia	421	.....	.....
Do	do	15 April	No. 22	do	421	Murray, Sir George	14 Oct.
Do	do	16 April	No. 23	do	423	do	30 Sept.
Do	do	17 April	No. 24	do	426	do	1 Oct.
Do	do	19 April	No. 25	do	426	do	.....
Do	do	19 April	No. 26	do	427	do	.....
Do	Twiss, Under Secretary	20 April	No. 27	do	428	.....	.....
Do	Murray, Sir George	20 April	No. 28	do	429	.....	.....
Do	Darling, Governor	21 April	No. 23	Ship Lord Melville	431	.....	.....
Do	do	21 April	No. 24	do	431	Darling, Governor	1831, 21 Jan.
Do	do	21 April	No. 25	do	432	.....	.....
Do	do	21 April	No. 26	do	432	Darling, Governor	5 Jan.
Do	do	21 April	No. 27	do	433	do	3 Feb.
Twiss, Under Secretary	do	21 April	Private	do	434	.....	.....
Murray, Sir George	do	22 April	No. 28	do	435	Darling, Governor	19 Feb.
Hay, Under Secretary	do	22 April	Private	do	435	.....	.....
Darling, Governor	Murray, Sir George	22 April	No. 28	Ship Asia	436	.....	.....
Murray, Sir George	Darling, Governor	23 April	No. 29	Ship Lord Melville	440	Murray, Sir George	1830, 12 Nov.
Do	do	23 April	No. 30	do	440	.....	.....
Do	do	23 April	No. 31	do	441	.....	.....
Darling, Governor	Murray, Sir George	23 April	No. 29	Ship Asia	312	Darling, Governor	21 Dec.
Murray, Sir George	Darling, Governor	23 April	No. 32	Ship Lord Melville	413	.....	.....
Hay, Under Secretary	do	24 April	No. 32	do	441	.....	.....
Darling, Governor	Murray, Sir George	24 April	No. 30	Ship Asia	441	Murray, Sir George	20 Oct. 1831.
Hay, Under Secretary	Darling, Governor	25 April	.....	Ship Lord Melville	445	Darling, Governor	17 Jan.
Do	do	26 April	.....	do	448	.....	.....
Darling, Governor	Murray, Sir George	26 April	No. 31	Ship Asia	459	Murray, Sir George	1830, 11 Nov.
Do	Twiss, Under Secretary	26 April	Separate	do	454	do	10 Nov.
Murray, Sir George	Darling, Governor	27 April	No. 33	Ship Lord Melville	456	.....	.....
Hay, Under Secretary	do	28 April	Private	Ship Royal Admiral	457	.....	.....
Do	do	29 April	.....	do	458	.....	.....
Murray, Sir George	do	1 May	No. 34	Ship Lord Melville	462
Hay, Under Secretary	do	2 May	do	462

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Murray, Sir George	Darling, Governor	1830. 3 May	Private	Ship Lord Melville	463	Darling, Governor	1830. 2 Dec.
Twiss, Under Secretary	do	4 May	No. 32	do	464	Murray, Sir George	26 Oct.
Darling, Governor	Murray, Sir George	4 May	No. 35	Ship Lord Melville	465		
Murray, Sir George	Darling, Governor	5 May	No. 36	do	466		
Do	do	6 May	Private	do	467	Darling, Governor	14 Dec. 1831.
Hay, Under Secretary	do	7 May	No. 37	do	468	do	21 Jan.
Murray, Sir George	do	8 May	No. 38	do	469		
Hay, Under Secretary	do	9 May	Separate	Ship Catherine Stewart	470		
Murray, Sir George	Murray, Sir George	10 May	No. 39	Forbes.			
Darling, Governor	Darling, Governor	11 May	No. 39	Ship Lord Melville	472		
Hay, Under Secretary	do	12 May	No. 33	do	473		
Murray, Sir George	Murray, Sir George	12 May	No. 33	Ship Catherine Stewart	474		
Darling, Governor	Darling, Governor	16 May	No. 40	Forbes.			
