due upon the licenses lately granted appear to him to amount to an immense sum (about one-third of the whole). The reference which Mr. Dore makes to the different Acts of Parliament which establish'd those additional sums is no doubt correct, but the sums rais'd upon those subsequent Acts were design'd as taxes for the use of the State, and not fees for that of an individual; and as no stamps exist here, or taxes of any kind are yet intended by the Gov'r of the mother country to be levy'd in this settlement, it will appear that Mr. Dore may have misconceiv'd this business, for if the Gov'r is right in his judgement of it, two shillings and sixpence only can be demanded by those who make out the licences, and that is by way of recompensing the clerk who has the trouble. The rest of the sum is the property of the Crown, and is to be applied to some public purpose.

If Mr. Dore has any representation to make upon the subject, the Governor is of opinion it shou'd be sent home and laid before the Secretary of State, which he will with pleasure do if Mr. Dore shall desire it.

In the meantime it wou'd give him concern shou'd any petitions be laid before him in consequence of the present demands made from Mr. Dore's office, because he shou'd feel it his duty to transmit them also in order to the Secretary of State having authentic documents before him, upon which he might with the greater ease be enabled to form his judgement upon this subject.

JNO. HUNTER

[Enclosure No. 2.*]

JUDGE-ADVOCATE DORE TO GOVERNOR HUNTER.

Mr. Dore presents respectfull compt's Gov'r Hunter, informs his Exe'y that there has been issued from his office thirty-one victualers' licences, which at five pounds each amount to one hundred and fifty-five pounds, and after deducting the fee of one pound eleven shilling and sixpence, allow'd by Act of Parliament for granting the same, according to the extract hereunder, the ballance in Mr. Dore's hands is one hundred and six pounds four shillings.

Extract.

And there shall be paid for every piece of vellum or parchment or sheet or piece of paper upon which shall be written any licence for selling ale or other excisable liquors by retail—

By 9 Queen Anne, chap. 23, sec. 23.—One shilling.

By 29 Geo. 2d, c. 12, s. 1.—One pound.

By 24 Geo. 3rd, 3d Sept., 2 p 30.—Ten shillings and sixpence.

In all, £1 11s. 6d.

* Note 102.
Mr. Dore is sorry to find that Governor Hunter feels any cause of remonstrance against the regulations adopted in the Judge Advocate’s office in regard to fees, and particularly as they were in the first instance submitted to his Excell’cy’s approbation, and receiv’d the fullest sanction in the Governor’s letter of the 28th July last, without any reservation as to the concurrence of the Government at home; and, if Mr. Dore may judge of the effect of such regulations from the general report of the better part of people in this colony, who seem sensible that their property has been in a great degree protected and secur’d by the system of business which Mr. Dore laid down on his arrival here, he is authoris’d to conclude that it has answer’d many desireable purposes, and that so far from being consider’d in the most remote degree oppressive, it has produc’d many sallutary benefits to the trading part of the inhabitants; nor has Mr. Dore heard of any one instance where the fees have been murmur’d at or resisted.

To his Excellency’s remark that no such demands were ever before made at this office, Mr. Dore begs to observe that the fee of three pounds for a protest (and an extra charge for extending the same), together with the like sum for every letter of administration, probate of will, &c, was taken by Captain David Collins, and after his departure by Mr. Richard Atkins, the Acting Judge-Advocate; and if this mode of doing business was instituted without the sanction of the Gov’t at home, Mr. Dore naturally conceives the trifling addition he has made in other cases too inconsiderable to trouble them about, although he has no sort of objection to their being made acquainted with every minutiae of his conduct since he open’d his Commission in this territory. Mr. Dore has directed a fee of ten shillings to be charg’d for every process issued under fifty pounds in civil actions. The affidavits have been prepar’d upon a plan far different from what was ever practis’d here before, and strictly conformable to the mode of the Courts of England. So it is with the writs, &c, &c, for all which the sum of ten shillings only has been paid in cases under fifty pounds; from that sum to one hundred pounds, fifteen shillings; and above one hundred pounds’ debt the fee has been extended to one pound.

The Governor already understands that, for the more speedy recovery of small debts, a Court, or weekly Petty Session, is held every Saturday for the determination of cases of this description, and that upon every summons issued for any sum under five
pounds there is charg'd one shilling, and above five pounds two shillings, which is appropriated to the benefit of the Judge-Advocate's clerk. But so numerous have been the applications for summonses from poor people that nearly as many summonses have been issued gratis as have been paid for, and on no occasion whatsoever has a summons been refus'd on account of the poverty of the party.

Mr. Dore believes only one protest has been charg'd for, which was Capt. Munn,* and this he had much difficulty in getting paid. The sum was three pounds. The residue was occasion'd by expenses in summoning witnesses from the most remote part of the colony to attend and give evidence in the matter of the horses, about which Wm. Evans, the summoning bailiff at Parramatta, was engag'd day and night in journeying upwards of one hund'd and fifty miles, and Mr. Dore's time was completely occupied for several mornings in a business which ultimately turned out moonshine and frivolous.

Mr. Dore presumes that with the office of Judge-Advocate to this territory he brought with him a discretionary power (subject to his Excellency's approbation) to institute such regulations as he might conceive necessary in his department, and particularly where the interest of the colony was the first object in view; and he flatters himself the Government at home was perfectly satisfied with his competency to exercise such discretion. So long, therefore, as Mr. Dore has the honor of Governor Hunter's sanction and assistance he shall sedulously continue to discharge his professional duty with the same attention, alacrity, and cheerfulness he has hitherto done; but, deprived of that, he has not a wish to retain his situation, nor longer to surmount the increasing anxiety and fatigues of office, unless he is at liberty to attach those trifling advantages which in some measure compensate for the toils of it.

Captain Collins, Mr. Dore understands, limited his hours of business from eleven to one every day, and Governor Hunter knows that Mr. Dore has unremittingly given his time to the public service from six in the morning to a late hour at night, not even excepting his time in breakfasting and dining, which has been, and is, daily broken in upon and annoyed by troublesome intruders without ceremony or distinction.

Mr. Dore, in reviewing every circumstance of his conduct since he has acted in the capacity of Judge-Advocate to this territory, feels the most perfect satisfaction, so far as a consciousness of rectitude and honor can afford it, nor does he mean to depart from a system which has the approbation of his own mind, and will be found to accord with the principles of a gentleman, nor

* Note 103.
will he ever shrink from the most rigid scrutiny into those characteristics which distinguish integrity and honor—on which basis, independent of party or prejudice, having strenuously acted, he will consider himself answerable for his official duty to the high interest that placed him in it.

[Enclosure No. 4.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

7th December, 1798.

On the Governor's return last night from Parramatta he receiv'd a note from Mr. Dore in reply to one which had been written to him in the morning. Upon this note the Governor has to observe statements that some essential parts of his note appears to have been overlook'd, and are not notic'd at all by Mr. Dore.

The circumstances, however, which he says were submitted by him to the Governor's consideration, were widely different from those which had given rise to the complaints he mentioned, and which certainly never had his sanction; and he must farther add, that instead of their having the approbation of the better sort of people in this colony, it has been thro' some of those very people that the Governor has receiv'd information of the grievances complain'd of, and who have also concurr'd in disapproving them.

Mr. Dore's observation relative to protests, and such matters as have no connection with any part of the Colonial concerns, the Governor in his observations has no allusion to them; they are wholly foreign and distinct from the business of the settlement.

With respect to the writs which Mr. Dore has mention'd, the Governor conceives that the issuing of them is not the business of any individual member of a Court, but an act of the Court when assembled, and it is, he presumes, with that Court to determine in this country whether any charges, and what, attend the issuing them.

The Governor is at no loss to understand for what purpose the Petty Session, or weekly meeting of two or more magistrates, was establish'd; it took place long before Mr. Dore's arrival here. The Governor having heretofore in this country officiated as a constant member of those meetings in the character of a civil magistrate,* he is therefore thoroughly acquainted with the nature of that duty; but as Mr. Dore says that upon no occasion whatever has any summons been refus'd on account of the poverty of the party, were it necessary an instance, and a very recent one, can be produc'd to show that Mr. Dore is not correct. If, therefore, such things happen without Mr. Dore's knowledge

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* Note 104.
or consent, he shou'd certainly put an early stop to them least they be consider'd as sanction'd by him.

Mr. Munn's protest, like all other matters of that nature, has nothing to do with the business of the colony; nor has the Governor any with Mr. Dore's manner of settling such concerns.

The Governor can scarcely comprehend what may be the nature of that discretionary power which Mr. Dore may allude to when he says: "He presumes he brought such power here with him" (subject to the approbation of the Governor or commanding officer before it cou'd be exercis'd, of course). If he means mer'ly a power to institute such regulations in his department as have for their sole object the interest of the colony, and the happiness and prosperity of its inhabitants, the Governor will at all times second him most heartily with his utmost authority in establishing any regulation calculated to produce such desireable effects, but to shut his ear to the complaints of such persons as may apply to him when they conceive themselves aggrieved, or to set them aside out of delicacy to the person from whose office those grievances may spring, wou'd ill accord with his desire of rendering to everyone that justice to which he is intitled.

Capt. Collins's mode of doing the business of Judge-Advocate of this colony has no concern whatever with that upon which the Governor wrote a note to Mr. Dore, and which was intended for his information on matters with which it was possible he might not have been acquainted.

The latter part of Mr. Dore's observations are of a nature which appear to require a more particular explanation, and the Governor will take an opportunity of calling upon Mr. Dore for that explanation.

Mr. Dore would have receiv'd this yesterday, but it was neglected to be deliver'd as order'd.

[Enclosure No. 5.]

MESSRS. ATKINS AND WILLIAMSON TO GOVERNOR HUNTER.

In obedience to your Excellency's precept for holding a Court of Civil Judicature, bearing date the —— day of December, 1798,* directed to the Judge-Advocate, Richard Atkins and James Williamson,† Esqrs., we met on the 20th of December, at the Court-house at Sydney, for the dispatch of business, and a writ of arrest, bearing date the 10th of December, was submitted to the said Court for their decision; but some doubts having arisen in the minds of the said Richard Atkins and James Williamson as to the legality of the writ, it having been issued by the Judge-Advocate without the sanction of a Court of Civil Judicature, which by the charter of the colony they conceived to be

* Note 105. † Note 106.
absolutely necessary, and wishing to have the opinion of the Judge-Advocate thereon, in hopes that he might remove those doubts, we ordered the Court to be cleared, when, to our very great surprize, instead of answering our question, he informed us, in the most rude and unqualified manner, that he had an authority for issuing writs independent of the Court, which he would communicate to no other person than your Excellency; that he knew his own powers, and that he would stand or fall by them; but that, as we doubted that authority and those powers, he had no business there, and abruptly rose from his seat, took his hat and cane, and wished us a good morning. On being asked by one of the members if the Court was adjourned, he replied, as he was going towards the door of the Court-house, that he had no business with it; in consequence of which the Court broke up without any business being done or regular adjournment taken place.*

Such a conduct of the Judge-Advocate we conceive highly reprehensible, disgraceful to himself, injurious to your Excellency’s authority, and insulting to ourselves.

Can it be supposed that any dignity or consequence can be attached to a Court whose presiding officer shall, in the irritability of his temper, leave it in the manner we have stated to your Excellency? Is not the dignity of justice rendered ineffectual by such conduct, and is it not degraded by such behaviour? As members of the Court we feel ourselves highly interested, and we wish that your Excellency and the public might know that if any inconvenience has arisen by delay, the Judge-Advocate, not us, is responsible for it.

We think it our duty respectfully to submit this plain statement of facts to your Excellency, humbly hoping that your Excellency will be of opinion that the proceedings of the said Court have not been impeded by any act of ours, and that our conduct has not merited your displeasure.

We have, &c,

RICHD. ATKINS,
JAMES WILLIAMSON,
Members of a Civil Court.

[Enclosure No. 6.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.
On his Majesty’s Service.

Sir,

Sydney, 22nd December, 1798.

Having issued a precept under my hand and seal for convening a Court of Civil Judicature, and by the Public Order of the 7th instant it was directed to assemble on the 20th, I was

* Note 107.
1799.
21 Feb.
Hunter calls upon Dore for an explanation.

much astonish'd that day on receiving a letter address'd upon service from the two gentlemen who with you were to have compos'd that Court, stating that certain circumstances had been introduc'd, which had appear'd to them to be informal, and that they had desir'd the Court might be cleared in order to your having an opportunity of removing the doubts which press'd upon their minds; and that you might satisfy them they were acting as members of that Court strictly conformable to the instruction contain'd in the Patent; that upon desiring from you this necessary information you had risen suddenly from your chair and abruptly quitted the Court, which had already been sworne in, saying at same time that you knew your own authority, and wou'd not satisfy any person except the Governor.

This, sir, is a circumstance so wholly new in this colony, and the refusing to do the duty to which you have been by his Majesty appointed, except it be upon such terms as you may be dispos'd to establish at your own pleasure, is altogether so very extraordinary that I find it necessary to desire you will acquaint me in writing whether you are determined to resist the order contain'd in the precept, and to set aside the Court, which I have directed may be assembled?

I can only desire to be inform'd of your intention that such steps as the public service may require may be taken. The case is in itself so perfectly clear that any argument upon the subject will be unnecessary. No man can deny the right of the other members to apply to you for information in everything which is connected with forms of law, and with which they might not be sufficiently acquainted, nor can any person construe your unguarded manner upon this occasion into anything short of an insult, which as sworne members of that Court is of a nature which you must as a professional man be well acquainted with the magnitude of; I have therefore been the more astonished.

I am, &c.,
Jno. Hunter.

This letter on public service was enclosed in the following private note:

Note.—The Governor is sorry to have had occasion to write officially to Mr. Dore of the subject of the last meeting of the Civil Court. He trusts that Mr. Dore will see the propriety and necessity of coming to some decision with himself upon this subject before the Court may assemble again.
MR. DORE'S QUERIES SUBMITTED TO THE GOVERNOR'S PERUSAL.

Observations by Governor Hunter.

1st.
How are the processes to issue to be heard in such Court unless previously taken out for that purpose?

2nd.
The Patent gives power to the Court to issue war'ts, &c., but does not interdict the issuing of writs previous to such Court, nor in any manner limit the Judge-Advocate's power in such instances?

3rd.
It may reasonably be demanded, what injury or disadvantage can possibly arise to the community from this mode of resting in the intermediate vacations between Court and Court?

4th.
What the English Gov't cou'd not foresee as an evil they found no sort of inclination to guard against. Had they intended for any particular purposes whatever that arrests in this way

Gov't cou'd not suppose that any interdiction would be considered requisite. This is altogether a negative way of reasoning, for Government has, in as plain and peremptory a way as
1799.

The procedure of the civil court.

21 Feb.

5th.

The Patent relates to no Act of Parliament—is merely an instrument of instruction.

should have been prohibited, they would have made their interdiction peremptory and plain.

could be necessary, pointed out the mode of arrests in this country, and it is the duty of those to whom such concerns are intrusted to take the instructions they have been furnished with for their guide.

Admitted that it is an instrument of instruction, then why is it not considered a sufficient guide? The instruction it contains and the authority from whence it is issued is surely sufficient for all our purposes.

No authority in this country can be admitted as having power to alter the uniform course of law and justice.

It is difficult to understand what Mr. Dore may mean when he says that he has full powers of discretion to act up to the full intent, extent, and meaning of the tenor of the authority which he feels vested in him by virtue of his present appointment.

It is admitted that he possesses full power by virtue of his Commission to officiate in all the duties of the Judge-Advocate to this colony, and of a Justice of the Peace, but cannot agree that he has authority to alter the tenor and meaning of the Patent for establishing the Courts of law in this colony. And it is insisted that the other members of the Court have a right to desire information from the Judge-Advocate relative to any doubts they may have in a matter or form of law, particularly when they observe any change or deviation from that Patent which they have hitherto considered as their guide.

No other reply can be made to Mr. Dore's last observation than by noticing that the insinuation it contains is truly illiberal, whom­ever it may allude to. It is also known to be contrary to fact, for many gentlemen have solicited to be excused from the duties of the Civil Court, but never has one, directly or indirectly, requested to be so employ'd.

If ever Mr. Smyth issued a writ in this country from any other authority than that of the Court, it is well known it could only have been one, for the mistake was seen and corrected, as no other was ever issued in that way after.*

[Enclosure No. 8.]

MESSRS. KENT AND ATKINS TO JUDGE-ADVOCATE DORE.

Sir, 11th January, 1799.

The very improper advantage that has been taken of our signing the minutes of the last Court of Civil Judicature, by your asserting that you conceiv'd it an authority from us to issue writs, makes it become necessary to acquaint you what our ideas were when we signed them. Our reasons for authorising you to issue

* Note 108.
writs under our sanction were founded under the idea of public utility, but we were fully sensible that any act of ours as members of the said Court could extend no farther than during the several adjournments, and when it was dissolved the authority ceased. This we conceive, sir, you must be sensible of yourself. You must likewise be aware that no act of ours (the very idea would be presumption) could do away the charter of the colony, which you must admit is our guide in all judicial proceedings, and no power but the legislature of Great Britain can alter the intention and spirit of it. It is unnecessary for us, sir, to say much more on a subject so obvious to the meanest understanding; we have, therefore, only to request it may be fully understood that any authority (if it has given any legal one) our names may have given you to issue writs, or to do any other act, was merely temporary, and could not possibly exist longer than his Excellency the Governor's precept for convening that Court remained in force—anything further being contrary to our intention. We do in the most positive and express terms protest against any act done or to be done in consequence of our signatures since the last Court was dissolved.

We are, &c.,

WILLIAM KENT,
RICHARD ATKINS,
Members of the Civil Court.

[Enclosure No. 9.]

Judge-Advocate Dore to Governor Hunter, and Governor Hunter's Comments.

Judge-Advocate Dore's Letter.
Judge-Advocate's Office,
Sydney, 14th January, 1799.

Sir,

After presuming that your Excellency has been made acquainted with the singular minutes which the two gentlemen you were pleased to appoint as members of the Court of Civil Jurisdiction thought proper to insert in what appears to be the proceedings of that Court on Tuesday last, and which I conceive to be in the first instance taking an unhandsome advantage of my indisposition, and the enfeebled state such indisposition had reduced me to, being confined to my bed by a severe attack of illness, I cannot but express my surprise and unfeigned regret at the occurrence.

Upon the receipt of Mr. Dore's letter, the Governor desired to be informed by the other two members of the Court what were the unfair advantages of which Mr. Dore complains. They immediately wrote to the Governor letter No. 10.
1799.
21 Feb.
The issuing of writs by the Judge-Advocate.

B
260 HISTORICAL RECORDS OF AUSTRALIA.

I feel myself bound by the duties of my office, and by the authority of that appointment which the British Gov't has given me.

It would have been highly pleasing and satisfactory to the Governor had the duties of the office of the Judge-Advocate been carried on with as much general satisfaction and advantage as it had been managed from the establishment of the colony up to the time of Mr. Dore's arrival.