Murray, Sir George	do	20 May	No. 41	Ship Lord Melville	474		
Do	do	20 May	No. 41	do	475		
Darling, Governor	Murray, Sir George	21 May	No. 34	Ship Catherine Stewart	476	Murray, Sir George	1 Oct. 1830.
Murray, Sir George	do	21 May	No. 34	Forbes.			
Twiss, Under Secretary	Darling, Governor	24 May	No. 35	Ship Catherine Stewart	478	Murray, Sir George	1 Oct.
Darling, Governor	Murray, Sir George	24 May	No. 35	Forbes.	478		
Do	do	24 May	Separate	do	478	do	26 Oct.
Do	Twiss, Under Secretary	24 May	No. 36	do	532		
Do	Darling, Governor	25 May	No. 36	do	533		
Hay, Under Secretary	Murray, Sir George	25 May	No. 36	Ship Catherine Stewart	533		
Darling, Governor	do	25 May	No. 36	Forbes.			
Do	Twiss, Under Secretary	25 May	No. 38	do	534	Hay, Under Secretary	15 Oct.
Murray, Sir George	Darling, Governor	30 May	Circular	Ship Royal Admiral	536	Goderich, Viscount	22 Dec.
Darling, Governor	Murray, Sir George	1 June	No. 37	Ship Australia	536		
Murray, Sir George	Darling, Governor	5 June	No. 42	Ship Royal Admiral	536		
Darling, Governor	Murray, Sir George	5 June	No. 38	Ship Australia	537	Goderich, Viscount	1831. 20 Jan.
Do	do	5 June	No. 43	do			
Murray, Sir George	Darling, Governor	6 June	No. 43	Ship Royal Admiral	537	Darling, Governor	1830. 6 Dec.
Do	do	7 June	No. 44	do	540	do	1831. 27 April.
Hay, Under Secretary	do	8 June	No. 44	do	541		
Murray, Sir George	do	9 June	No. 45	do	544		

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		1830					1831.
Hay, Under Secretary	Darling, Governor	10 June	Separate	Ship Royal Admiral	548
Darling, Governor	Murray, Sir George	10 June	No. 46	Ship Australia	549	.....	.....
Murray, Sir George	Darling, Governor	12 June	No. 47	Ship Royal Admiral	550	.....	.....
Do	do	13 June	No. 48	do	554	.....	.....
Do	do	14 June	.....	do	554	.....	.....
Hay, Under Secretary	do	15 June	.....	do	554	Darling, Governor	19 Jan.
Do	do	16 June	.....	do	556	do	1 Feb.
Do	do	17 June	.....	do	559	.....	.....
Do	do	18 June	.....	do	559	.....	.....
Murray, Sir George	do	19 June	No. 49	do	569	.....	.....
Do	do	20 June	No. 50	do	562	Darling, Governor	15 July.
Do	do	21 June	No. 51	do	563	.....	.....
Darling, Governor	Murray, Sir George	21 June	No. 39	Ship Australia	566	Godertch, Viscount	20 Jan.
Hay, Under Secretary	Darling, Governor	25 June	.....	.....	567	.....	.....
Do	do	26 June	.....	Ship Royal Admiral	567	.....	.....
Murray, Sir George	do	27 June	No. 52	do	567	.....	.....
Do	do	28 June	No. 53	do	567	.....	.....
Do	do	29 June	.....	Ship Kains	569	Darling, Governor	14 March.
Hay, Under Secretary	do	29 June	.....	Ship Royal Admiral	571	.....	.....
Murray, Sir George	do	30 June	Private	Ship Kains	571	Darling, Governor	14 March.
Hay, Under Secretary	do	30 June	.....	Ship Royal Admiral	572	.....	.....
Darling, Governor	do	1 July	.....	Ship Australia	572	.....	.....
Murray, Sir George	Twiss, Under Secretary	6 July	No. 54	Ship Kains	573	.....	.....
Do	Darling, Governor	6 July	Circular	Ship Burrell	575	.....	.....
Do	do	8 July	.....	Ship Florentia	575	.....	.....
Do	do	9 July	No. 55	do	576	.....	.....
Do	do	10 July	No. 56	do	576	.....	.....
Do	do	11 July	No. 57	Ship Burrell	577	.....	.....