C

It would have been highly pleasing and satisfactory to the Governor had the duties of the office of the Judge-Advocate been carried on with as much general satisfaction and advantage as it had been managed from the establishment of the colony up to the time of Mr. Dore's arrival.

B

Honor'd me with, to protest most solemnly against those minutes, so far as they may have any constructive tendency to set aside the writs which I have from time to time issued from my office. First, from my interpretation (as Judge-Advocate) of the Patent, which does not prohibit me in my official capacity from issuing such writs.

Mr. Dore has a right to protest against any act of injustice which he may feel himself affected by, but the other gentlemen have an equal right to that privilege.

C

Mr. Dore has a right to protest against any act of injustice which he may feel himself affected by, but the other gentlemen have an equal right to that privilege.

D

Secondly, from precedents hitherto establish'd in the colony (upon which divisions have been made).

It is well known here that if ever there was a president [sic] of the nature Mr. Dore alludes to, it could only have been one, and that must have been occasioned by too slight an examination of the sense of the Patent, because, upon further consideration, it was found wrong, and was never afterwards attempted.

E

Mr. Dore's interpretation of the Patent may be convenient to the system which he has thought proper to lay down for managing the duties of his office, but it cannot deprive the other officers of the colony of the power of judging for themselves, where nothing unintelligible stands in the way, either in point of language or any law perplexity.

D

Thirdly, by the peculiar benefits it has produc'd, and is likely to produce, to the colony at large. And, lastly, by an order of Court, of the fourteenth day of August last, expressly directing

The peculiar benefits to the colony Mr. Dore mentions can only be known to him and to those dealers he alludes to, who are, certainly, a pest to the settlement and ruin to the
the Judge-Advocate to administer affidavits and grant writs at his office whenever occasion or circumstances might require it, of which the following is a copy (viz.):—

"And in order to remedy as much as possible the many inconveniences which have been from time to time complained of by persons having occasion to commence such, or actions for the recovery of monies due to them by reason of their having been generally accustomed to wait for the assembling of a Civil Court before affidavits to ground bailable actions could be made or taken.

"The Judge-Advocate of this territory will henceforth and in future administer, at his office in Sydney, in the usual hours of business, the necessary oaths to persons who may find it expedient to institute civil suits, and hold their debtors to bail, and a day will be appointed with all convenient dispatch for the return of such writs, and to hear and determine all matters in question accordingly.

"The Judge-Advocate will also, at his office aforesaid, grant letters of administration, probates of wills, &c., &c., and be ready at all times to further the designs of the British Legislature in extending to this colony, as far as circumstances will admit, the benefit of its wise and salutary laws.

"The return of writs being a matter dependent upon local and occasional circumstances, the Judge-Advocate will use his discretion in the regulating such as are issued from his office, and it will rest with him to determine as to the time necessary to be allow'd for defendants at certain distances, &c.,

"RICH. DORE, J.-Advocate.
"WILLIAM KENT.
"RICH. ATKINS."

thoughtless labouring farmer. 1799. 21 Feb.
The order of Court here alluded to is denied by the other member as meaning anything more — that during the occasional adjournments of that Court, of which they were members, they could not establish a rule to govern the other officers of the colony. This is surely a weak argument.

(See their protest, letter No. 8.)
This order of Court is unquestionably irrevocable—as well might a subsequent Court assume to itself a power of setting aside decisions which had been made in matters between party and party, as attempt to dispute or recede from the plain letter which lies before them, and which is upon record as the proceedings of a Court solemnly and formally establish'd—nor can human wisdom foresee what might be the consequences, if such an extravagant measure was tolerated either under a convenient idea of error, or with a view to answer any private or particular purpose—but that Mr Atkins, whose name appears subscrib'd to those proceedings, should now question their propriety, and shelter himself under a pretence that he did not read what he had subscrib'd, or that having read he did not understand them, when the matter had been canvas'd by the Court (of which he was then a member), and this decision was the result, would be a subject of extreme surprize to me if I had not trac'd from what quarter, in what kind of shape, and to answer what purpose the opposition was originally projected.

Both members deny the canvasing this business by the Court; they signed the paper having learnt from Mr. D. the intention, and had no doubt of his being correct; they confided in his not introducing anything which might be improper.

The Governor is a perfect stranger to the projected opposition of the other two members to Mr. Dore; they were fix'd upon for this duty, the one* from having done the duty of the Judge-Advocate formerly, the other* a new member to be initiated in the duties and business of a Court, and could not be better placed than between two men who knew all the forms.

* Note 109.
I am loth to trouble your Exc'y with argument on the subject; but I wish to guard you against being misled, and myself from the imputation of committing any innovation foreign to the sense of the Patent, or of having given rise to complaints amongst the people.

Mr. Dore need not be uneasy at the probability of the Governor being misled. He has lived so long, and has seen so much of mankind, particularly in this country, that he is quite upon his guard. He judges for himself with respect to the Patent.

Your Exc'y has been informed that they have complain'd of my mode of doing business. I deny it. I have collected the sense of almost every individual (with a few partial exceptions) of the middling but respectable description of inhabitants. Those who by habits of trade and dealings were most likely to be interested, and to have a voice on this occasion—and from a written document (spontaneously subscrib'd by nearly seventy persons' names) which I am in possession of, it will appear that so far from the people having complain'd of my mode of business, they have one and all heartily and gratefully applauded it, and if they ever had reason to complain it was that such a plan had not heretofore been generally and effectually establish'd.

That they have been put to material inconvenience, reduced to great distresses, and been set at defiance by a certain description of debtors, because they were oblig'd to wait for a Civil

The two characters here contrasted by Mr. Dore were the same description of people when they came to this country, and we have very little reason to think that any extraordinary
Court to get a writ issued, before the assembling of which, if some more fortunate creditor did not step in between, their property was wantonly squandered away, misapplied, or wasted, and no redress left them but the persons of their debtors devoted to a prison; and they unreservedly declared that this was, therefore, the readiest mode to preserve the property of honest creditors, and defeat the fraudulent designs of unprincipled debtors.

So far your Exc'y will be satisfied that the interests of the colony have been in no wise injured by this system of business. (Vide M.) And your Exc'y may perhaps be inclined to admit the general propriety of the measure, but may be in doubt as to the construction of the Patent.

That your Exc'y may understand upon what ground I establish my construction of the Patent when I say it does not interdict the issuing of writs by the Judge-Advocate, I beg leave to refer you to that part which directs a Court of Civil Jurisdiction to be assembled, with power to hold plea of and to hear and determine all pleas concerning lands, debts, &c. Permit me to ask what pleas are at issue? What is the Court to hear and determine? unless processes have been previously issued for the Court to hold such pleas of and to hear and determine accordingly. Had the Patent set out by directing such Court to assemble, in the first instance, to administer affidavits and to grant writs, which they were afterwards (at a future sitting) to hear and de-

This question is answered in the first observation to Mr. Dore's queries. (Vide No. 7.)
HUNTER TO PORTLAND.

The issuing of writs by the Judge-Advocate.

The office of Judge-Advocate, your Exc'y will observe, is so virtually important as to be absolutely necessary to the forming a Court of Civil Jurisdiction, inasmuch as all processes are directed to be under the hand and seal of this officer, who is consider'd as the President and leading member of the Court. The other members, therefore, altho' component parts of such Court, in matters where a discrimination of law points is necessary, are to be guided by the Judge-Advocate, whom the Gov't at home have deligafed for such purposes, and it is reasonable to suppose were satisfied with his qualifications and responsibility, and I would ask how your Exc'y would act if two members were to take upon themselves to pronounce a decree contrary to law? What a wide field would this open for renewed contentions, the offspring of doubt, uncertainty, and dissatisfaction. Your Exc'y would naturally consult with the only law officer in the colony, from a conviction that the Government which intrusted him with his appointment was satisfied with his competency to decide, and that he is responsible to them for his decisions.

Q

We admit that the Judge-Advocate is necessary to the forming a Court, and that all the law processes should pass under his hand and seal as a lawyer; but we are not to understand from that formality that the other members, as component parts of such Court, are to be considered as mere matter of form—as men without common sense or judgment. It will be found that some of them are not less acquainted with forms than some of the profession.

R

It is taken for granted that the Government at home is supposed to be satisfied with the ability of every officer they appoint here, but they will be more so when verified by experience.

had been inclined so to understand it.

1799.

21 Feb.
S

I am too tenacious of the important trust confided to me by the British Government—I am too independent in mind and circumstances—to have any sinister view to answer by supporting the system I have enter'd into. Nor can I forget the sacred pledge I left behind me to transmit to England by every opportunity a faithful representation of this colony, its police judicial proceedings, &c., &c., embracing every object worthy of public communication; and can it be suppos'd that I would risk my professional reputation either here or at home by attempting wilfully to violate the charter of the colony or establish any construction upon its meaning foreign to the tenor of it? Can it be suppos'd that I had ever any object in view but the good of the colony and the people?

To the grateful suffrages of the people on this occasion let me appeal for their general sense of approbation, and to the effects already produc'd by my system for their anxious wishes to continue it.

T

Your Exc'y will suffer me here to remark that it was your own particular desire a professional gentleman should be sent from England to regulate and qualify judicial proceedings in this colony. For that purpose I am come, and I trust I shall never want your Exc'y support as chief magistrate whilst I act up to the spirit of the appointment and the apparent sense of the duties attach'd to it.

U

If your Exc'y had been pleas'd in an earlier stage of this business to have interdicted any of my measures, to you, sir, Mr. Dore's independence can have nothing to do with the point in question; nor is it necessary to make any observation upon Mr. D's views in supporting his new system. His promises to transmit to his friends from time to time his account of observations made in this country can have no connection with the main subject of his letter to the Gov'r. Every person resident here have an equal right to give to their friends whatever they may think worthy their notice.

T

The Governor admits that it was his wish that a professional gentleman of the law should be sent here as Judge-Advocate, and he trusted that he would have found a useful and confidential officer in such a person; but it is with regret he must declare that, instead of being reliev'd from much trouble and perplexity, he has experienced more than formerly.

U

The Governor had no wish or desire to interdict any of Mr. Dore's measures, or was it likely he should make any ob-
as Governor of this territory, I shou'd have paid every respectfull defference.

V

Your Exc'y may be assur'd I shall ever do so; but permit me to ask if you are aware of the evils likely to result from overturning a system which as Judge-Advocate to this territory I have consider'd myself warranted in introducing, particularly after its good effects had been almost universally felt and acknowledged. Innumerable and complicated will be the public inconveniences, perhaps in some instances particularly fatal. It will disturb the current of justice, call in question the power of the officer the British Government has delegated to so important an appointment, and eventually tend to disseminate murmurs and dissentions amongst the people.

W

If your Exc'y conceives the strict letter of the Patent forbids the measure I have adopted, and wou'd recommend its being henceforth suspended, henceforth be it suspended; but surely, and at all events, the writs which have been granted and which are now at issue, shou'd be heard and determin'd. It will then rest with your Exc'y to make such suspension (until the pleasure of the Government at home is known) as shall be

ty

Mr. Dore's anticipation of evils which will result to the colony from the doing away a system which he has thought proper to lay down is absurd. We never have yet experienced such calamities when such a system as his own was unknown in this settlement. What danger can there be apprehended from following strictly and to its full extent that charter which was given as our guide? The Gov'r knows of no authority in the J.-A. which gives him a power to establish systems which appear inconsistent with the sense and design of our charter, nor is he apprehensive of any of those evils which Mr. Dore looks forward to in following that interpretation of the Patent which has stood since the establishment of the settlement. Whenever a more extended colony and an increas'd number of inhabitants may render a change in the establish'd system for the administration of justice necessary, the Government of the mother country will determine what change shou'd be establish'd.

W

The Gov'r has not said that the letter of the Patent in direct terms interdicts or forbids Mr. Dore's measures, but he has declar'd it to be his opinion that the letter of that instrument is clear and intelligible, and directs in plain language what measures are to be pursued; but they are not such as Mr. D. has thought proper to lay down. The Gov'r can give no opinion on any matter pending before a Court. The members in genera

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deemed expedient under the existing circumstances.

I have only one observation to trouble you with in regard to the fees, which under your Excy's sanction I have attach'd to the several processes. All the parties who have subscrib'd the document I allude to have unanimously declar'd that they consider'd it just and necessary, and were well satisfied it was a measure pregnant with good to the colony, and would prove serviceable and advantageous to the trading part of it; but on referring to the Patent your Exc'y will see that costs of suit are particularly allow'd.

I have, &c.,
RICH. DORE,
Judge-Advocate.

X

Exc'y will see that costs of suit are particularly allow'd.

The Governor, relative to costs of suit, contends that all those things are to be settled by the Court, and he presumes that the other members may be as tenacious of their situation as Mr. Dore may be of his. They appear unwilling to conform the unbounded power of the Judge-Advocate and their own insignificance as members of that Court.

J.H

[Enclosure No. 10.]

MESSRS. ATKINS AND WILLIAMSON TO GOVERNOR HUNTER.

Sydney, 3rd February, 1799.

Your Excellency having signified to us that Mr. Dore, the Judge-Advocate, in one of his letters, complained of our taking an unfair advantage at the last meeting of the Civil Court, in proposing questions to him at the time he was labouring under great bodily infirmity, it becomes necessary for us to represent to your Excellency that prior to the opening of the Court the Judge-Advocate was asked whether he was able to proceed to business; that if he was, Mr. Atkins, one of the members wished to propose a question to him, to which the Judge-Advocate answered, "By all means." At the time this passed, Mr. Balmain was sitting with Mr. Dore. The question proposed by Mr. Atkins was, "Whether in all judicial proceedings is or is not the Charter of the colony to be our guide?"

The answer the Judge-Advocate gave was—"Certainly." Receiving this answer, Mr. Atkins replied—"That, sir, being the
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case, I am of opinion that all the writs of arrest issued by you without the sanction of a Court of Civil Jurisdiction are illegal.” Mr. Williamson, another member, joining in opinion, we desired it might be made a minute of the proceedings of the said Court, but the Judge-Advocate refusing so to do, either by himself or clerk, and thinking it absolutely necessary for our own justification that it should be done, Mr. Atkins entered it himself, and it having been signed and approved of by the two junior members, we conceived it was binding upon the Judge-Advocate, who certainly is vested with no greater power than any other individual member. The Court then adjourned sine die.

It is not unknown to your Excellency that notwithstanding the Court had determined the writs so issued were illegal, the Judge-Advocate still continued the practice to the great contempt (as we conceive) of your Excellency’s authority and that of the Court. We beg leave to say that we feel ourselves happy at all times in obeying your Excellency’s orders, but when our best endeavours for the public good are to be treated with the contempt they have been by that gentleman, we are free to confess our duty becomes irksome. Ten years have now elapsed since the jurisdiction of that Court has been acknowledged, and the powers granted it by the Charter clearly defined. The late attempt of the Judge-Advocate to act independent of it is such an innovation that we know your Excellency will clearly perceive the serious consequences that may attend it, for it not only assumes the power of establishing unauthorized fees (which we are ready to prove), by which means the poor and necessitous, from their inability to pay them, may be deprived of the benefit of those laws which was intended to operate for the advantage of all descriptions of persons, but it likewise arrogates the power of imprisoning the subject without control. Those are serious considerations which we submit to your Excellency’s superior judgement, and beg leave to subscribe ourselves

Your Excellency’s, &c.,
RICHARD ATKINS,
JAMES WILLIAMSON,
Members of the Civil Court.

[Enclosure No. 11.]

GOVERNOR HUNTER TO THE OFFICERS.

Sydney, New South Wales,
15th January, 1799.

Gentlemen,
The subject upon which I have thought it necessary to call you together being of a nature which I conceive of considerable importance to various descriptions of persons in this colony, as
well as to the public concerns generally, and as it is my wish to
have the advantage of your opinions, I shall have a few questions
to propose for your consideration, and upon which I am desirous
of receiving your sentiments. But before I put any of those
questions it may be proper you should be particularly informed
on the business which gives rise to them, and that I should lay
before you, to assist your judgement in deciding, the original
Charter or Patent upon which our Courts of law in this colony
are established. I shall now proceed to inform you as briefly as
possible.

That a precept having been issued under my hand and seal for
assembling a Court of Civil Judicature. and which, agreeable to
public notice, was to have met upon the 12th of December last,
but was afterwards postponed until the 20th. On that day it
assembled. After the members had been sworn, and had taken
their seats, the Court entered upon business. A writ having been
laid before them of a date anterior to the time appointed for the
assembling such Court, the two junior members hesitated upon
the propriety of taking cognizance of a matter which had taken
place before the Court of which they were members had an
existence.

The letter of the Patent having hitherto governed the proceed­
ings of such Court in this colony, they were desirous of informa­
tion from the Advocate-Judge how far they could legaly take
cognizance of the business now brought before them, and which
had not received their sanction as members of that Court; they
expressed an opinion that such business was informal, and wished
the Judge-Advocate to remove the doubts which press'd upon
their mind, and that they looked to him as a professional man
for that information of which they stood so much in need.

Instead of making any attempt whatever to clear up the diffi­
culty under which they labor'd, the Judge-Advocate arose from
his chair, took his hat, and quitted the Court, saying that he
knew his own authority. He was ask'd by one of the members
(both of whom he left in their seats) if he meant to adjourn the
Court; he replied he had nothing to do with it.

In consequence of this extraordinary and, in my opinion, most
unjustifiable conduct of the Judge-Advocate, the other members
quitted the Court-room, round which many people were assembled
upon business. I met those two gentlemen in the street, and
having expres'd some surprize at seeing them there, when I sup­
possed them employ'd on the business of the Court, they were
proceeding to inform me of the cause, but I declined receiving
information upon a matter of such moment in that way, and
desired they would state the circumstances to me in writing, that
I might not be liable to mistake or misunderstand their statement; they did so immediately, and address'd their letters upon public service. Being much vex'd and astonished at a conduct so unaccountable, I wrote immediately to the Judge-Advocate, stating the information I had received. I addressed my letter upon the service of his Majesty, and desired an answer, in order that I might pursue such steps as the public good might require. To this public letter I have never received any reply whatever, not even an acknowledgement that it had been received.

I shall not in this place animadvert upon this pointed disrespect; another time may be more proper; I shall, however, take this opportunity to observe that, considering it in a public point of view, it can bear no other construction than that of a striking contempt of the office and authority which I hold as the representative of his Majesty in this distant part of his dominions, and which no consideration upon earth shall dispose me to pass over until it has been laid before the King.

The Court having now been set aside a second time to the great injury and inconvenience of many, I have desired this meeting with you gentlemen in order that I may have the assistance of your judgement relative to the steps which such a conduct may render it necessary for me to adopt for the regular and effectual administration of public justice in all concerns of a civil nature.

You will see the necessity of coming to an early decision upon a matter in which his Majesty's service and the public welfare of the settlement is so materially concerned.

I am well aware, gentlemen, that my public situation and the power deligated to me from his Majesty will at all times enable me to act with promptitude upon such occasions as the present, or any other wherein it shall appear to me that the public good and his Majesty's service are materially concerned. But I do not incline to give way to any sudden impulse, but to be govern'd by mature consideration; I have therefore to desire your opinions in aid of my own, reserving to myself as the responsible person the power of deciding in such way as the public service may appear to me to require.

I have now only to observe, gentlemen, that in deciding upon the questions which I have to propose, it may be proper that you should recollect that every officer in this colony is liable to be nam'd in the precept as a member of the Civil Court, and that it has some time past been my determination to withdraw a part of that fatiguing duty from the very few gentlemen who have hitherto had the burthen of it. One of the members of this present Court is the first of those who have never yet been call'd upon this service.

Jno. Hunter.
Questions submitted to the meeting of officers by the Governor.

Questions propos'd by the Governor to the Principal Officers in the Colony (Civil, Military, and Naval), in the Court-room, Sydney, January 15th, 1799:—

1st. Are you, gentlemen, of opinion that the Judge-Advocate of this colony has a power wholly independent of our Court of Civil Jurisdiction to issue writs in his own name?

2nd. Have the members of a Civil Court authority to delegate to the Judge-Advocate a power to issue writs in his own name during the adjournment of the Court?

3rd. If you should admit that the other members may, without impropriety, sanction the Judge-Advocate's issuing writs in the name of the Court, during its adjournment, and as a matter of convenience to those who have business to do before that Court, can such authority operate upon the members of any subsequent Court, or is it effectual only during the existence of that Court of which those who gave that authority were members?

4th. Do you suppose if the present Judge-Advocate to this colony brought out with him any power authorizing him to act in matters which we have consider'd cognizable only by a Court, wholly and absolutely independent of the other members of that Court, that there could be any occasion for his applying for their sanction in writing for that purpose?

5th. Is it not the duty of the Judge-Advocate to afford such information relative to points or forms of law to the other members of the Court as they may see occasion to apply to him for?

6th. Do you think, if the Judge-Advocate had brought out with him to this country any power different from what was originally granted to that office in this country, and particularly such as could authorize him to annul the instructions so expressly given in the Patent for holding our Courts, and to adopt such as he chose instead, that such powers would not have been made known to the commanding officer, under whose authority they were to be exercis'd?

7th. Are you of opinion that any situation which the present Judge-Advocate to this colony may have heretofore held in any of the Courts of law in England is a sufficient authority for him in this country to make whatever innovations or alterations he may be desirous of in those instructions contained in the Patent before you, and which have hitherto governed all our judicial proceedings in this settlement from its establishment?
8th. Have you been able to discover anything defective or unintelligible in the Charter or Patent for establishing our Civil Court here which could possibly justify any innovation whatever upon its sense or meaning, until such defect or unintelligible part had been first represented to his Majesty's Minister, and we had received the sanction of Government for such alteration?

9th. Was the manner of the Judge-Advocate upon the first assembling of the Civil Court, on the 20th December (the particulars of which I have stated from the authority of the other members), such as it should have been in that place and upon that occasion?

10th. Could such a manner be considered in any other light than that of a gross insult to the Court itself, and as mark'd contempt of the authority by which it had been assembled?

11th. Do you think it the duty of an officer holding an appointment under the Crown, when he receives a letter addressed upon the service of his Majesty, and that, too, from a superior authority, to acknowledge the receipt of such letter, and if it requires it to return an answer?

J.H.

[Enclosure No. 13.]

OFFICERS' REPLIES TO GOVERNOR HUNTER.

Sir, Court-house, Sydney, 15th January, 1799.

In answer to the questions your Excellency has been pleased to submit to our consideration, we beg leave to reply to the,—

1st. That we are of opinion that the Judge-Advocate is not authorised by the Patent to issue writs but in conjunction with the two members who, with the Judge-Advocate, constitute the Court, because the Patent, in our judgment, expressly enacts and directs that a Civil Court of Judicature shall constantly be in existence for the purpose at all times of dispensing instant justice, which Court is, in our opinion, alone competent to decide on all actions or complaints of debt—altho' it has hitherto been the practice of the magistrates to decide on complaints of debts for small sums, a practice that we suppose has originated in a misconception of the Patent.

To the 2nd:—That the members of the Civil Court have no right to deligate any authority to the Judge-Advocate to issue any writ whatever, unless they are present.

To the 3rd and 4th we answer in the negative.

To the 5th and 6th we answer in the affirmative.

To the 7th and 8th we answer in the negative.
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9th. Is a subject, in its nature, of such extreme delicacy (Mr. Dore not being present to account for his conduct) that we must decline offering any opinion on it. And on the 10th we are, with submission, of the same opinion.

11th. We conceive neglecting to acknowledge any public letter from the Governor to be disrespectful and highly improper.

We have, &c.,

J. FOVEAUX.
GEO. JOHNSTON.
JNO. SHORTLAND.
JOHN MCArTHUR.
J. T. PRENTICE.
AUGUSTUS ALT.
WILLIAM BALMAIN.

I beg to answer the first question by a simple negative, and in all the others I perfectly agree with the foregoing signatures.

H. WATERHOUSE.
R. JOHNSON.

To the first question we answer only in the negative, and to the ninth and tenth questions, the Judge-Advocate's conduct was highly improper. To all the other questions we are of the same opinion with the other subscribers.

WM. KENT.
S. MARSDEN.

[Enclosure No. 14.]

JUDGE-ADVOCATE DORE TO GOVERNOR HUNTER.

Judge-Advocate's Office, 20th January, 1799.

The Judge-Advocate has the honor of the Governor's official communication* on the subject of the meeting conven'd by his Exc'y on Tuesday last.

The Judge-Advocate, in obedience to the Governor's commands, will certainly pay due attention to the unanimous opinion of the chief officers of the colony. At the same time he presumes that it is intended to regulate future proceedings without any retrospect to the past, the cancelling or suspending of which his Exc'y may be assured will inevitably be productive of very serious inconvenience to the public.

In the copy of the Patent which the Governor furnish'd the Judge-Advocate with for his instruction the words alluded to by his Exc'y are omitted, consequently the error rests with the transcriber. Otherwise such words obviously carry with them a meaning which it was not possible to have misconceiv'd, namely, "That a Civil Court of Judicature shall constantly be in existence for the purpose at all times of dispensing instant justice."†

* Note 110.  † Note 111.
The Judge-Advocate takes leave to request his Exc’y will be pleased to direct a copy of all the questions proposed at the meeting to be sent, without which his narrative of these proceedings will necessarily be imperfect, and a chasm appears in the details which his friends in England will be at a loss to account for.

The Judge-Advocate is surprised to hear a report has been current at Parramatta that Mr. Atkins shortly expects to resume his office as Acting Judge-Advocate, and the tone of exultation with which that gentleman has thought proper to give out that he has declar’d the writs lately issued to be null and void seems to afford a reasonable conjecture from what quarter, and to answer what temporary purpose, this report has originated.

[Enclosure No. 15.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

21st January, 1799.

The Governor has no other observations to make to Mr. Dore upon the sense and meaning of the Patent than to remark that Mr. Dore is desirous of putting a sense upon it which no officer or other person in the colony can admit, as appears by the unanimous opinion laid before the Governor, and in which he perfectly coincides.

The transcript of that part of the Patent which has been the subject of consideration is correct; the words which Mr. Dore has thought proper to quote, and is desirous of considering as the express words of the Patent, if he will take the trouble to recur to the answer made by the officers to the Governor’s first question, he will discover that it is the language in which those gentlemen chose to convey their construction of the sense and design of the Patent, and not what Mr. Dore is dispos’d to imagine may be the words of that instrument.

Mr. Dore presumes that the opinion of the Governor and officers is intended only to regulate future proceedings without any retrospect to the past. But as Mr. Dore knew long before the Governor saw it necessary to collect the opinions of the officers that those opinions were unfavourable to his plan, which they have not hesitated to declare illegal, he cannot suppose that they will sanction what they have so often condemned as wrong. Mr. Dore has had very early information upon this subject, but has chosen to hold in contempt and to act in defiance of such opinions.

Mr. Dore’s observation respecting Mr. Atkins wou’d have been more properly sent to that gentleman. The Governor desires Mr. Dore will not trouble him with insinuations of a private nature.
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which respect others, and with which he can have no concern. Mr. Atkins is capable of answering for himself, if Mr. Dore has any charge to bring against him. He shall be informed of the report Mr. Dore has heard to his disadvantage, and he may perhaps be able to trace the source from whence it came.

[Enclosure No. 16.]

JUDGE-ADVOCATE DORE TO GOVERNOR HUNTER.

Sir, Sydney, 22nd January, 1799.

Misconception As no part of our correspondence on the subject of the Patent seems likely to remove the obstacles which have occurred in the construction of it, I shall give your Exc’y no further trouble than merely to observe it appears rather extraordinary that the tenor and meaning of so important an instrument should have been misconceived for such a series of years, and by so many able and intelligent officers, and now only begun to be understood because the Judge-Advocate has in his professional character offered an interpretation of it which your Exc’y is not disposed to allow.

I cou’d have wish’d your Exc’y had favoured me with the names of those gentlemen whose opinions you are pleas’d to say I have held in contempt and set at defiance, and had pointed out at what time those opinions were said to have been suggested to me. I shou’d have had an opportunity of convincing your Exc’y that I am incapable of arrogating to myself any power inconsistent with the duties of my office.

You, sir, have done me the honor in more than one or two instances to say you left the exercise of those duties entirely to myself, in full confidence of my judgement, nor did your Exc’y ever express any doubt to me as to the legality of my proceedings until after you had convened the officers of the colony and taken their opinion on the subject. Permit me to remark that such a measure was altogether unnecessary, so far as my sense of duty was implicated, since I shou’d most certainly have paid every respect to your Exc’y’s pleasure, so soon as it had been signified to me either officially or privately; and after observing that the affairs of the trading part of the colony are every day getting more and more confused and deranged on account of the total suspension of law proceedings (produced by this recent construction of the Charter), I beg leave to add that I wait your Exc’y’s commands, and have the honor to remain, &c.,

RICHD. DORE.
HUNTER TO PORTLAND.

[Enclosure No. 17.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

Sir,

23rd January, 1799.

I have no inclination to dwell longer upon the subject of that Patent, the tenor and meaning of which you express surprize shou'd not have been understood untill now; but this being your opinion only, I shall observe that it never has in mine been misunderstood untill your arrival in the colony, nor have I upon any occasion which concern'd our Courts of law had difficulty or trouble in my public situation to contend with until that period.

The meeting which I assembled was for the purpose of a full and complete investigation of that very Patent, and the only difference in the construction of its sense and meaning from former opinions which that assembly entertain'd was that it appear'd to be the object and design of that instrument that a Court of Civil Jurisdiction shou'd be constantly in existence in this colony, the occasional members of which being at all times known cou'd be assembled at an hour's notice for the purpose of instant justice.

It is impossible I shou'd not feel astonishment at your appearing not to know that the two junior members of this last Civil Court are the gentlemen whose opinions you appear'd by your treatment of them to hold in contempt, and to have set at defiance, by issuing writs from your own authority, after they had publicly and in your own presence declared them illegal.

It was always my wish to leave the duties of the Judge-Advocate to the sole management of whatever officer might have been appointed by his Majesty to fill that office, so long as he acted consistent with that instruction by which he shou'd be govern'd; but it is a part of the Governor's duty, whenever he shall see just cause, to interfere and to forbid every improper innovation upon those instructions.

You are, sir, incorrect in your observation that I never expres'd any doubt of the legality of your proceedings untill after I had conven'd the officers of the colony, because on the 20th of Dec'r, when you left the Court in the extraordinary manner you then did, you soon after call'd upon me; I on that occasion gave you my sentiments on your having arrogated to yourself a power of acting independent of the other members of the Court, and which in my judgement was illegal.

I have no will of my own to gratify or indulge contrary to the general good, nor am I dispos'd to meddle in concerns of so much importance as those for which the law has so amply provided; my desire is, that the instructions we have been supplied with, and
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which appear to me to be plain, clear, and intelligible, may be our constant guide. There does not seem any room for misconstruction by the trading part of the colony. I can only imagine you may allude to the private petty dealers, who are in my opinion a public pest, a class of people ruinous to that description of men who ought to be the chief support of the colony—the laboring farmer.

Our ideas seeming to differ so very widely in points of some consequence is sufficient cause for my desiring that you shou'd consider the confidential situation into which at your own solicitation,* I had chosen you as now at an end.

I am, &c.,
JNO. HUNTER.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.
(Despatch† No. 40, per H.M.S. Buffalo to the Cape of Good Hope.)

Sydney, New South Wales,
21st February, 1799.‡

The increasing perplexitys which have of late attended some of our law proceedings, and the present appearance of party taking place in our Courts, are considerations of such weighty importance that I shou'd consider myself highly deficient in my attention to his Majesty's service were I not to make your Grace acquainted with the necessity of an immediate remedy or some instructions on the subject. My separate letter of this date wdl in some degree shew from whence some part of those difficultys may reasonably be suppos'd to arise or be encourag'd. But that your Grace may have the most clear and distinct evidence of the prevalence of party here, operating in various ways to the injury of the public service and general interest of the colony, I transmit some circumstances relative to the proceedings of a Court of Criminal Judicature lately held here for the trial of several offenders.

I shall only remark here, my Lord, that no difficultys of the nature alluded to were ever known in this colony formerly. I had vainly hop'd and believ'd that the Judge-Advocate, lately arriv'd, wou'd have proved a public advantage to all our judicial concerns, and, thro' that means, a vast relief to my mind, and that he would have convinc'd the whole colony that he wou'd exercise the dutys of his office in the most independent manner, unconnect'd with party of any kind. To shew how far I am warranted in saying

* Note 112. † Note 99. ‡ Note 113.
that a party exists in this colony for the most indefencible of all purposes, comenting upon all the public measures which are found calculated to interfere in any degree with the private objects and views of the dealers, whose ruinous traffic I have said so much upon, and putting the most inaplicable and malicious constructions upon them, and forecasting, wherever it may be possible, stumbling-blocks in my way and in that of such officers as may have spirit and independence enough to co-operate with me upon public service, I transmit at length the trial of a man whose prosecution I must declare to your Grace has appear'd to me to have been carried on thro' a chain of such evidence as wou'd not have been admitted in any Court of law in England, Scotland, or Ireland; the minutes of the Court will, without any remarks of mine, satisfy your Grace upon the subject. But it may be necessary, in order to make it clear to your Grace that I have no motive but the general good, and that my representation upon this occasion proceeds from a most ardent desire of seeing rigid justice administer'd to all his Majesty's subjects who reside here under my authority, and to prevent, as far as it may be in my power, everything which has the smallest appearance of oppression, I judge it proper to point out who this man whose sentence I have not confirm'd is—Isaac Nichols. He was chief overseer of the different gangs employ'd in labour of various kinds about the town of Sydney and its vicinity. His general conduct and character, after an experience of two years and a half in that station, stood high in my estimation, as well as in that of Captain Johnston, my aide-de-camp, from whom he in general receiv'd my orders, altho' frequently from myself in person. He was of more advantage to the prompt execution of the different works upon which he was employ'd than any man of his line in the service of Government within this settlement. He officiated in all the duties of a superintendant, altho' only an overseer, with the utmost assiduity and most conspicuous diligence, and sav'd much trouble to me by his unwearied attention. Being a free man, altho' formerly a convict, his sentence having been expir'd some years, and being a most examplary character, he had a small farm, upon which, having no sallery, I allow'd him, as a compensation for the weighty dutys he perform'd, two men. By means of his sobriety and industry he had sav'd as much money as enabled him to build himself a comfortable house for the accommodation of not only himself and his family, but he let it occasionally to strangers; and, in short, this man, by his diligence and sobriety, was prospering. To remove from the service
of Government a man so truely usefull will ever be an object
with those whose private concerns are in any way effected by a
close attention to those of the public; he therefore became an
object to be notic'd, because he stood in the way of others.

It is from my examination of the minutes of the trial, the
nature of the evidence, and the characters who appear'd against
him, that I feel myself justified in pronouncing the verdict erron­
eous, as far as my judgement will serve to direct me. Your Grace
will see from the trial itself, which is herewith inclos'd, the
charges exhibited against this man, and with respect to the con­
vict evidence in support of that charge I shall only say that they
are amongst the most abandon'd characters in this settlement.
Your Grace will also have the votes or opinions of the members
who compos'd the Court, as well as the written and verbal testi­
mony offered to the character of the prisoner and produc'd in
Court from respectable authoritys.* From all these proofs and
testimonials your Grace will observe some ground for fearing a
prejudice in the case of this man, for as far as the hearsay
evidence which has been allow'd against him has been consider'd
by me, there does not appear anything like proof to convict him;
nor can I admit that hearsay evidence rhou'd have been suffer'd
on so serious an occasion as that where a man's life may be in
danger; yet it was admitted by the Judge-Advocate, whose duty
it was to inform the Court in what instances such evidence
cou'd be allow'd, and the more particularly thro' such characters.
In short, my Lord, it will be a happy circumstance for this colony
when its Court can be form'd more upon  the plan of the mother
country, with an upright and independent Judge at its head;
for here, my Lord, the people are so extrem'ly bad, so very
abandon'd in principle, that if this kind of hearsay evidence is
admitted in our Courts for the trial of criminals, or are in any
way encourag'd to come forward, there can be nothing so easy as
to furnish any number upon any occasion. No  virtuous or
honest character can feel himself safe; a wicked or jealous neigh­
bour may plan his destruction, and with ease obtain this kind of
proof to endanger his life; and if ever party shall get footing in
our Courts ruin to the colony and all its concerns must inevit­
ably ensue. An innocent man, if he has any enemys—and few are
wholly without—will be in continual danger. These circum­
stances demand in the Governor of this colony the most rigid and

* Note by Governor Hunter.—Those votes I shou'd not have desir'd but for the sole
purpose of making the whole of this trial clear and distinct to your Grace, and to
shew that I have sufficient reason for disapproving the sentence.
scrupulous examination of the minutes of every trial, and before he ventures to affix his assent to the verdict he ought to consider the whole evidence and circumstances.* Well, he shou'd use every means to satisfy his own mind.

But here, my Lord, you will discover by the inclos'd letter of the Judge-Advocate to me, No. 3, in answer to mine, No. 2, that he has voted at a meeting of magistrates for carrying the sentence of a Court into execution without waiting for my approval. This man, my Lord, has us'd the authority of other magistrates without their knowledge to support his views of snatching out of my hands an essential part of the executive authority of the Governor. Your Grace I am convinced will pardon my expressing myself rather warmly upon such occasion, but I must declare, my Lord, that had an opportunity been within my power I shou'd have order'd him to return to England. It is evident he is influenced by a party to act as he has done, and such appearances will be ever dangerous to the peace and tranquillity of the settlement. The people see the prevalence of such party, and as many seditious characters are to be found amongst us, I conceive such appearance injurious to his Majesty's authority and government. If any grievances or oppressions were found to exist on my side, or were felt to proceed from me by any one person of any description within this territory, they shou'd be made known in order to their being got the better of. Whatever may be the meaning or design of such confederacies, I shall only assure your Grace that I will be found what I ought to be—firm and determin'd. Surely, my Lord, the written testimony offer'd by myself and others to the character of the prisoner Nichols we had reason to hope would have had some weight where so small a majority voted him guilty; but instead of its having been usefull to the man with that part of the Court, had he appear'd from respectable proofs to have been guilty to the full extent of the charge, his sentence cou'd scarcely have been more severe. It is, I confess, my Lord, evident to me that there was a point to be gain'd. I cou'd coment largely upon this trial, but it may be improper I shou'd. I have therefore only to request that your Grace may receive some law opinions upon it after the different papers have been examin'd, and satisfy your own mind how far my ideas have been proper. I may then be instructed upon this subject when I have next the honour of dispatches from your Grace.