Do	do	11 July	.....	do	577	.....	.....
Hay, Under Secretary	do	12 July	No. 58	do	577	.....	.....
Murray, Sir George	Murray, Sir George	12 July	No. 40	Ship Australia	578	.....	.....
Darling, Governor	Darling, Governor	12 July	No. 40	Ship Burrell	580	.....	.....
Murray, Sir George	Murray, Sir George	13 July	No. 41	Ship Australia	581	Darling, Governor	21 Jan.
Darling, Governor	Darling, Governor	13 July	No. 41	Ship Australia	581	Godertch, Viscount	14 Jan.
Murray, Sir George	Murray, Sir George	14 July	No. 60	Ship Burrell	581	.....	.....
Darling, Governor	Darling, Governor	14 July	No. 61	Ship Australia	585	.....	.....
Murray, Sir George	Darling, Governor	15 July	No. 61	Ship Burrell	586	.....	.....
Do	do	16 July	No. 62	do	587	.....	.....
Do	do	17 July	No. 63	do	587	.....	.....
Hay, Under Secretary	do	19 July	.....	do	589	.....	.....
Murray, Sir George	do	19 July	do	589
Hay, Under Secretary	do	29 July	No. 64	do	590
Do	do	29 July	do	591

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Darling, Governor	Murray, Sir George	1880, 20 July	Separate ..	Ship Australia	591	1880.
Murray, Sir George	Darling, Governor	21 July	No. 65	Ship Burrell	592	.....	.....
Hay, Under Secretary	do	21 July	.....	do	593	.....	.....
Darling, Governor	Murray, Sir George	21 July	Separate ..	Ship Australia	594	Godertich, Viscount	23 Dec.
Murray, Sir George	Darling, Governor	22 July	No. 66	Ship Burrell	599	Darling, Governor	10 Feb.
Hay, Under Secretary	do	22 July	.....	do	600	do	15 Jan.
Murray, Sir George	do	23 July	No. 67	do	601	.....	.....
Do	do	24 July	No. 68	Ship Florentia	601	.....	.....
Darling, Governor	Murray, Sir George	24 July	Separate ..	Ship Australia	602	Godertich, Viscount	1880, 28 Dec.
Do	do	25 July	.....	do	625	.....	.....
Do	do	27 July	Separate ..	do	626	Godertich, Viscount	1881, 22 Jan.
Do	do	2 Aug.	No. 43	do	648	do	13 Jan.
Do	do	6 Aug.	No. 44	do	651	.....	.....
Do	do	7 Aug.	No. 45	do	654	.....	.....
Do	do	7 Aug.	.....	do	658	.....	.....
Do	Hay, Under Secretary	8 Aug.	No. 69	Ship Florentia	663	.....	.....
Murray, Sir George	Darling, Governor	9 Aug.	No. 70	do	662	Darling, Governor	7 April.
Do	do	9 Aug.	No. 46	do	662	.....	.....
Do	Murray, Sir George	9 Aug.	No. 47	Ship Australia	672	Godertich, Viscount	8 Jan.
Do	do	9 Aug.	No. 48	do	312	.....	.....
Do	do	9 Aug.	.....	do	676	Darling, Governor	29 Jan.
Hay, Under Secretary	Darling, Governor	10 Aug.	.....	Ship Burrell	676	.....	.....
Darling, Governor	Hay, Under Secretary	10 Aug.	.....	Ship Australia	677	Darling, Governor	31 Jan.
Murray, Sir George	Darling, Governor	11 Aug.	No. 71	Ship Florentia	678	.....	.....
Do	do	12 Aug.	No. 72	do	701	.....	.....
Darling, Governor	Murray, Sir George	12 Aug.	No. 49	Ship Australia	702	.....	.....
Do	do	12 Aug.	No. 50	do	706	Godertich, Viscount	1880, 26 Dec.
Do	do	12 Aug.	No. 51	do	706	do	1881, 10 March.
Do	do	12 Aug.	No. 52	do	706	.....	.....
Do	Hay, Under Secretary	12 Aug.	.....	do	708	.....	.....
Do	Murray, Sir George	13 Aug.	No. 53	do	711	.....	.....
Murray, Sir George	Darling, Governor	16 Aug.	No. 54	Ship York	712	Godertich, Viscount	23 March.
Darling, Governor	Murray, Sir George	17 Aug.	.....	Ship Ghmore	712	.....	.....
Do	do	18 Aug.	Separate ..	do	714	.....	.....
Murray, Sir George	Darling, Governor	20 Aug.	No. 73	Ship York	714
Hay, Under Secretary	do	20 Aug.	do	715

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Murray, Sir George.....	Darling, Governor	1830. 21 Aug.	No. 74	Ship York	716	1831.
Do	do	22 Aug.	No. 75	do	716
Hay, Under Secretary	do	23 Aug.	No. 76	do	717	.....	.....
Murray, Sir George.....	do	24 Aug.	No. 76	do	720	Darling, Governor	.....
Darling, Governor	Hay, Under Secretary	1 Sept.	.....	Ship Gilmore.....	720	.....	12 April.
Do	do	1 Sept.	.....	do	721	.....	.....
Murray, Sir George.....	Darling, Governor	15 Sept.	No. 77	Ship Lady Harewood	721	.....	.....
Do	do	16 Sept.	No. 78	do	722	.....	.....
Do	do	17 Sept.	.....	do	722	.....	.....
Do	do	18 Sept.	.....	do	723	.....	.....
Do	do	19 Sept.	.....	do	724	.....	.....
Murray, Sir George.....	do	20 Sept.	No. 79	do	724	.....	.....
Darling, Governor	Murray, Sir George.....	20 Sept.	No. 55	Ship Gilmore.....	725	.....	24 March.
Do	Hay, Under Secretary	21 Sept.	No. 56	do	728	Goderich, Viscount.....	.....
Do	Murray, Sir George.....	21 Sept.	No. 56	do	731	Goderich, Viscount.....	30 March.
Do	do	22 Sept.	No. 57	do	736	do	23 March.
Do	do	23 Sept.	No. 58	do	737	do	25 March.
Do	do	23 Sept.	No. 59	do	739	do	23 March.
Do	do	24 Sept.	No. 80	Ship Lady Harewood	741	.....	.....
Murray, Sir George.....	Darling, Governor	25 Sept.	No. 81	do	741	.....	.....
Do	do	29 Sept.	No. 82	do	741	.....	.....
Do	do	30 Sept.	No. 82	do	742	.....	.....
Darling, Governor	Hay, Under Secretary	30 Sept.	No. 83	Ship Gilmore.....	751	.....	.....
Murray, Sir George.....	Darling, Governor	1 Oct.	No. 60	Ship Lady Harewood	751	.....	.....
Darling, Governor	Murray, Sir George.....	1 Oct.	No. 60	Ship Gilmore.....	751	Goderich, Viscount.....	26 March.
Do	Hay, Under Secretary	1 Oct.	Private	do	752	.....	.....
Do	Murray, Sir George.....	1 Oct.	No. 61	do	753	Goderich, Viscount.....	23 March.
Do	do	4 Oct.	No. 62	do	756	do	27 March.
Do	do	5 Oct.	No. 63	do	768	.....	.....
Hay, Under Secretary	Darling, Governor	5 Oct.	No. 63	Ship Gilmore.....	768	.....	.....
Darling, Governor	Murray, Sir George.....	5 Oct.	No. 64	do	770	Goderich, Viscount.....	23 March.
Do	do	6 Oct.	No. 64	do	770	do	28 March.
Do	do	7 Oct.	No. 65	do	771	do	29 March.
Do	do	8 Oct.	No. 84	Ship Lady Harewood	791	.....	.....
Murray, Sir George.....	Darling, Governor	9 Oct.	No. 85	do	792	.....	.....
Do	do	9 Oct.	No. 86	do	792	.....	.....
Darling, Governor	Murray, Sir George.....	9 Oct.	No. 86	Ship Gilmore.....	792	.....	.....
Murray, Sir George.....	Darling, Governor	10 Oct.	No. 87	Ship Lady Harewood	793	.....	.....