Your Grace will also receive the trial of another prisoner whose character has ever been bad in this colony. It will appear that the Court, in deciding upon this prisoner's case, were divided in

* Note 114.
their judgement, there being (according to the J.-Advocate's account to me) two naval officers who found him not guilty. One officer of the same description found him guilty in part, but not to the extent of capital punishment. The three military officers found him guilty, death, and the Judge-Advocate gave his casting-vote for his death; so that by this last vote there is a majority for this man suffering death. But as the Patent expressly directs that execution shall not take place unless five out of the seven members concur in the verdict until such time as his Majesty's pleasure shall be known, the sentence of this man will therefore continue suspended until I shall receive his Majesty's commands upon it.

Since I wrote the above another prisoner has been convicted and cast for death by the same majority—the J.-Advocate's casting-vote. This man being under similar circumstances with the one above mention'd, his trial is also inclos'd. He was an evidence in favour of the prisoner Nichols, and complains that his misfortune has arisen from that circumstance, but with what justice it is not possible to determine at present. I transmit his petition to me after condemnation, and a letter which he wrote to one of the members of the Court. In this letter, as well as in one address'd by the prisoner Nichols to the members of a Court of Inquiry I had order'd to be conven'd, the minutes of which I send herewith, your Grace will observe the steps pursued by certain persons therein nam'd to draw confessions from this wretched young man under the pressure of his misfortunes and melancholy situation, and with a promise of obtaining his pardon for the purpose of farther criminating the prisoner Nichols, and confirming the justice of the sentence past upon him, because I have consider'd that sentence erroneous. These attempts, my Lord, in my judgement, serve only to occasion suspicions unfavourable to that decision. When officers can so far forget themselves as to enter a common goal for the purpose express'd in those letters, what can we suppose but that a party of men have confederated for the purpose of gaining some particular point; and that point has appear'd to me to be the possession of an authority which they shall never wrest out of my hands whilst I am capable of holding it.

I have judg'd it necessary, in consequence of the letters which I receiv'd from the three military officers who were members of the above Criminal Court, and which is inclos'd in my separate letter of 30th April, herewith sent, to inform those naval officers who were also members of that Court that those gentlemen had
propos’d to make observations upon the trial of the prisoner Nichols, and hop’d I wou’d transmit them to your Grace with my dispatches: the naval officers have in consequence requested that I will transmit their observations also; they are therefore enclos’d, and I am of opinion they will serve altogether to shew that I am well warranted in suspending the immediate execution of the sentence pass’d on the above prisoner.

I have, &c.,

Jno. Hunter.

[Enclosure No. 1.]

INDICTMENTS OF ISAAC NICHOLS.

The King

against

ISAAC NICHOLLS late of Sydney in this Territory Labourer stands
 Charged, For that he before the Said* Felony and Burglary
 was committed in Manner and Form and at the time before
 Mentioned, by the said William Collins, Jacob Vanderstein
 otherwise Thomas Jackson, and Anthony Chandler, being Ac­
 complices and Confederates with one Samuel Wright (lately Con­
 victed and executed for Burglary) to wit on the said twentieth
 day of January in the Year aforesaid with Force and Arms at
 Sydney aforesaid did feloniously incite, Move, procure aid and
 abett the said William Colins, Jacob Vanderstein otherwise
 Thomas Jackson, Anthony Chandler, and also the said Samuel
 Wright to do and Commit the said Felony and Burglary in
 Manner and Form aforesaid against the peace of Our Lord
 the King his Crown and Dignity.

The King

agst

the said Isaac Nicholls

On the Prosecution of the same:—

The said Isaac Nicholls also stands charged for that he well
 knowing the said William Collins Jacob Vanderstein otherwise
 Thomas Jackson Anthony Chandler and also the said Samuel
 Wright (lately executed for Burglary as aforesaid) to have done
 perpetrated and committed the said Felony and Burglary in
 Manner and Form and at the time before Mentioned, afterwards
to wit on the said twentieth day of January in the Year aforesaid.

* Marginal note.—The Principals had been Indicted and tried, and one, namely, William Collins, convicted.
said, at Sydney aforesaid in the Territory aforesaid, them the
said William Collins Jacob Vanderstein alias Thomas Jackson
Anthony Chendler and also the said Samuel Wright did then
and there feloniously Receive harbour and Maintain against the
peace of our Sovereign Lord the King his Crown and Dignity.

The King
agst
the sd Isaac Nicholls

On the Prosecution of the same:—

The said Isaac Nicholls also Stands further Charged, For that
he the said Isaac Nicholls afterwards to wit on the twenty
first day of January in the Year aforesaid At Sydney aforesaid
in the Territory aforesaid with Force and Arms One Basket
of Brazil Tobacco being parcel of the Goods and Chattells so
as aforesaid feloniously and burglariously Stolen taken and
carried away feloniously did receive and have he the said
Isaac Nicholls then and there Well knowing the said Goods and
Chattells last mentioned to have been feloniously and burglariously Stolen taken and carried away against the form of
the Statute in that Case made and provided and against the
peace of our Sovereign Lord the King his Crown and Dignity.

The King
agst
the sd Isaac Nicholls

On the Prosecution of the Same:—

The said Isaac Nicholls also stands further Charged for that
he the said Isaac Nicholls being a person of evil Name and
Fame and dishonest Conversation and a common Buyer and
Receiver of Stolen Goods on or about the twentieth day of
January in the Year aforesaid with force and Arms at Sydney
in the Territory aforesaid One Basket of Brazil Tobacco of the
Value of twenty five pounds of the Goods and Chattells of the
said Mary Mullett otherwise Talmage by the before mentioned
Samuel Wright and Certain other ill-disposed Persons then
lately before feloniously Stolen of the said Samuel Wright and
the said other ill-disposed Persons unlawfully unjustly and for
the sake of wicked Gain did receive and have the said Isaac
Nicholls then and there Well knowing the Goods and Chattells
to have been feloniously Stolen to the great Damage of the said
Mary Mullett otherwise Talmage Against the Form of the
Statute in such Case made and provided and against the peace
of our said Sovereign Lord the King his Crown and Dignity.
TRIAL OF I. NICHOLLS.*

At a Court of Criminal Judicature, held by virtue of a precept under the hand and seal of his Excellency John Hunter, Esqr., Captain-General and Governor-in-Chief in and over his Majesty’s territory called New South Wales and its dependencies, on Tuesday, the 12th day of March, in the year of our Lord 1799.


ISAAC NICHOLLS was placed at the Bar as a receiver of stolen goods. The prisoner pleaded “Not Guilty.”

Richard Baylis (admitted an evidence on the part of the Crown):—

Deposeth that on the delivery of the basket of tobacco (deposed to in the trial of Collins, Vanderstein, and Chandler) he was desired by Samuel Wright to take it to the house of Isaac Nichols in Sydney; that he accordingly did so, and about the hour of 5 in the morn’g he wheeled the same down to Nicholls’s house, and enquired for Mr. Nicholls of the servant, who called his master down and asked the witness where Samuel Wright was, at which time Wright came in; that Nicholls and Wright conversed together; that the witness heard Nicholls tell Wright if he would come in the evening he (Nicholls) would pay Wright for the tobacco, meaning the said tobacco the witness had then delivered, and by the order of Isaac Nicholls the witness deposited the said tobacco in a right-hand room of said Nicholls’s house; the witness was then told by Nicholls’s man to leave the wheelbarrow and call for it again lest there should be any suspicion about the tobacco; that a few hours after he went for the said wheelbarrow, and was told by Nicholls’s woman that he had better take the tobacco away, as the alarm about Mrs. Mullett’s robbery had spread, and the constables were in quest of the stolen tobacco and property; that the witness answered he would call for it in the evening; that he took away the empty barrow, and as he was returning therewith he met Isaac Nicholls near the gaol, who asked him where Sam Wright was, to which he replied he was coming down Sydney with one Jack Colley; that he took ye wheelbarrow home to Joe Taylor’s, from whence he was taken into custody on suspicion of robbing Mrs. Mullett’s house of the tobacco; that Samuel Wright was also apprehended afterwards; that the next morning (Sunday) he and Wright were discharged; that the witness then went home to Taylor’s, where he usually resided, when Taylor expressed his surprise at seeing him out of custody without an hearing; that the witness replied he thought it was a planned thing between Kable and Nicholls to detect them in their pursuits after the said tobacco supposed to have been planted; that in the evening (being Monday) the witness, with Wright, went together to the house of Isaac Nicholls, where the servant informed them said Nicholls was not at home; that in the course of the same evening they called again at Nicholls’s, when the servant informed

* Note 115. † Note 116.
them his master was at home, and accosted them thus, "Oh, you are come about the tobacco?" that said servant went up to said Nicholls and brought a message from him importing that the tobacco was placed between two rocks near the new house building for Mr. Moore, and if they chose to go for it they might; that they then quitted the house, and the witness refused to go for it, saying to Wright he would not be hanged about it; but Wright said he would go for it if he could get a boat, to which this witness answered he was sure there were constables set to watch it; that the witness returned home to Taylor's house and related what had passed, when Taylor observed to him that he thought it was as he mentioned from the circumstance of their being released in the morning; that Will'm Geary was present.

Q. by the prisoner to this witness.—Did Wright leave my house at the time you speak of as to the delivery of the tobacco?
A.—Yes; they both went away together.

Q.—After Wright and you were released out of custody, did you come to my house immediately?
A.—No; not till the evening.

Q.—At that time of calling on me, what did my servant tell me of?
A.—As before stated, of the tobacco.

Q.—Was you present when my man told me you was come for payment of the tobacco?
A.—Yes, but could not hear what passed.

Q.—Have you been called up frequently to the Judge-Advocate's office?
A.—Yes; when Mr. Balmain sent for me.

Q.—Was not your deposition read to you since my commitment?
A.—Yes; once or twice.

Q.—Was you not called out of Mr. Dore's by Mr. Balmain at the time of my examination?
A.—Yes, I was.

Q.—Did you not stand in conversation at the same time alluded to with Mr. Bloodworth and Taylor, the painter, about three-quarters of an hour?
A.—Yes. When Taylor was sent for I went out of doors, and Taylor told me, as he had told Mr. Balmain all about it, I had better tell the truth, as they were hanging me as fast as possible.

Q.—Did they persuade or threaten you to confess—meaning Mr. Balmain, Taylor, and Bloodworth?
A.—Taylor told me it would be the best way to confess. Mr. Balmain threatened to put me in irons.

Q.—Did any of the persons above mentioned tell you that you would get clear by confessing more than any other of them in particular?
A.—Nobody but Mr. Balmain.

Q.—Why did you deny any knowledge of the business at first, and afterwards come to this confession?
A.—Mr. Balmain told me if I would speak the truth I should not be hurt.

Q.—Did you hear any person say that when you came to the Court you would make a bungling story of it if you did not recollect, and that he would have you to remember what you had said in your deposition?
A.—No. Does not recollect anything of the sort.
Michael Geary.

His evidence objected to, having been present at the examination of the last witness. Ordered into custody.

James Mansfield (objected to for the same reason, but overruled by the Court), being duly sworn:

Deposeth that about two months since he landed his captain, from the Reliance, at Government Wharf, about 9 o'clock in the evening, from whence he went with the boat to Mr. Balmain's steps, where he landed, and as he was going to the garden-house belonging to Capt'n Waterhouse, a man, well drest, passed him round the paling, near to the new house building for Mr. Moore, and walked away very fast, having upon his shoulder a basket covered with a cloth, which he believed to be a basket of tobacco: that the witness said: "You are in a hurry, seemingly"; that the person made no answer, but quickly turned round the paling; that the man thus described was a tall man, and had a long coat on, and, he believes, muscatoe trowsers.

The baskets of stolen tobacco (produced in Court) being shewn to the witness, he says the basket the man was carrying was similar to one of these; that thinking the man was not upon a good design, the witness called on a comrade, Peter Payne, and they went about the spot where he saw the said man, in quest of him, but they could not find him.

Q. by the prisoner to this witness.—Have you not been in conversation with Dogherty, the tailor, lately?
A. —Yes. On Sunday last Dogherty asked me if I knew anything about the tobacco that had been stolen, to whom I gave the above information.

Q. —Did Dogherty mention a person named Lacey to you?
A. —No.

Q. —Did you never tell any person who you suspected the person with the basket to be?
A. —Not to my recollection; it is so long ago.

Henry Kable, being duly sworn:

Deposeth that about the middle of the month of January last (about the 20th) he was sent for by the prisoner, who wanted to speak to him; that he went to the prisoner's house, and the prisoner told him that an odd circumstance had happened that morning; that his (the prisoner's) servant had acquainted him that two men had been at his house with a wheelbarrow, and desired to leave a bag there with its contents; that his servant did not permit its being left there, but referred the said men to Miller's, where there was a warehouse for them; that the prisoner observed to the witness that the two men seemed to be in a flustration, and had some words together that his (the prisoner's) servant did not understand; that one of the said men took what was supposed tobacco in a blue jacket; that the other man wore a light drab jacket, and that they did not go to said Miller's, but directed their course towards the hospital; that since the time of the said men calling prisoner told the witness he had heard Mrs. Mullett had been robbed, and the prisoner said he had every reason to believe it was a basket of tobacco in the said bag that had been stolen from Mrs. Mullett's, as his servant had observed from the
mouth of the bag being open that the contents were tobacco. And
prisoner further told the witness that if he would look well round
about Mr. Balmain's or the magazine he might find it, being so
light in the morning that it was not possible for them to convey
it far without discovery. The witness then asked the prisoner if
he wo'd accompany him in search thereof, as he (the witness),
being a constable, had the morning before found three baskets of
the like description; that they went in quest thereof, but their
search was fruitless; that the witness then left the prisoner at
home, and in the course of the same day apprehended, of his own
accord, Wright (since executed) and Baylis, on suspicion of being
concerned in Mullett's robbery, and detained them until the next
day, when ye witness, by order of Mr. Balmain, a magistrate,
released them; that whilst said Wright and Baylis were in confine­
ment the witness discovered the tobacco, but did not remove it in
order that from the planting of a constable over ye same some dis­
covery might be made by someone coming for it, but that no one
owning it, the witness, after two or three days, had it conveyed to
Mrs. Mullett, to whom it was restored, from her ascertaining the
property to have been stolen from her warehouse, and having
deposed on oath thereto.

Charles Garratt, of the Reliance, seaman, being duly sworn:—
Depoeth that one evening at the garden-house of Captain
Waterhouse (about six weeks since) he was accosted by James
Mansfield (one of the foregoing evidences), and informed that
someone had gone up the hill with something on his back, and
asked the witness to go in pursuit of him, who answered it did not
concern him, and he would not go; that Mansfield then went away,
and witness retired to rest.

Peter Payne, being duly sworn:—
Depoeth that on the evening deposed unto by Mansfield he was
one of the boat's crew with said Mansfield, waiting on shore at
Mr. Balmain's steps, when said Mansfield told the witness he had
seen a man carrying something on his shoulder, which he supposed
was tobacco, and asked the witness to go in pursuit of him, but
they could not find him.

At half-past 2 o'clock the Court adjourned until to-morrow
morning at 10.

Wednesday, March 13th, 1799, at 10, the Court met pursuant
to adjournment.

James Remnant, being duly sworn:—
Depoeth that about the 22nd or 23rd of February last he called
at the house of Joseph Taylor to inquire after a sick person; that
he entered into a conversation with said Taylor, and the name of
Baylis was ment'd by Taylor, who observed that said Baylis was a
principal evidence against Nicholls, but that he thought Baylis
would not say anything if he was brought forward, for that he
(Taylor) well knew the disposition of the boy (meaning Baylis),
and that he was so fixed in his mind that he would not be bro't
over to say anything; that Baylis had lodged with him for some
time, and he knew his disposition better than anyone. That the
witness observed he was going up to Parramatta if the wind was
fair; and Taylor then enquired if he should be at Toongabbee?
That the witness replied, “I daresay I shall, having business near there.” That Taylor then said, “You know the boy, Baylis?” That the witness answered, “Yes; he had seen him at Toongabbee, and also at his house.” That the witness said he should go to the house of Jones the baker; that Taylor desired the witness would enquire of Jones where Baylis was—observing he believed he was at work at Stapleton’s farm, but that Jones would send for him; that the witness promised Taylor he would see the boy. Taylor then requested of this witness to inform him that everything remained exactly as it did when he saw or heard from him last; that no doubt he would be examined upon the business, but that it rested entirely with him (meaning Baylis), or words to that effect. That the witness went to Toongabbee the following morning after being with Jones, and not finding Baylis there, asked Jones if he knew a lad of the name of Baylis, who replied yes, that he had been there the evening before; that the witness then told Jones he had a message from Jos. Taylor, and wished him to be sent for; that after some enquiries the witness saw Baylis and delivered him the message accordingly, viz., that no doubt he would be brought up, and that some little promises might be made to him; that Capt. Wilkinson would exert himself in the discovery of the business; but whether he chose to satisfy Capt. Wilkinson by giving him any information, he might act in that respect as he (Baylis) thought proper; that Baylis thanked the witness, and told him he should be down at Sydney the Friday following, which he desired the witness to inform Taylor; that on the witness’s return be informed said Taylor thereof respecting the prisoner. The witness would not take upon him to relate any particular conversation passing.

Joseph Taylor, being duly sworn:—

Deposeth that about three weeks since he met the prisoner opposite the house of Major Foveaux, in Sydney, who asked the witness when he had heard from the young one (meaning Richard Baylis)? Who answered, “The last week.” That the prisoner then asked the witness if he thought the boy (meaning Baylis) was staunch? That the witness answered he thought he was. That the prisoner then replied if he (meaning Baylis) was staunch in this he should never want for anything whilst he was on the island—adding, if he is staunch in this nothing could hurt him (the prisoner) in this affair—meaning the affair of the tobacco taken by Baylis to the house of the prisoner; that some time after the prisoner came up to the witness in the town of Sydney, and told him, the young one (meaning Baylis) was sent for by the magistrates, but that if the boy was staunch nothing could hurt him (the prisoner); that Baylis, who lived in the same house with the witness, had frequently conversed with him, and had told the witness that he had wheeled one basket of tobacco delivered to him by Wright, for the purpose of conveying to Isaac Nicholls’s house, and that he (said Baylis) had so done by taking the same in a wheelbarrow; and that the prisoner had told him (said Baylis) to come again for the money, and that when he went for said payment he was told that the said tobacco was stowed between two rocks, and he might fetch it if he wold; and that he told ye witness Wright accompanied him to the house of the prisoner on that occasion; that the witness advised him to have nothing to do in the business, and desired him to leave his house; that he went to Toongabbee. Remembers James Remnant
having some conversation with him, but will not say that he
sent any message to Baylis, as stated in that witness's testimony,
or that he had any conversation respecting Mrs. Mullett's robbery.
The message he sent to Baylis by Remnant he declares to have
been only to remember him to the boy.

Q. _by the prisoner to this witness._—Had you any conversation
with one Underwood respecting this bus's?
A. — You were the subject of some conversation when I worked
at Underwood's; and the reward you offered in a public advertise-
ment was the subject of it.
Q. — Did you deny to Underwood having any knowledge of the
bus's of the tobacco or knowing anything about it?
A. — I do not recollect I did, and if he had I sho'd not have
answered him.
Q. — Did you not always suspect Baylis to be a worthless
character?
A. — No, I did not.
Q. — Did not Wright, lately executed, frequently lodge at your
house?
A. — No, he did not; he has been at my house, but never laid in
it in his life.
Q. — Has not your house been frequently searched on suspicion
of having stolen goods therein?
A. — Never but once, and then no property was detected therein.

James Lacey, being duly sworn:

Deposeth as follows—but first premises that his evidence was
obtained under ye following circumstances, and fearing imputation
may attach to his testimony relates that he has been in the habits
of intimacy with one McDonald, a prisoner for debt in the gaol at
Sydney, whom he used to visit, and in the course of such access to
the gaol, Wright (since executed) was committed, together with a
man of the name of Noble, who was admitted evidence ag'st said
Wright; that Wright advised with the witness on his case; the
witness, knowing that Noble had not been sworn in as an approver
for the Crown, and well aware of the bad character of the deceased,
advised Wright to turn evidence, and by impeachment save his own
life; that he thereupon wrote a letter for him to Mr. Balmain, and
previous to the said letter being sent the said letter to Henry Kable, the keeper of the gaol, and by desire of the
deceased the witness ment'd to Kable that he could discover Mrs.
Mullett's robbery and the receivers of the property stolen; that to
this information Kable paid little or no attention, saying he knew
sufficient about it, and wanted to hear no more of it. Kable then
promised the witness that he wo'd deliver the said letter to Mr.
Balmain immediately, and that this transaction was on the day
preceding the trial of the said Wright in the afternoon thereof,
but that the witness hath since been informed by Mr. Balmain
that the said letter was not delivered to him until the next morn-
ing, about the time when Wright was just to be put on his trial
at the Criminal Court (the said letter produced and deposed to by
this witness, and is as follows, vizt.):—

Sir,

Sensible of the enormity of my offences, and wishing to live
to atone for them, if I am admitted as an approver I have ye means
of discovering the robbery of Mr. Williamson and bringing the perpetrators to justice. I am well aware of the consequence of trifling in my evidence, and shall therefore be clear and explicit by bringing such articles as can be identified.

Ye repent't serv't,

Saml. Wright.

That the witness has had frequent conversations with the said Wright, in the course of which Wright repeatedly told him that he had sold the prisoner a quantity of tobacco, which had been stolen from Mrs. Mullett; that in one of these conversations Wright exclaimed that he had lost his life for want of forty shillings (that this last-mentioned conversation was after Wright had rec'd sentence of death); that he had applied to the prisoner (Nicholls) for that sum to carry him to the Hawkesbury, as he feared suspicion, but Nicholls had refused him, and he thought it an hardship to be refused so small a sum, considering the dealings they had had together and the sums that Nicholls stood indebted to him in accounts current:—

Q. by the prisoner to this witness.—Was any other person present when this confession came from Wright respecting me?
A.—Our business being of a private nature, I believe not.

Q.—How do you get your living?
A.—By working at my trade as a tailor and by copying manuscripts.

Q.—Was you not ordered to stand under the pillory when the three men were exposed to public view that you hired to perjure themselves on the trial of Morris?
A.—I was ordered to stand there, but deny the commission or the smallest implication of guilt, and I conceived it an extra-judicial proceeding.

Q.—Did you ever give the three men the bills that you obtained to hire ye men for the perjury?
A.—I have answered that question by the former.

Q.—Have you not been in the habit of calling on Bromfield in the gaol daily?
A.—Yes; by desire of Mr. Balmain I attended the gaol, but not particularly to visit Bromfield.

Q.—Why did you send tea or coffee to Bromfield morn and ev'ning repeatedly in the gaol?
A.—For the best of reasons; merely because I thought he wanted it.

Q.—Have you not had an hatred to me since I called you to Governm't employ by order of Capt'n Johnston?
A.—I never had any rancour ag'inst you neither before or at the present time, nor was I ever under your authority.

Henry Kable, being duly sworn:—

Deposeth to the letter produced; that he rec'd the said letter about 3 o'clock on the day preceding the trial of Wright, and admits that he did not deliver said letter to Mr Balmain until the next morning, which was ye day on which said Wright was tried and convicted. The witness further adds that he intimated to Mr. Balmain before the time of writing the said letter that Wright, thro' M'Donald, a prisoner in the gaol for debt, had told to him the purport of the letter, but that Mr. Balmain refused to admit
the said Wright as an evidence; that the day said letter was
delivered him he went twice to Mr. Balmain's therewith, but Mr.
Balmain not being at home he declined leaving it.

Richard Broomfield, being duly sworn:—

Deposeth that the morning before the execution of Wright, being
himself a prisoner, he was walking in the gaol-yard with him,
and the prisoner Nichols happening to pass by the gaol, Wright
exclaimed, "There is the man that is the cause of my death and of
my being here, for if Nichols had paid me for the tobacco I sho'd
not have committed the crime I am now under sentence for "; that
the witness asked Wright what was the reason he had not been
paid, who replied that his being put in gaol prevented him, and he
understood (on his first commitment) that his being released when
taken up on suspicion was that he might go for the tobacco, having
rec'd a message from the prisoner Nichols informing him that he
(said Nichols) had removed the tobacco to the rocks, and that said
Wright may take it away; said Wright further informed the wit­
ness that he also rec'd another message from Nichols's wife that
he must go for the tobacco, as the constables were watching it;
that the witness asked said Wright if he had ever applied to the
prisoner for any payment, who told him he had for so small a sum
as forty shill'gs, which Nichols had refused, but told him he wo'd
get him a passage in the first ship going for England; that the
witness asked said Wright if it was not ill-done of Nichols, who
answered that said Nichols had took his property and wanted to
have him taken.

Q. by the Court.—What tobacco do you allude to in this con­
versation with Wright, and how do you know the prisoner had
anything to do with it?
A.—Wright informed me it was the tobacco he had stolen from
Mrs. Mullett and sold to Nichols.

Q. by the prisoner to Broomfield.—Was Wright allowed to walk
the gaol-yard the day before he suffered?
A.—He was walking in the yard even on the morning of his
execution.

Q.—Was you in the habit of reading to Wright?
A.—Yes.

Q.—Do you know the quantity of tobacco Wright said he had
delivered to me?
A.—No; he never informed him.

Q.—Has Lacey been in the daily habit of calling on you in gaol?
A.—Yes, he has.

Q.—Did Lacey give you any instructions what to say on this
trial?
A.—No.

Q.—Was any other person present when you was in the habit
of reading to Wright?
A.—The prisoners who were in the gaol might be present.

William Johnson (the public executioner), being sworn:—

Deposeth that he attended Wright to the place of execution in a
cart, and that he made the following voluntary confession:—When
they came up the hill in sight of Simeon Lord's house, said Wright
exclaimed to the witness, "That is the house for which I am
going to lose my life," and he asked the witness for a drink of water, which was given him; that whilst the water was getting he the said Wright looked towards the house of Isaac Nicholls, and said, "Oh, you wicked man, Isaac Nicholls, had you given me the money you owe me, I should have left off my wicked ways, and gone quietly out of the country"; that the witness then asked Wright how much money it was, when Wright answered, "Upwards of £60"; that the witness inquired what it was, when Wright answered, it was for property; that he went down to Isaac Nicholls for £20 one evening, when Nicholls's woman refused him, and said that Nicholls w'd have nothing to do with the tobacco, for they had sent it on the rocks; that said Wright informed the witness that he answered said woman that he ventured his life for the tobacco, and it was his property, and he w'd have it; that he then went away, and that some time after the said woman sent him the following message: "Sam, don't go near the tobacco, for it is tailed."

Q. by the prisoner to this witness.—Was any person present when the above confession was made?

A.—Wass was in the cart, who was sentenced to be flogged at the place of execution at same time.

At 3 o'clock the Court adjourned until to-morrow morning, 10 o'clock.

Thursday morning, 10 o'clock, March 14th, 1799, the Court met pursuant to adjournment.

Joseph Wass, being duly sworn:—

Declares that he was in too much trouble at the time he was in the cart with Wright and the executioner to remember any conversation that passed between them.

Hugh M'Donald, being duly sworn:—

Deposeth that he had frequent conversations with Wright, being at the same time a prisoner himself for debt in the common gaol; that said Wright frequently advised with the witness on his turning evidence; that the witness communicated such his desire to Kable, the keeper of the gaol, who answered the witness that Wright had no such intention, and meant only to baffle the magistrates; that Kable further told the witness it was of no use Wright's turning evidence, there was enough to prove the robberies without him, and that this conversation passed between the witness and Wright the day preceding the trial and conviction of said Wright; that the witness well remembers a letter being delivered to Kable about 3 o'clock on the day before the said Wright was tried, which letter was written by one Lacey, and in the presence of each other given into the hands of Kable, who went to Mr. Balmain's therewith, and returned saying Mr. Balmain was not at home, but he would faithfully deliver said letter that evening or the next morning.

Thomas Smith, being duly sworn:—

Deposeth that on the day before the execution of Wright he was in the town of Sydney, and near the gaol he met with William Wright, the brother of the deceased, and entered into conversation with him, when the witness recommended to said William Wright that, as his brother was about to suffer, it w'd be advisable that
he should explain under the gallows about the tobacco that was stolen and sold to Isaac Nicholls, to which said William Wright replied he had asked his brother, who informed him Nicholls had received some of it; that he (the deceased) had himself delivered the tobacco to Nicholls; and further, that at the time of such delivery Nicholls promised him (the deceased) that if he would call in an hour's time after said delivery he (Nicholls) would pay him for it; that the deceased told his brother, who related this conversation to the witness; that he did so call, and that Nicholls then told said deceased that he would not have anything to do with the tobacco, for he (Nicholls) had hidden it in the bushes, and told deceased he would go and shew him where it was, and that there was a constable or two ready to take him.

Q. by the prisoner.—Did Wm. Wright observe to you when or at what time this happened?
A.—No.
Q.—How long have you left Jos. Taylor's house?
A.—Fourteen weeks next Sunday.
Q.—How long did you lodge at Taylor's house?
A.—From the time the Barwell arrived until I went to live with Capt'n McArthur at Parramatta.
Q.—Have you had any conversation with Jos. Taylor lately?
A.—Yes.
Q.—Was any person present at the time you had the conversation you have given in evidence with William Wright?
A.—Nobody.

Capt'n John McArthur, being duly sworn:—
Deposeth that the last witness is his servant, and that he informed him on the evening preceding the execution of Saml. Wright that in a few days he would be made acquainted with a circumstance that would astonish him, and on being interrogated what that circumstance was, he replied that Saml. Wright would confess at the gallows that he had been concerned in the robbery of Capt'n Wilkinson, and that Isaac Nicholls had received or agreed to receive part of the tobacco stolen from Mrs. Mullett's house, the property of Capt'n Wilkinson.

William Balmain, Esq., being duly sworn:—
Deposeth that Henry Kable informed him, the witness, that the prisoner Nicholls told Kable where the tobacco was, and expressed himself obliged to Nicholls for the information, and in conversation with said Kable he informed the witness that he, as gaoler, reported Sam. Wright as an hardened man, and that he could extort no confession from him.

Prisoner has no question to propose to this witness.
Here the evidence for the prosecution closed.

Prisoner's defence (in writing):—
The warrant of commitment charges me with having received stolen goods knowing the same to be stolen. On the back of this commitment I am charged with being an accessory before and after fact. As to three of the indictments I consider them a mere matter of form, and as to the fourth I am so conscious of my innocence that I conceived it unnecessary to object to its relevancy—the pitiful
set of evidence adduced in support of this prosecution has no doubt impressed the minds of this truly respectable Court in what dishonorable manner the prosecution has originated.

The wretched character, Baylis, so glaringly prevaricated in his evidence that did I not forbear giving trouble to the Court I would have insisted for his being committed and tried on that head, but he is so notorious, and such a wretched character, that I suppose this honorable Court will consider his evidence as false framed and maliciously invented, and that no attention whatever will be paid to it. You, gentlemen of the jury, call to mind the position in which he stood, how totally unprepared he stood to my questions, and how evident it must appear to you from his declaration that he is at heart a villain; positively his looks sufficiently prove him to be what he is—a most consummate and a most wretched being.

Advert to his evidence; look at his palpable prevarication, and say, as God directs your consciences, whether or not his testimony is worthy of any the least credit, and will you take upon yourselves to say that he has not in several instances been guilty of perjury. He appears to be of that description, and indeed, his conduct proves him to be a being who for the lucre of one shilling would sacrifice his soul was it at his command. It is not long ago since he was tried for robbing Miller, the baker, and was he to disclose to you the robberies he has committed it would readily convince you what he is; but I conclude him too trifling for notice.

James Lacey.—If any difference appears between this and the wretch above mentioned, it is thus—Lacey has sense enough to be too great a rogue without a tutor, and Baylis is not; he is only guided by others. Lacey is too notorious a character to escape public notice; he was sent to Norfolk during the time of Govr. Phillip, and from some of his illicit practices there the Governor of that island caused him to be extended in the form of a spread eagle against some post or railing, with an iron collar round his neck, and an inscription or label affixed to his back, enjoining the public not to converse with or have any communication with him; and he admits his standing under the pillory here, but denies that there was any authority for being there. The Provost-Marshall can prove the authority he had to cause him stand. This witness mentioned my having an account current with Wright. How false! But it is the hearsay evidence of Lacey which can have no effect; there is not a word from any other witness to confirm it, with him being a most dangerous character, and that under pain of corporal punishment. He has since stood under the pillory at Sydney whilst three men, namely, Luke Normington, Wm. Osborne, and John Colly, stood in the pillory, exposed to public view, for giving false evidence on the trial of Morrison, to which they say were bribed by Lacey. He received from Morris two bills to pay these unfortunate men, but he did not find it convenient to part with it, and how far his or their evidence is admissible let this honorable Court determine. It is a fact not to be denied that he is a person wholly addicted to gambling; that he thereby gains a livelihood with the few pitiful pence he receives from the gaol prisoners for stating their grievances.

Richard Broomfield.—This is a person who was under my direction in Govt. employ, and who I detected in stealing corn from...
Govt. stock-yards, and upon his being so detected he struck me repeatedly, and had it not been for the interference of Mr. Laycock and Serjt.-major Jamison, he would have deprived me of my life; he has since declared "that had it not been for them he would have taken care that Nicholls never should detect another stealing corn; that revenge was sweet, and if he had it not then, he would in a few days." And since my confinement Lacey is constantly attending him in gaol, polishing his memory.

William Johnston.—This exemplary character, the hangman, I need not say much about him. I flatter myself it is the first instance ever known of the common executioner being admitted evidence. He humbly apprehends it is inconsistent with the laws of England; but let this honorable jury give their determination. No doubt this hero will exult in the idea of my falling into his hands. Some weeks ago Kable and myself detected two men carrying corn from the house of Johnston to the house of Mrs. Mullett, which they told us they were to exchange for liquor. The quantity of corn they then had might have been about six or seven bushels, which, together with Johnston and the two other men, were taken to the Judge-Advocate's office, who ordered the corn to be returned to Govern'm't stock and one of the men to be punished. And I have no reason to doubt but Johnston would have been also punished could any other person be found to exercise his office.

Joseph Taylor, a painter and glazier.—This is a character always suspected of the most atrocious crimes, and the constables have frequent occasion to search his house for stolen property. His house is of the worst fame. Sam'l Wright, who lately died, as also this Baylis, frequently lodged at his house. So a tree is to be known by its fruit. Taylor is a man for life, and no doubt will go any length to procure friends to extricate himself from that dilemma. Is it consistent with reason that I would entrust this man with any secrets? that I would disclose my mind to him in the street, a man with whom I had no intimacy? No! But he is come forward with the glaring evidence you have heard to exculpate himself and his associate (Baylis); but no doubt the arm of justice will soon overtake them.

Gentlemen of the jury, I will comment but little on the evidence which has been adduced for the prosecution. I cannot hesitate to assert that a prosecution so pregnant with malice, cruelty, and oppression never was set on foot. The most minute investigation has taken place, yet I flatter myself all the shafts of envy, all the darts of malice, cannot stain my reputation, which has remained for years totally untarnished.

I have called on his Excellency Gov'r Hunter, whose testimony is to me the most pleasing. To you it must be conclusive and satisfactory. It must appear to you as a bright star shining and accompanying truth and honor. Can you for a moment hesitate to pronounce me an innocent victim to the cruelty and oppression of party rage? But let domineering cease. His Excellency Gov'r Hunter still lives to crush oppression and its venomous roots. He is the fountain of mercy and spring of justice. I am his servant; yet he has condescended to send me a written character to this Court of my conduct as overseer.

To confirm it, I afterwards adduced to you the character sent by George Johnston, Esq., his Excellency's aid-de-camp, and
others under them. Yet, of what am I accused, and where is my prosecutor? Some tobacco has been stolen from a Mrs. Mullett. She found the greatest part of it, if not all, and how many have been accused of the theft? Numbers. Yet there was no circumstance that appeared favorable for the prosecution against them, for I, who never saw the property, must be thrust into gaol, and brought to a Criminal Court. And why? Because I was industrious, I was persevering, and I was fortunate; yet, to be prosperous, it seems not to be fortunate. It has brought upon me unknown and undiscovered enemies; it has robbed me of my peace of mind; it has brought on my family sorrow and distress—but my consolation is great. My conscience cannot reproach me with having acted wrong. I dread not the scorn and the derision of the public. The venomous tongue of slander cannot rob me of that consolation with which innocence shields me. I appeal to you, gentlemen of the jury, to represent my character, and to weigh it within yourselves. My appeal is public; let not its reply be private.

But observe, gentlemen, how craftily I am debarred of the evidence of Valentine Wood. He was my servant, and for that reason must be included in the prosecution.

You will have observed in the course of this trial that all the evidence against me are not only persons of the worst character in colony, but people who have supposed themselves injured by me—to whom they say, revenge is sweet—and there is no doubt they would not let an opportunity pass to do me an injury. The situation that I held under Government placed me above doing any mean action or becoming a receiver, to risque my character, and, perhaps, my life, on such an occasion, cannot admit of a thought. As for Broomfield and Lacey's hearsay evidence it is hardly worth troubling the Court about, unless it is to impress upon the minds of the jury that they come forward maliciously, and with an intent to convict me of a crime I never committed.