Do	do	11 Oct.	No. 87	do	793	.....	.....
Hay, Under Secretary	Murray, Sir George.....	13 Oct.	No. 67	Ship Gilmore.....	793	Goderich, Viscount.....	23 March.
Darling, Governor	Darling, Governor	14 Oct.	No. 87	Ship Lady Harewood	795	.....	.....
Murray, Sir George.....	do	15 Oct.	.....	do	795	.....	.....
Do	do	16 Oct.	do	796	Darling, Governor	27 Sept.
Murray, Sir George.....	do	29 Oct.	No. 88	do	796

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Hay, Under Secretary	Darling, Governor	1830.	Ship Earl of Liverpool..	797	1831.
Do	do	21 Oct.	.....	do	798	.....	.....
Do	do	22 Oct.	.....	do	800	.....	.....
Do	do	23 Oct.	.....	do	802	Darling, Governor	30 Aug.
Murray, Sir George	do	24 Oct.	.....	do	803	.....	.....
Do	do	25 Oct.	No. 80	do	804	.....	.....
Do	do	26 Oct.	No. 90	do	805	.....	.....
Do	do	1 Nov.	Circular	Ship Eleanor	810	.....	.....
Do	do	4 Nov.	No. 91	do	810	Darling, Governor	27 June.
Do	do	8 Nov.	No. 92	Ship Earl of Liverpool..	812	.....	.....
Do	do	9 Nov.	No. 93	do	813	.....	.....
Do	do	10 Nov.	No. 94	do	815	Darling, Governor	27 June.
Darling, Governor	Murray, Sir George	10 Nov.	No. 68	Ship Marquis of Huntley	817	.....	19 June.
Murray, Sir George	Darling, Governor	11 Nov.	No. 94	Ship Earl of Liverpool..	817	.....	.....
Do	do	12 Nov.	No. 95	do	817	.....	.....
Do	do	15 Nov.	No. 96	do	818	.....	.....
Do	do	16 Nov.	.....	do	819	.....	.....
Hay, Under Secretary	do	22 Nov.	Circular	do	820	Darling, Governor	5 April.
Goderich, Viscount.	do	22 Nov.	Circular	do	820	do	5 April.
Do	do	22 Nov.	.....	do	820	.....	.....
Howick, Viscount	do	29 Nov.	.....	do	821	.....	.....
Hay, Under Secretary	do	30 Nov.	.....	do	822	.....	.....
Darling, Governor	Murray, Sir George	1 Dec.	Private	Ship Marquis of Huntley	822	.....	.....
Do	do	2 Dec.	.....	do	825	.....	.....
Do	do	6 Dec.	No. 69	do	312	.....	.....
Do	do	7 Dec.	No. 70	do	828	.....	.....
Do	do	14 Dec.	.....	Ship Margaret	832	.....	.....
Hay, Under Secretary	Hay, Under Secretary	14 Dec.	.....	Ship Marquis of Huntley	832	.....	.....
Darling, Governor	Murray, Sir George	17 Dec.	No. 71	do	832	.....	.....
Do	do	21 Dec.	No. 72	do	833	.....	27 June.
Do	do	21 Dec.	No. 73	do	312	Goderich, Viscount.	.....
Do	do	21 Dec.	No. 74	do	834	Goderich, Viscount.	20 June.
Do	do	21 Dec.	No. 75	do	836	.....	.....
Goderich, Viscount.	Darling, Governor	22 Dec.	No. 1	Ship Eleanor	857	.....	.....
Darling, Governor	Murray, Sir George	22 Dec.	No. 1	Ship Marquis of Huntley	850	.....	.....
Do	do	22 Dec.	No. 2	do	863	.....	.....
Do	do	23 Dec.	No. 3	Ship Eleanor	312	.....	.....
Do	do	24 Dec.	No. 4	do	863	.....	.....
Do	do	25 Dec.	No. 5	do	312	.....	.....
Do	do	26 Dec.	No. 6	do	864	.....	.....
Do	do	27 Dec.	No. 7	do	867	Darling, Governor	14 July.
Do	do	28 Dec.	No. 8	do	870
Do	do	30 Dec.	No. 8	do	312

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