Let us next attend to the evidence of Mrs. Mullett. She swears most positively that all the Brazil tobacco is hers; but, if two or more rolls were added to her number, is it possible that she could swear to which was hers. Could she distinguish her own from the others? No, it is impossible. The evidence of Wood would have been quite sufficient to overthrow all, had he not been included in the prosecution as an accomplice. I trust his character is what he has always been since in my service. His honesty is great, and if it was necessary he might have a number to establish his character, and men of respectability.

Consider, gentlemen of the jury, how this prosecution commenced. A warrant was granted against my wife, who lay on a sick-bed, and would have been actually committed, and my property exposed to the rapacity of every villain in the colony, had not the surgeon upon oath declared her unable to move out of bed.

Gentlemen, when you consider that it was but the other day that Lacey was guilty of subornation of perjury, it can be but of little consequence what he says. Sometime ago I had Capt'n Johnston's orders to send this man to work. I often called upon him for that purpose, but never could get him to attend. At last I threatened to put him in the iron hutt if he did not attend. For that he causes him to come forward. And a man who is guilty of hiring others to perjure themselves will not be nice in doing it himself.
Baylis says he wheeled a basket of tobacco to my house, that I received it from him, and ordered it in a back room. Remember, gentlemen, the character of this man; he was tried the other day for housebreaking; he confesses himself a notorious thief by being concerned with Wright in this business. When he was first taken up he denied knowing anything, but when threatened with heavy irons, and to be stapled down to the floor, he thought to invent this story would save him; and it is evident he would not be scrupulous of perjury; it is evident he has already done so. You, honorable gentlemen of this Court, will give his testimony what credit you think it deserves, and that in my opinion is none; but Lancashire proves that at 7 o'clock in the morning he was at my house marking some bags, and heard my man call me and tell me "that about 5 o'clock that morning two men called and desired to leave a bag for the passage boat; that he told them to carry it to the next door, Mr. Miller's, who kept a warehouse for such purposes; that he had since heard Mrs. Mullett was robbed of some tobacco, and it struck him the bag these men wanted to leave contained some of it." On my asking him the appearance of the men, and where they went, he told me that one of them with a blue jacket took the bag upon his shoulder and went towards Mr. Balmain's. Lancashire also proves that I sent him for Kable, to acquaint him of this circumstance. Kable proves that he was sent for by Nichols about 7 or 8 o'clock in the morning, and told him the whole business.

Gentlemen, it is not my wish to give you trouble. My conscience tells me that I am accused most unjustly, most wantonly, and most cruelly. You are judges of the law and the fact; and where is the evidence to bring home guilt to me? No, gentlemen, I can appeal to the all-seeing God to testify my innocence, and the rectitude of my conduct commands me to say that I am brought to this Bar charged with a crime I never committed. I am arraigned at this Bar charged with four several indictments, and what are they? You have seen them; you have read them. I did not conceive it necessary to enter into any defence as to three of those indictments; and as to the fourth, the proof adduced on my part cannot but be satisfactory, and end in my acquittal.

Gentlemen, I hope this day will crown my wishes. I have anxiously looked forward for it, for an investigation of my conduct since I have been in the colony. Who has come forward to charge me with any other crime—nay, with another fault? None. My innocence seemed to brighten as the different witnesses gave their testimony against me. You, gentlemen of the jury, have too much penetration not to discover the origin of this malicious prosecution. To your determination the whole is left. And, gentlemen, let me assure you that this determination, whether in my acquittal or condemnation, cannot dismay me. God, before whom all must appear, knows my most secret thoughts. He knows I am innocent, and was I led from the Bar to the scaffold I would go with the same serenity of mind. To you, gentlemen of the jury, under the direction of God, whose oath is binding on your consciences, I commit myself. Your verdict, I doubt not, will acquit me to the satisfaction of the world.

The prisoner requested that the basket of tobacco might be identified.
Mary Mullett, the prosecutrix, being called by the prisoner, and duly sworn, was asked the following:

Q.—Can you distinguish one roll of tobacco?
A.—No farther than informed by the constables and others who recovered the stolen tobacco generally.

(Six baskets produced.)

Q.—Was there no other Brazil tobacco but yours?
A.—I have sworn to the several baskets now produced.

John William Lancashire, sworn:

Q.—Do you recollect being in my house the morning it was reported Mrs. Mullett had been robbed?
A.—I do.
Q.—Do you recollect any particular information I rec'd that morn'g?
A.—I went to Nicholls's house on the Sunday morn'g, when his servant came up about 6 or 7 o'clock and told prisoner that there were two men who came to the house early that morning, one of them in a blue jacket, and wanted to leave a bag with something in it. The servant (Wood) made answer that nothing must be left there, but if they wo'd take it to Miller's, which was a warehouse, he durst say they might leave it, and that the man in the blue jacket took the bag and went out of the gate toward the hospital, and the other man went out at the other gate, and that he (the serv't) had just heard that Mrs. Mullett had been robbed of some tobacco that night, and owing to the confusion the two men were in he (the serv't) had every reason to believe that that was some of the property, immediately on which said relation the prisoner desired the witness to go for Kable, who went with said message accordingly. The next day he heard that Kable had found some of the tobacco.

Q.—At that time had you done marking the bags you were employed about for me at the time you went up for Kable?
A.—I had finished the whole of the bags, and had no more business at prisoner's house that day.

Hugh McDonald duly sworn:

Q.—Was Wright, the deceased, confined in ye same room with you in the gaol?
A.—Yes; after the gaol was burnt down, and he had liberty to be in his own room after he was under sentence of death.
Q.—Did you ever know Broomfield in the habit of reading to him?
A.—Never.
Q.—Was it possible Broomfield could have read to Wright without your knowledge?
A.—No, he could not, unless on the morning of his execution, when I was absent some time from my room.
Q.—Have you ever observed Broomfield and Lacey in conversation together during the prisoner's confinement?
A.—Yes, and before his commitment.
Q.—Do you recollect Wright's ordering the room to be cleared on the morning of the execution, to speak privately to his brother?
A.—I do; early in the morning, and the room was cleared accordingly.
Q.—Was Wright and Broomfield in conversation together the day before Wright's execution?
A.—I cannot recollect particularly; to the best of my knowledge they were not.

Q. by the Court.—Do you take upon yourself to swear that Broomfield never did read to Wright during the time Wright was imprisoned with him?
A.—He did not, unless on the morn'g he was executed.

Q.—Did you never leave Wright in the room while in confinement, and for what length of time might you be absent from Wright?
A.—Yes; I did leave the room occasionally for ten minutes or a quarter of an hour at a time.

Q.—Did you not frequently converse and walk in the gaol yard with Turner, a prisoner, and during such converse did you always particularly observe that Broomfield was not in company with Wright?
A.—Yes, I was in the habit of being in the yard with Turner; thinks he might have been in the room, but believes he did not read to him.

Q.—Will you swear that you have not, directly or indirectly, had any conversation with any person whatever about some seed wheat?
A.—No; I never had with any person but Mr. Stogdell.

Samuel Sparkes sworn:

Q. by the prisoner.—Was you ever in the habit of reading to Wright, the deceased, in gaol?
A.—Yes, frequently.

Q.—Did you ever know of Broomfield's reading to Wright during his confinement?
A.—Never while he was in the room with Wright, with whom he was a prisoner.

Q.—Did you ever during imprisonment with Wright hear Wright name the prisoner?
A.—No, never.

Q.—Could Broomfield have read to Wright without your knowledge?
A.—At times I was out of the room, and he might have done it.

Q.—Did you observe Lacey and Broomfield lately in conversation in the gaol together?
A.—Yes; frequently seen them talking together.

Q.—Have you particularly observed that Lacey supplied Broomfield with necessaries in the gaol?
A.—Yes; I have frequently seen Lacey bring down tea, and so forth, to Broomfield.

At 3 o'clock the Court adjourned until to-morrow morning, 10 o'clock.

Friday morning, 15th March, 1799, at 10. The Court met pursuant to adjournment.

James Fealon, one of the constables of Sydney, sworn:

Q.—Was you in conversation with Broomfield the day previous to the prisoners being committed?
A.—He was.
Q.—Relate the conversation that then passed respecting the prisoner?
    A.—Broomfield told the witness that nothing was so sweet as revenge, and he hoped to have it soon; and had it not been for the serjt-major he sho'd not detect another person.
    Q. by the Court.—Did you at that time understand these expressions of Broomfield's applied to the pris'r?
    A.—Yes, I did.
    Q.—What reason had you for so thinking?
    A.—Because I knew there was a falling-out between Broomfield and the prisoner some time before.

Thos. Colley sworn:

Q.—Did you ever hear Broomfield say he wo'd seek revenge upon me if he waited seven years to come?
    A.—Yes; that he wo'd seek revenge of the man that got him punished if it was seven years hence.
    Q. by the Court.—Do you recollect when and where this conversation took place?
    A.—In the gaol, two or three days after Broomfield had been punished.
    Q.—Do you know who the person was that got Broomfield punished?
    A.—No further than the general report of the people that it was for striking Nicholls.

Joseph Wass sworn:

Q.—Did you hear the deceased Wright mention the prisoner's name when you was in the cart going with him to the place of execution?
    A.—He did not.
    Q.—Is it possible that the executioner and Wright co'd converse together without your knowing what they said?
    A.—Impossible for him to say, from the situation he was himself in.

John White sworn:

Q.—What was the length of the seat on which Johnson, Wright, and Wass were seated when they were conveyed together to the place of Wright's execution?
    A.—The breadth of the cart; about 3 feet 5 or 6 inches.

William Wright (the brother of the deceased Wright) sworn:

Q.—Did your brother, Sam'l Wright, make any will and testament in your favour?
    A.—Yes. (The will produced in Court.)
    Q.—Did he ever mention to you that the prisoner was indebted to him, or mention any debts in the will?
    A.—He mentioned verbally four different debts owing from Wll'm Harding, Tho's Acres, Jasper Harris, and Joseph Taylor to the deceased.
    Q.—Did your brother ever say to you that he bro't a roll of tobacco to the prisoner's yard?
    A.—He declared to the witness that himself and Baylis had wheeled a basket of tobacco into the prisoner's yard until such time as two men went past, whom they took to be constables, after which they wheeled the tobacco out towards the garden of Capt. Waterhouse, and concealed it in the rocks.
Q. by the Court.—Did your brother ever mention the hour of wheeling the tobacco into Nicholls's yard?
A.—The hour he will not pretend to say, but he told him that it was soon in the morning.

Q.—Did he tell you where he intended to convey the tobacco to, had they not seen the supposed constables, or did you never ask him?
A.—No, he did not. He never asked him, nor did he enquire.

Q.—Did he tell you how long the tobacco remained in Nicholls's yard, and if he saw the prisoner or any person there at the time?
A.—No, he did not (in answer to both questions).

Q.—How came your bro'r to mention to you that Nicholls did not owe him any money?
A.—They were conversing respecting the will the deceased was about to make, and witness asked him if Nicholls owed him anything; that Nicholls did not owe him an halfpenny, nor had he any property from him (the deceased) since he had been in the country.

Q.—Do you know Thomas Smith, an evidence for the prosecution, serv't to Capt. McArthur?
A.—Yes, he does.

Q.—Had you ever any conversation with said Smith respecting the prisoner, and what was such conversation? Relate it to the Court?
A.—The day before his brother suffered he was in conversation with said Smith, at Sydney, who desired the witness to advise his bro'r to bring Nicholls to justice about the tobacco, who replied his brother had not told him anything about it.

Q.—Relate to the Court how the four debts alluded to as due to your brother were and for what contracted?

James Underwood sworn:—

Q. by prisoner.—Did Jos. Taylor glaze any windows for you lately?
A.—Yes.

Q.—Did you, from the various reports that were in circulation about me, knowing the intimacy between Baylis and Taylor, think that Taylor could tell you something about them?
A.—Yes; he thought he might tell him something about it.

Q.—Did not Taylor observe at the same time that if Baylis knew anything about it he wo'd have made him (Taylor) acquainted with it?
A.—Taylor did tell the witness that Baylis had lived with him, but was gone into ye country, and that Baylis was so soft and easy a fellow that if he had known anything about the tobacco he would have told him of it, and the witness replying to Taylor that he supposed there was nothing in it, Taylor answered, "No," and that Baylis never did tell him.

Q. by the Court.—Had you any conversation with Taylor respecting an advertisement of a reward held out by the prisoner for the discovery of the person who had defamed his character?
A.—Not at that time.
Q. — Had you at any other time conversation with Taylor respecting the advertisement before alluded to?
A. — Yes; before that time of his coming to finish his windows, and he believes about three weeks ago last Tuesday.

Rev. Richard Johnson sworn:—

Q. — Do you recollect attending Saml. Wright during his sentence in the gaol, and on the day of his execution?
A. — Certainly; from his condemnation to the day of his execution, and twice on the morng. he was executed.

Q. — During these visits, did the said Wright make any confession to you?
A. — Respecting his own guilt; but no other person's.

Q. — During these visits, did the said Wright make any confession to you in particular?
A. — Yes, several times, and on the morning of his execution; but he confessed nothing particular.

Q. — During the time you visited Wright, as the clergyman, did he ever mention the prisoner's name to you?
A. — Never that he recollects.

Charles Gardner, overseer, sworn:—

Q. — How long have you been in the habit of coming to my house, as an overseer under me?
A. — About two years and an half.

Q. — Did you at any of those times ever see people of bad fame at my house, namely, Wright, Baylis, or any other of their description?
A. — Never to his knowledge.

Q. — Have you ever seen or known a dishonest act by me in that time?
A. — Nothing of the kind that ever he could discern.

Q. — Did you ever observe any riots, drunkenness, gambling, or any other disorders in my house?
A. — Never; nothing of the kind.

Q. by the Court. — Have you not been in the habit of visiting the prisoner since he has been in confinement?
A. — I have, several times.

Q. — How long have you ever been with him in gaol at any one time?
A. — About a quarter of an hour, or twenty minutes, when I have been to take him his victuals, at one time.

Q. — Who have you generally found in company with the prisoner on these your visits?
A. — McDonald and his woman, and Wood, the prisoner's servant, were in company together generally.

Q. — Have you not seen Kable or Lancashire frequently with the prisoner in conversation at the gaol?
A. — He has seen Kable in the room with the prisoner, but does not recollect seeing Lancashire with him.

Q. — Have you not seen Kable and the prisoner drinking together in the gaol since the prisoner's confinement?
A. — Yes; he has seen them drinking together.

Q. — Was Kable sitting or standing at such time, and what other persons were present?
A. — He was sitting generally, and the persons he has before named present.
Q.—If in the habits of his calling at Nicholls's house had such people as Baylis, Wright, &c., frequented it, could they have been there without his seeing them?
A.—Not when he has called there, as he had access to every part of the house, and must have seen them had such people been there at such times of his call for orders.

Q.—Have you not during the two years and half acquaintance with Nicholls been repeatedly absent and at the Hawkesbury?
A.—Twice.

Q.—State the particular time you was last there?
A.—It was the 27th day of December last, and he returned to Sydney on the 16th February last.

William Miller sworn:

Q., by the prisoner.

Q.—During the time I have been a neighbour of yours have you ever known me keep a disorderly house?
A.—No.

Q.—Did you ever see Saml. Wright, lately executed, or any of his associates at my house?
A.—No, he never did.

Q.—Did any servant of yours ever report to you that bad characters frequented my house?
A.—Never.

Q.—During the time of being a neighbour with you, did you ever know a dishonest act by me?
A.—No; a very good neighbour.

Q., by the Court.

Q.—From living so close to the prisoner, had he been in the habit of harboring bad people should you not have known it?
A.—He might have done so, but he never has seen it.

Q.—Are you in the habit of going frequently in and out to the prisoners' yard, house, &c.?
A.—He generally sends his servant for anything he may want there.

Daniel Cubitt sworn:

Q.—During the time that I have been a neighbour of yours, did you ever know that I kept a bad or disorderly house?
A.—No, never did.

Q.—Have you not frequently been at my house during the time we have been neighbours?
A.—Yes, often.

Q.—Did you ever see the deceased, Wright, or any of his associates at my house?
A.—No, never did.

Q.—During the time you have known me, did you ever know any dishonest act by me whatever?
A.—No, not to my knowledge.

Q., by the Court.

Q.—Can you take upon yourself to say that no person or persons of bad character did frequent the house of the prisoner?
A.—I cannot say.

Thomas Moore sworn:

Q., by the prisoner.

Q.—Have you not known me for a long time?
A.—I have.
Q.—Will you please to ascertain my character to the Court as your neighbour?
A.—I have always found the prisoner in all dealings I have had with him punctual.
Q.—Did you ever know any dishonest act by me?
A.—No, never did.
Q., by the Court.—Had the prisoner kept a disorderly house, must you not have known it, by being so near a neighbour to him?
A.—I think I might; but I never saw it.

Thomas Smyth, the Provost-Marshal, sworn:—
Deposeth that he never had any objection to the prisoner's character in general until this affair; always thought him a sober, honest man.

Here the prisoner closed his defence.

The Judge-Advocate read two letters—one from Governor Hunter,* the other from Capt. Johnston, his Excellency's aid-de-camp, of which the following are copies, viz.:—

Gov't House, Sydney,
13th March, 1799.

Sir,
Having this morning received a letter from Isaac Nicholls, one of the prisoners now before the Co't, in which he requests that I will lay before its members, in writing, my testimony of his general conduct as an overseer, under such authority as I had thought proper to place him. In justice, therefore, to the man, I have to declare to the Co't that during the whole time he has officiated as the principal overseer of the town gangs, and such works as they were occasionally employed upon, he performed his duty with unremitting assiduity. His sobriety, diligence, and constant attention to such orders as he has from time to time received from Capt. Johnston by my direction was such as to give me the most perfect satisfaction; and as I have had frequent occasion to send for him both early and late, and to give him directions myself, I can, with truth and justice, assure the Court that I never found the duties of his station so well executed since I have been in the country. He has frequently saved me much trouble by his diligence; and with respect to his honesty, I have never entertained the most distant suspicion of it.

Should the Court require my personal testimony as a stronger proof of the good opinion I have hitherto held of the above man, I will most readily appear before it for that purpose.

I am, &c.,
JNO. HUNTER.

Dear Sir,
I was informed yesterday by the Provost-Marshal that Isaac Nicholls meant to call upon me for a character. I have only to say that for near two years and a half that he was under my direction he always behaved with the utmost honesty, attention, and sobriety.

I am, &c.,
GEO. JOHNSTON.

P.S.—If it is necessary for me to give the above evidence on oath, I will thank you to let me know as soon as possible.

SER I. VOL. II—U * Note 117.
Sentence of the Court.

Guilty.—Sentenced to fourteen years' transportation to Norfolk Island, and to work for Government in the common gaol-gang until the time of his embarkation.

[Enclosure No. 2.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

Sir, 3rd April, 1799.

I have to desire you will acquaint me whether you recollect my having informed you in Government House that I suspended the immediate execution of the sentence pass'd by the Court of Criminal Judicature upon the prisoner Isaac Nicholls until farther order.

I am, &c.,

JNO. HUNTER.

As no immediate answer was given, the following note was written:—

4th April, 1799.

The Governor wrote last night a letter upon service to Mr. Dore, to which he desires an answer.

The above letter was written to the Judge-Advocate in consequence of the Gov'r having receiv'd information that sudden orders had been issued by Mr. Dore, in the name of the whole body of magistrates, that the prisoner Nichols shou'd be immediately put in heavy irons and order'd to hard labour, and this order was instantly put in execution without any application to the Governor or any information given him upon it, altho', as appears by the within letter, he had order'd the immediate execution of the sentence to be suspended untill farther order, and this circumstance happened some time after sentence had been pass'd, and during this interval he continued in prison, but not in irons. This extraordinary order gave occasion to the letter and note, and may serve to shew that some point was to be gain'd by any practicable means.

J.H.

[Enclosure No. 3.]

JUDGE-ADVOCATE DORE TO GOVERNOR HUNTER.

Sir, 4th April, 1799.

In answer to your Exc'y's favour receiv'd last night, I beg leave to inform you that I cannot call to mind the precise words your Exc'y made use of in regard to the suspension of the sentence of Isaac Nichols, altho' I conceiv'd from your Exc'y's conversation on that subject, and from your having directed a copy of the prisoner's trial in order that the case might be trans-
mitted to England, that you had it in contemplation to suspend the sentence, and that your Exc'y would have given an official signification accordingly.

Your Exc'y will find, in a letter I had the honour of sending to you on this subject some days since, my opinion as to the cognizance the law officers in England would take of Nichols's case.

At a full meeting of magistrates yesterday (the minutes of which are herewith sent)* it was order'd that the sentence of all persons convicted or attainted of felony should be carried into effect, until your Exc'y had made known your pleasure to the contrary.

I am, &c.,

RICH. DORE.

[Enclosure No. 4.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

Sir, 4th April, 1799.

I have receiv'd your letter in reply to mine of last night, and I must inform you that you appear to me to be readily disposed either to forget or misunderstand such of my verbal directions to you as do not correspond with your own wishes.

The magistrates will at all times give me satisfaction without reaching beyond the sphere of their proper office.

I will not allow any person to interfere with my immediate prerogative, nor will I suffer the executive authority of the Governor of this territory to be snatch'd out of my hands by any set of men within its limits.

As an officer at the head of the law department in this settlement, I conceive it a part of your duty to point out to those who may have occasion for such information, "That the sentence pronounced by a Court of Criminal Judicature cannot be carried into execution but thro' the orders of the commander-in-chief for the time being." But by the authority which you have consider'd proper to be exercised by the civil magistrate (according to the account you have given to me of a decision come to yesterday at a full meeting of those gentlemen), it appears they have assum'd a power of ordering a criminal from the Bar, if cast for death, to the place of execution, without waiting for the opinion or approbation of the commanding officer.

Two of the magistrates whom I presume you allude to as a part of the full Bench I have read that part of your letter to; they appear'd astonish'd, and positively denied any knowledge of such opinion or resolution.

I repeat to you again, "That I suspend the immediate execution of the sentence pass'd upon the prisoner Isaac Nichols; that

* Note 118.
he remain a prisoner is my intention at present, but that he is not
kept in iron or order'd to labour untill farther orders from me
for that purpose."

I am, &c.,

JNO. HUNTER.

[Enclosure No. 5.]

GOVERNOR HUNTER TO OFFICERS.

By his Excellency John Hunter, Esq., Governor, &c., &c., &c.

WHEREAS reports are at this time in circulation that the robbery
lately committed on the house of Mrs. Mullett, and from which a
certain quantity of tobacco had been stolen, that this tobacco had
been carried by the thieves into the yard or house of Mr. Robert
Sidaway, and there they attempted to conceal it; but that being
disappoint'd in their design of lodging it there, they had carried it
to the house of Isaac Nichols, and as this circumstance is of much
importance to the above Isaac Nichols, who is now under a sen­
tence pronounc'd by the Court of Criminal Judicature, before
which he was tried as an accessory in the above robbery:—

You are hereby requir'd and directed to meet on Tuesday, the
2nd of April, at 12 o'clock, and call before you Mr. R. Sidaway,
Mr. Jas. Bloodworth, and all such other persons as you may
understand can cast any light upon this matter. And you will
examine them upon oath into the truth or falsehood of these
reports, after which you will forward to me from under your
hand the particulars of your enquiry.

Given under my hand, at Government House, Sydney, this
1st of April, 1799. JNO. HUNTER.

MINUTES OF A COURT OF INQUIRY.*

Territory of New South Wales,
2nd and 3rd April, 1799.

Cumberland, } WHEREAS by virtue of a precept from under the
          to wit. } hand and seal of his Excellency John Hunter,
                      Esqr., Governor and Captain-General in and
                      over his Majesty's territory of New South Wales and its depen­
                      dencies, &c., &c., &c.:

We, whose names are hereunto annexed, assembled this 2nd
day of April, in order to investigate ye nature of such reports as
are stated in ye said precept.

Present:—The Reverend Mr. S. Marsden, J.P.; Q'r-master T.
Laycock, N.S.W. Corps; Mr. Geo. Bass, Surgeon, Reliance;
Mr. Jas. Thompson, Assist. Surgeon; Mr. Jas. Williamson,
Act'g Commiss'y.

Robert Sideway, being duly called on by the Court, requested
that Richard Verior might be first examined, who being duly

* Note 119.
HUNTER TO PORTLAND.

sworn, deposes upon oath that Richard Bayliss brought a sugar-bag on a wheelbarrow ye morning Captain Wilkinson had been robbed, who knocked at ye door of Sidaway's bakehouse and requested permission to leave the sugar-bag there; when deponent enquired what the said bag contained, Bayliss answered it was no matter, and dep't informed him he had orders from his master for no person to leave anything there without his knowledge, and ordered him (Bayliss) to take ye said bag and its contents away, which he did, but does not know where the same was deposited, and after the said Bayliss leaving ye yard he met ye deceased Sam'l Wright, and they went away together and took ye bag and its contents with them, and after they were gone dep't informed his master that ye aforesaid persons had been there with a bag on the wheelbarrow, and wanted to leave the same there, when his master replied he had acted very right in making them take ye same away; and deponent further deposes that he was ye same morning going down for salt-water, and as he was returning he met the said Wright and Bayliss with an empty barrow, but does not know from whence they came, and shortly after his return with the salt-water he saw Nicholls and ye deceased Wright in conversation together in the old barrack near to Sidaway's house.

Q. by the Court.—Do you recollect ye time Bayliss came to Sidaway's with the barrow and bag?
A.—He can't recollect ye time, but it was about a quarter of an hour after daybreak.

Q.—How long was it after Bayliss had been at your master's house before you saw Wright and Bayliss return with an empty barrow?
A.—About an hour.

Q.—Where did you meet Bayliss and Wright with the empty barrow?
A.—Opposite the provision store, facing Blinkworth's house, coming towards his master's house.

Q.—Had you any idea of what ye bag contained?
A.—None.

Q.—Did Bayliss seem inclined to dispose of what ye bag contained?
A.—No.

Q.—Did you enquire of Baylis where he came from, or where he was going?
A.—He did not.

Q.—Did he say nothing more to you than that he wished to conceal or leave the bag with its contents in y'r master's house?
A.—Nothing more.

Q.—When Wright and Nicholls were talking together near y'r master's house, had they anything that appeared like a package with them?
A.—He did not see anything.

Q.—Did you not say to some person that you saw the bag rolled into Nicholls's house?
A.—He did not.

Q.—Did you ever mention the circumstances you have stated to any other person but y'r master?
A.—No.
Robert Sidaway, being again called:—

Deposed on oath that on the Sunday morning he had heard of Captain Wilkinson's robbery he was informed by Richard Verior that Wright and Bayliss wished to leave a something at his bake-house, and that Verior having his doubts whether it was right ordered them to take it away; and deponent says that on the forenoon of the same day he saw Wright, and asked him how he dared bring anything of that kind to dep't's house, which he supposed was Captain Wilkinson's tobacco—the report being then general that his (Capt'n Wilkinson's) house had been robbed of tobacco—when Wright replied to dep't that he had sold ye tobacco to Isaac Nicholls, and if he had only twenty more parcels of the same kind he could have disposed of them in the like manner.

Q.—Did you ever mention the circumstance to any person previous or at the tryal of Isaac Nicholls?
A.—He mentioned it to several persons, and amongst others Mr. Balmain, and made no secret of it whatever.

Q.—Was any person present when you and ye deceased Wright had a conversation on the Sunday morning?
A.—Not any person.

Q.—Was Wright and you on a footing of intimacy that made him reveal to you the robbery of Captain Wilkinson?
A.—No further than that he used to grind wheat for me.

Q.—You say Wright told you that the tobacco he had stolen he sold to Isaac Nicholls; what then do you suppose was ye reason that he wished to leave it at y'r house?
A.—He can't tell, but supposes Wright would have been glad to have concealed or sold it.

Jas. Bloodsworth:—

Deposes on oath that Robt. Sidaway informed dept. during the time of Isaac Nicholls's tryal that he had heard by Verior that Bayliss had bro't a something in a bag, on a wheelbarrow, to his house and wanted to see Sidaway, and that Verior answered his master was not up, and he should not go and call him, and in the meantime ye deceased Wright came to Bayliss, where he was standing with the barrow, and wished to leave ye bag with its contents at Sidaway's, which he, Verior, refused, and ordered him to take ye same away, and then went and informed his master what had happened, and on the Monday following ye said Wright came to Sidaway's house, when he, Sidaway, asked him how he dare bring anything of the kind to his house, when he answered he thought it might suit him as well as any other person, and that if he had twenty he could take them to Isaac Nicholls and that he would have them, for that he, Nicholls, courted him for them, and that Verior on the same Sunday saw them take ye bag with its contents down by the Mile House, and about 7 o'clock saw Bayliss coming up the camp from towards the Hospital Wharfe with an empty barrow.

Q. by the Court.—Did you ever mention to any person or persons what you have now related during the tryal of Isaac Nicholls?
A.—Both during and after to several persons.

Q.—To whom?
A.—He sent for Jas. Lacey and related the circumstances as before stated, and Lacey informed dept. that Verior had been before Mr. Balmain respecting the business.
HUNTER TO PORTLAND.

Jas. Lacey:—

Deposes on oath that the substance of the deposit’n read in Court of Mr. Jas. Bloodsworth is tantamount to what he himself should have deposed.

Captain Henry Waterhouse, of his Majesty’s ship Reliance:—

Deposes on oath that he heard from Capt’n Johnson that ye tobacco stole from Capt’n Wilkinson had been taken to Sidaway’s house, and knowing that was no part of the evidence gave in by Bayliss on ye prosecution of Nicholls, he thought it was not true, or that if it were it was much in favour of Nicholls, and not known at ye Court, of which he was a member, in consequence of which he (deponent) called Sidaway out of his house, and enquired of him whether it was the case, and Sidaway replied it were, and that it was wheeled down the morning of Captain Wilkinson’s robbery, and that Bayliss was the man who wheeled ye same, which he had been informed by his servant, and that deponent remarked to Sidaway that it appeared as if they did not know what to do with it, when he answered they wanted it to put it in his bakehouse, which is adjoining the dwelling; and deponent further enquired of Sidaway whether it was the same tobacco that was wheeled into Nicholls’s yard, and believes he (Sidaway) replied that it was impossible for him to answer, but that ye man and time corresponded, when deponent remarked it was a pity it was not known at the time of the trial of Isaac Nicholls, as it was a thing so much in his favour. Sidaway replied to deponent he had never made any secret of it whatever, and that he had told it to Mr. Bloodsworth, who had informed ye Judges, and whether he (Sidaway) had mentioned it to any other person deponent can’t positively say.

Q. by the Court.—Was any other person present at the time this discourse occur’d?
A.—He does not recollect seeing any person.

The Court adjourned till Wednesday, ye 3rd inst., at 8 o’clock.

Michael Gary, being duly sworn:—

Deposes that on the Sunday morn he got up just as the revalley beat, and opened the door, when his dog went out and began to bark, and at the empty house adjoining deponent’s the little dog ran there and would not come out, and, its being dark, deponent stooped to see if he could perceive any persons, when he saw a man, and enquired who it was, three times, when the person made no reply, on which deponent observed—"Be who it will, if you offer to stir I will knock you down with a stone"; and deponent then went and looked in his face and said—"Is not that Rich’d Bayliss?" who answered—"It was; Mich., hold y’r tongue." Bayliss then went into an empty house, and the deceased Wright was in the empty house and came out to him. Wright then said to Bayliss—"Stand no nonsense, but put the bag on the barrow"; on doing of which the contents of the bag made a creaking noise. Dep’t then said to Bayliss—"For your being so stubborn and jolly you shall not wheel it away without my first seeing what is in it"; and dep’t then opened the bag and found it contained a roll of
tobacco in a basket, and he (deponent) broke about two inches of tobacco from the roll. He (deponent) then went into his house for his hatt, and came out again and overtook Bayliss with the barrow and the bag of tobacco, and followed him till he saw him go over the bridge near the tanks, and dep't then turned up Pitt's Row, and saw no more of Bayliss; and then went up Pitt's Row, where he met with Bloodsworth, who was going to the burial-ground,* and they walked on together till they came near the burial-ground, when the dep't informed him the whole of what he has before related, and the same day Kable sent for dep't, when he informed him (Kable) the whole of this business.

Q. by the Court.—Did you enquire of Bayliss where he was going with the tobacco?
A.—He did not.

Q.—Did you see Wright any more?
A.—He saw him following Bayliss.

Q.—Did you ever inform any other person of this circumstance either before or at the tryal of Isaac Nicholls, except Bloodsworth and Kable?
A.—He kept it no secret, and mentioned it before the whole of the plasterers' gang.

The Court dissolved this 3rd day of April, 1799.

ISAAC NICHOLS TO THE COURT OF INQUIRY.

Gentlemen,

Sydney, 2nd April, 1799

It is verry hard to think people are still so much inbittered against me, and using every means to do me a further injury.

This morning Ensign Bond came to visit Lancashire in the gaol (who is under sentance of death, and particularly wanted to know if he was not bribed to come forward on the behalf of Nichols on his tryal, or that I had promised him some amolument for so doing); that Lancashire told him the same as he said on my tryal, that it was the truth he declared at the Court, and nothing should make him say or spake a falshood, particular at this time.

Mr. Bond also promised that Captn. McArthur would sign his petition and give it to the Governor, and he himself had no doubt but it would be the saving of his life.

Mr. Bond then left Lancashire, and in a little time afterward returned and told Lancashire that Captn. McArthur was coming with the Revd. Mr. Johnston to hear what he had to say upon

* Note 120.
the business, and if he meant to save his life it must be to declare that part of the business what he receiv’d for coming forward on my behalf on my tryal, as he himself, meaning Mr. Bond, had been inform’d that I had given Lancashire twenty pounds for so doing.

At this time Capt’n McArthur and the Revd. Mr. Johnston came into the gaol, when Capt’n McArthur said, “Well, Lancashire, I hope you are inclin’d to make a confession of some of your past conduct in respect to your coming forward on the behalf of Isaac Nichols.”

Lancashire then related the same as on my tryal, and declared that what he had formerly said was the truth (yet Lancashire declares that Mr. Bond seem’d a desire for obtaining an extortion from him) by his pointing out this was the only means of saving his life.

I beg (gentlemen) you will take this into your humane consideration, as I have just now receiv’d every particular of this information from Lancashire’s lips.

Give me leave, &c.,
ISAAC NICHOLS.

The above are facts as pass’d between Ensign Bond, Capt’n McArthur, and me, and that Mr. Bond, on his first coming to me, told me repeatedly that it was thro’ my coming forward on the part of Isaac Nichols that I received the dreadful sentence I am now under.

As witness my hand, this second day of April, one thousand seven hund’ed and ninety-nine.

JNO. WILL’M LANCASHIRE.

[Enclosure No. 7.]

TRIAL OF WM. COLLINS AND OTHERS.

At a Court of Criminal Judicature held by virtue of a Precept under the Hands and Seal of His Excellency John Hunter Esqr Captain General and Governor in Chief in and over His Majesty’s Territory called New South Wales and its Dependencies on Monday the Eleventh day of March 1799.


The Precept being read and the Court duly Sworn William Collins, Jacob Vanderstein, Anthony Chandler and Boaz Venner were put to the Bar charged with having feloniously and burglariously broken open the Warehouse adjoining the Dwelling
The trial of W. Collins and others for burglary.

1799

21 Feb.

House of Mary Mullett otherwise Talmage and stolen thereout four Basketts of Brazil Tobacco value £100 her property.

The Prisoners pleaded "Not Guilty."

Mary Mullett otherwise Talmage being duly sworn, deposeth that her Warehouse or Store Room in Sydney was in the Month of January last broke open and four Basketts and three quarters of Brazil Tobacco Stolen therefrom (part of the said Tobacco produced in Court).

Richard Baylis, admitted an Evidence on the part of the Crown, being duly sworn, deposeth that about Six Weeks ago he was applied to by Samuel Wright for the Loan of a Chissel for the purpose of breaking open the House of Mrs. Mullett—that he furnished him with a Chissell which was returned being too small—that he was present when the plan of robbing Mrs. Mulletts Warehouse was concerted between the said Samuel Wright (lately executed for Burglary) and the Prisoner Collins in the House of Joseph Taylor where this Witness resided—that he communicated the Plan to Taylor—that Wright and Collins on the Morning of the Robbery came to this Witness and said they had done it (meaning the Robbery) that they gave him a piece of the Tobacco as part of the Spoil—that the Morning after he met Collins with the Bullock Cart and asked him for some Tobacco—that Collins said he had none about him but if he would call upon him after work he should have some—that the day following Wright Called on this Witness and they walked out together that Wright desired this Witness to walk before and watch if there were any Constables about—that they went into the Bush and got one Basket of Tobacco which had been left concealed there—that Wright took it up and conveyed it to Roberts's House where John Hird resided—that they were met near the House by Collins who went into the said House the back way with Wright—that this Witness did not go in—that the same evening Wright called on this Witness and said they had sold the Tobacco to Hird for Eight Shillings P. pound—that they were to be paid for it the next morning—that the next morning they received the Money as they informed the Witness—that they came to the Witness's Dwelling and remained there most of the day drinking—that Wright and Collins divided the Money arising from the Tobacco and acknowledged that such Money was the produce of the Tobacco stolen from Mary Mullett that in the Evening this Witness went to Hird's Residence and there saw Wright, Collins, Anthony Chandler and Anne Cox all drinking together in a riotous State, playing at Cards etc.

Questions by the Prisoner Collins

Did you see any Money divided No—I saw Wright give you between Wright and me? Money to get Liquor with.

What time did you see me go to Hird's with the Tobacco? About 8 or 9 oClock in the Evening.

Joseph Taylor being duly sworn Deposeth that Wright came about 6 oClock in the Morning to his House and asked him if he would have any thing to drink. He answered in the Affirmative and they drank together—that it was on the Morning Mary Mulletts House had been broke open.

John Hird being duly sworn. Deposeth that early in the Month of January last on a Tuesday Evening Wright came to this Witness
and asked him to purchase some Tobacco—that in the course of
the same Evening said Wright brought a Basket of Brazil Tobacco
to the Witness—that he agreed for 26 lbs. Weight with Wright—
that Wright said he could not sell the whole without Collins—that
Wright then left the House and returned shortly afterwards accom-
ppanied by Collins—that he purchased of Collins the Remainder
of the Tobacco at the same Price vizt. 8s. P. pound—that this Witness
told them he could not pay them for it until the following Sunday—
that on the Sunday following Wright, Collins and Boaz Venner
came to this Witness's house and he then paid for the said
Tobacco—that Collins received his Share chiefly in Spirituous
Liquor—that Wright had Money and Liquor—that Chandler was
with them the following day and received a Share, namely 4£—that
Collins accused Wright of cheating him out of part of the said
Tobacco—that Venner was present during the Whole Transaction—
assisted in Weighing the Tobacco and in dividing the shares by
Chalk-Marks—that Venner received 10s. from Wright.

Question asked by the Prisoner Venner.—Was the 10/s I received
paid to me as a share of the Tobacco? I cannot pretend to say.

The said John Hird further Deposeth that Richard Baylis was
in Company with Wright and Collins and he believes him to have
been an Accomplice in the Robbery.

Prisoner Collins being put on his Defence denies the Charges
altogether.

Prisoner Chandler being put on his Defence says he received the
£4 for a Debt due to him from Wright.

Prisoner Venner being put on his Defence denies the Charges
altogether.

No Evidence affecting Jacob Vanderstein he
was not put on his
Defence but Discharged as to this Indictment.

The Court being cleared the Members after solemn Deliberation
ADJUDGED as follows vizt.

ENSIGN BAYLY
LIEUT. LUCAS
LIEUT. MCKELLAR
LIEUT. FLINDERS
THE JUDGE-ADVOCATE,

William Collins GUILTY DEATH

with the Exception of Lieut. Flinders who voted against
the Extremity of the Law taking effect.

CAPT. WATERHOUSE } NOT GUILTY
LIEUT. KENT.

By the Circumstance of Lieut. Flinders being dissentient as to
the Punishment of Death the Sentence becomes according to the
Letter of the Charter for this Territory, imperfect, it being indis­
pensably necessary that five of the Members should Concur in
pronouncing the Sentence of DEATH—The Court, therefore, tender
of any Infringement on the patent on so solemn an occasion,
adjourn until tomorrow at 10 oClock in the Forenoon in order that
the Judge-Advocate may in the mean time report this Circumstance
to GOVERNOR HUNTER and take the sense of His Excellency there­
upon.

Adjourned according at half past 1 P.M.
1799.
21 Feb.
The trial of W. Collins and others for burglary.

Tuesday the 12th day of March 1799.
At ten A.M the Court met pursuant to adjournment.
The Judge-Advocate produced His Excellency Governor Hunter's answer in writing to the Report yesterday resolved on and which is as follows. 11th March, 1799.
The Governor having perused the papers left with him by Mr. Dore containing the Indictment of the Prisoners brought before the Court of Criminal Jurisdiction this day and the Votes of the different Members in the Case of William Collins and having also examined and considered the Letter and Sense of the Patent upon that particular Subject, He conceives that any Suggestion of his upon such occasion would be highly improper, he shall therefore decline offering any opinion on the Subject. The Members of the Court are certainly the most proper Judges on such Occasions.
Richd. Dore Esqr.
The Judge-Advocate conceiving from his Construction of the Patent that he should proceed to pass Sentence of Death on William Collins Who had been found guilty by a Majority of the Court.
William Collins was put to the Bar and Sentence of Death pronounced on him accordingly.
William Chandler, Jacob Vanderstein and Boaz Venner
Not Guilty on this Indictment.

[Enclosure No. 8.]
INDICTMENT OF LANCASHIRE.
The King agst John William Lancashire.
John William Lancashire of Sydney Labourer Stands Charged for that he on the twenty Ninth day of March in the Year of Our Lord One thousand seven hundred and ninety nine with force and arms at Parramatta in this Territory feloniously did utter and publish as true a certain false forged and counterfeited Note of hand purporting to have been drawn by one Stogdell for the sum of one pound ten shillings for value received which said false forged and Counterfeited Note is as follows, that is to say

"Sydney March 3rd 1799
I promise to pay to Wm. Evans or order the Sum of One Pound ten Shillings value received.
John Stogdell."

with intent to defraud Austin Flowers he the said John William Lancashire at the said time when he so uttered and published the said Note then and there well knowing the same to be false forged and counterfeited against the form of the Statute in such Case made and provided and against the peace of our Sovereign Lord the King his Crown and Dignity.
The said John William Lancashire also stands Charged for that he on the day and Year and at the place aforesaid with force and arms feloniously did utter and publish as true the said Note with Intent to defraud the said John Stogdell he the said John William Lancashire at the same time when he so uttered and published the said note then and there well knowing the same to be false forged and Counterfeited Against the Form of the Statute in such Case made and provided and against the peace of our Sovereign Lord the King his Crown and Dignity.

TRIAL OF LANCASHIRE.

At a Court of Criminal Judicature holden by Virtue of a precept under the Hand and Seal of His Excellency Governor Hunter Captain General and Governor in Chief in and over His Majesty’s Territory called New South Wales and its Dependencies on Monday the 1st day of April, 1799.


JOHN WILLIAM LANCASHIRE was put to the Bar charged with having feloniously uttered and published as true a certain Note for £1 10. 0 purporting to be the Note of John Stogdell, with intent to defraud.

The Prisoner pleaded “Not Guilty.”

Austin Flowers being duly sworn Deposeth that the Prisoner came to his House on Friday Evening last about 5 oClock accompanied by one Charles Davis and requested of the witness to let him have a Pint of Spirituous Liquor that the Witness answered the Prisoner he was not in the habit of giving Credit excepting to persons he was well acquainted with that the Prisoner said he had some Wheat at Toongabbee and would send it in the Morning, the Witness refusing to let him have it without some Security that the Prisoner paused for a Moment and then said he had a 30s. Bill which he would leave with the Witness as a Security until the next Morning—that the Prisoner then tendered the Bill (now produced)—purporting to be drawn by Stogdell and payable to William Evans or order for value received for £1. 10. 0. and endorsed by the Prisoner—which said endorsement the Prisoner wrote, namely, J. W. Lancashire in the presence of the Witness, who observed to the Prisoner that he thought Mr. Stogdell always wrote his Name with two L’s—who answered that he had seen Mr. Stogdell’s writing before and that he always spelled it with one L. the Witness suspecting the said Bill to be a forgery detained the same and enquired of the Prisoner where he got it, who replied from a Lascar belonging to the Ship Rebecca in Exchange for some Calico which he had purchased.

Questions by the Prisoner to this Witness.

Did I give you the Note in payment for what I had? I understood it as a Security for the Money.

Answers.

1799. 21 Feb.

Trial of Lancashire for uttering a counterfeit note.
Did I not say I wanted the Note particularly in the Morn. and you must not fail letting me have it when I bro't the Wheat? Did I hesitate at the Moment I was putting my name on the back of the Note or Seem Confused? When I came into your House and produced you the Bill did I appear as if I wanted to change the Bill or pay it away? Did you suppose at the time I gave you this Bill or at your Return into this house for me to indorse it that I knew it to be a forged Bill? John Stogdell being duly sworn depositions that the Bill now produced and purporting to be his Bill is a Forgery.

Prisoners Defence.
That he purchased a Piece of Calico of a Lascar and received in Exchange from him a £5 Gov't Bill the Note in question, two half Dollars and two Roupees—that the Lascar asked him 16 Dollars for the said Calico and the Prisoner offered him 12 which he agreed to as the purchase of the Calico and was thus reckoned.

Paid for Celico ................... £3 0 0
two half Dollars ................... 0 5 0
two roupees .................... 0 5 0
the Bill in question ............... £1 10 0

£5 0 0 the amot. of the Govt. Note paid to the Lascar.

John Jeffkins—called by the Prisoner.
Do you recollect coming into the House where I live in Chapel Row Sydney, on Wednesday or Thursday last when I informed you I had bot. a piece of Calico of a Lascar? Answer,—I live in the same House with the Prisoner, remember seeing a piece of Calico but deny having any Conversation with the Prisoner about that or any thing else.
This Witness denies having any Communication or Acquaintance with the Prisoner.

Charles Davis duly Sworn.
Do you not recollect coming with me from Mr. Atkins's Farm, near Parramatta on Friday last when I shewed you a Bill drawn by John Stogdell for £1. 10. 0? Did you not after refusal of said Bill say you thought Mr. Stogdell spelt his Name with double L?

Yes perfectly well.

It was so wrote at the Commissary's Office with two L's.
HUNTER TO PORTLAND.

Did I not immediately say that it strikes me two Ls. would be more proper than one?

Did I not on the Friday afternoon go to the House of Willm. Bateman in Parramatta, when the Shepherd of Mr. Stogdell came in and I asked him whether Mr. Stogdell was coming up to Parramatta?

Did I not say to Austin Flowers at the time I gave him the Note that he must return me the Bill in ye Morn., when I would give him the Wheat?

Here the Prisoner Closed his Defence.

The Court being cleared, the Prisoner was found GUILTY by a Majority of one only which Majority are of Opinion that Sentence of Death be passed and pronounced upon the said John William Lancashire.

Sentence of Death passed accordingly.

Quarter Master Laycock
Lieut. McKellar
Major Jos. Foveaux
Judge-Advocate
Lieut. Flinders
Lieut. Shortland
Lieut. Kent

Not Guilty

Judgement respited, the Charter requiring that 5 of the Members should concur in finding the Prisoner Guilty before Execution takes place.

[Enclosure No. 9.]

THE PETITION OF J. W. LANCASTER.

To his Excellency John Hunter, Esq., Governor of New South Wales, &c.

The humble petition of John William Lancashire,—

Most respectfully sheweth,—

That your Excellency's unfortunate petitioner is a youth of honest, respectable, and worthy parents, who ever lived in affluence, and whose character was never blemished until that unfortunate period of my life I made the breach. That your Excellency's petitioner lived with Mr. Robert Williams, banker, in Birchin-lane, London (an uncle to your petitioner), for some considerable time as cash clerk, and, prior to that, captain's clerk on board the Mars, 74, Sir Ch's Cotton, com'd'r, but owing to an ill state of health was necessitated to quit the service; besides many other situations equally great in the Navy, &c., where opportunities have offered (had my inclination been that way) to have committed forgeries for so many thousands of pounds instead of shillings, for which I am now unfortunately committed.
That your petitioner begs leave to inform your Excellency that this is the second time only of his ever been tried in a Court of Justice, the first of which caused your petitioner seven years' transportation; but the second (and last) — more dreadful than the former — sentenced for death. Oh! horrid name, and still more horrid the further stain upon my distant and unhappy friends.

That your Excellency's petitioner, conscious of the humane philanthropy you are endowed with and the gracious mercy you have shewn towards the unfortunate in a like situation, most humbly beg that you will be pleas'd to take the prayers of a dying youth into your humane consideration and be pleas'd to examine the minutes of my trial, where your Excellency (I trust to the Almighty) will find something favourable in my behalf that my life might be spared and not cut off in the blooming flower of youth.

That your petitioner would not presume to vindicate his cause after conviction did he know himself any way guilty, but beg leave to assure your Excellency that the charge for which he is convicted he is innocent of. That would any man of a reasonable understanding indorse his own name on the back of a forged note had he known it to have been so? That after being given to understand by Chs. Davis (when I shew him the bill) that Mr. Stockdale spell'd his name with a double l, instead of the single one then on the bill, I was not willing to part with the bill entirely until I had seen Mr. Stockdale to have shewn him the bill, as your Excellency will find by my trial that I enquired of his own shepherd when he was coming up; that he informed me in the morning; for that reason I did not wish to pay it away. This happened on the Friday evening, and on Sunday I was made prisoner, tried on the day following, and received the dreadful sentence of death—all in twenty-four hours. Had I an idea of anything but that my innocence would have acquited me, I would have endeavoured to have postpon'd my trial, that I might have had an opportunity of bringing the Lascar forward, which, I declare to my God, I had the note off in exchange.

And I further beg leave to assure your Excellency that the prejudice that as been borne against me was so great that whatever had been favourable in my behalf I could expect no other sentence than what I have received. Had I not have come forward on Captn. Cameron's business, and not have troubled the comp'y of comedians (soldiers) for money, for my painting the scenery, I should hope to have received a far different sentence to what I have now.
HUNTER TO PORTLAND.

Your Excellency's petitioner would not presume to excite your attention and perusal longer than necessity dictates; but the horrid sentence I am under compels me to humbly beg that your Excellency will be pleased to give ear unto my prayer, and in pity of my youth, my unhappy parents and friends, and the many censures I labor under, to spare me my life—my life, I ask—as the prayer of a dying youth, now waiting that moment, which is in your Excellency's most gracious power, and whose mercy have been extended to the unfortunate, who, I hope, is now making bright and flourishing men. Oh! may the Almighty inspire into your mind this my last and greatest request. Take thy life, and may the remainder of thy days prove more happier than the former have miserable and unfortunate.

Ever would I return fervent prayers to the Almighty—adore my Creator—do to all men as I would wish to be done unto; thus become a member beneficial to society, and, as in duty bound, will ever pray.*

I beg, &c.,

JOHN WILLIAM LANCASHIRE.

Sydney Gaol, April 2nd, 1799.

[Enclosure No. 10.]

JOHN WILLIAM LANCASHIRE TO CAPTAIN KENT.

Sir,

Tuesday, 2nd April, 1799, Sydney Gaol.

Fully sensible of the great presumption I am guilty of in writing to you, but conscious of the tending humanity you are endow'd with, hope you will not consider it as abruptness.

The unfortunate situation which I am now placed in compels me to claim your pity and assistance in and for my behalf. I have taken the liberty of writing a petition to his Excellency, wherein I have stated the facts really as it was. I have also stated the prejudice that was borne against me; but, at the same time, beg leave to assure you that it's only on two gentlemen I spake off, whom I know was prepossess’d against me, one of which positively declar’d just after I came forward upon Captn. Cameron's business that if he could he wou'd hang me before any man upon the ground. This as been said not only to one person, but two or three or more, and have borne the greatest enmity against me ever since imaginable.

The second is inveterate against me, because I came forward and spoke the truth upon the trial of Isaac Nichols, thro' which I was obliged to leave the theatre; and on acc't of attempt'g to obtain my money for work—painting scenery, &c.—to the company, I was called a damn'd rascal, and many other names of
which I was not deserving. The only reason I give is because I bore the name of a convict and was intermix'd with soldiers, sorry I am to say, and that from a firm belief that the prejudices against me was occasioned by such frivolous things as endeavouring to support truth and claiming my own rights.

You, most worthy sir, I appeal too for some things favourable upon my trial, and beg that you will be pleas'd to point them out to his Excellency, particularly on the part of Austin Flowers, who firmly believ'd that I did not know it to be a forgery, neither did he believe I wanted to pass or exchange the bill. Why I did not wish to pass the bill was, in coming from Judge Atkins's farm I happen'd to shew the bill to Chs. Davis, who was then in comp'y with me, were he pointed out the name not been spelled with a double l, as is generally in the name of Stockdell. From this moment I was dubious of the note, yet conscious of my getting it in an upright manner I entertain'd no fear, but was fully bent in showing the bill to Mr. Stockdale, as I understood he was to be in Parramatta on the morn'g following.

To prove the above sufficient facts in respect of the censure and prejudice against me, only this morning Ensign Geo. Bond visited me (as a friend) and particularly wanted to know if Isaac Nichols did not bribe me to come forward in his behalf or promis'd me some emolument for so doing. Mr. Bond also promis'd that Captn. McArthur would get my petition sign'd and deliver it himself to his Excellency, and that he had no doubt but it would be the means of saving my life, would I but acknowledge the whole of the business. I told him that the unhappy situation which I was placed in would not tempt me to err from sacred truth, that I said at the Court was founded upon truth, and all as he could say would not make me spake a falsity. God forbid that I, tho' awkwardly situated, should attempt to say false of an innocent man, and all under the idea of my life being saved. No, no; God forbid.

Mr. Bond then took my petition away with him under the pre­tence of getting Captn. McArthur to sign it. In a short time after Mr. B. again return'd, and pointed out some defects in my petition, and also told me that Captn. McArthur and the Revd. Mr. Johnson was coming to me, and if I wanted to save my life (the time was short) was to declare what I received from Isaac Nichols for coming forward on his behalf on his tryal, for he himself had been given to understand I received £20 for so doing.

In some little time after Captn. McArthur and the Revd. Mr. Johnson came in, when Captn. McArthur said, "Well, Lancashire, I find you are inclinable to make a confession of some of
your past misconduct in respect of the trial of Nichols." I then related the whole of the truth as I said upon the trial, and that I would prejudice no man upon no terms whatever, but Mr. B. was wont'g to extort a confession from me, as he was pointing out it was the only means of saving my life, and by repeatedly telling me it was thro' my coming forward on the part of Isaac Nichols that I receiv'd so dreadful a sentence. If the above is not some proof of prejudice against me, I am lost; but I will leave it to your superior and unerring wisdom. My prayer is that of a dying and much injured youth, claiming you, my friend, in interesting yourself with his Excellency in my behalf, beging him to spare my life, is the prayer of your respectfully ob't and very h'ble se't, the much-injured pennitent,

JOHN WILL'M LANCASTER.

[Enclosure No. 11.]

REV. R. JOHNSON TO GOVERNOR HUNTER.

Hon'd and Dear Sir, Sydney, 24th April, 1799.

Understanding that my name has been mentioned in two letters—one in a letter from Lancashire to a member of the Court before whom he had been tried; and in another which I saw Nichols addressed to the members of a Court of Inquiry convened for the purpose of investigating the truth or falsehood of certain reports at that time in circulation, and which, if founded in truth, were highly material to the prisoner Nichols, who had been convicted before the Criminal Court just then dissolved,—I beg leave to acquaint you with the business to which Nichols in that letter alludes.

I was called upon by Captain McArthur, and by him informed that Lancashire either had made, or was about to make, a confession to Mr. Bond, relative to the evidence he had given upon the trial of Nichols, and desired me officially, as chaplain, to go with him and to take down his confession. After some little hesitation, I went with Captain McArthur; took pen, ink, and paper with me; Mr. Bond was there with Lancashire, who was frequently and closely interrogated by both these gentlemen, but was surprized to find he had no confession to make to them, and repeatedly answered them by saying that what he had said upon the trial of Nichols was the truth, and that he had no more to say upon the subject. Hearing this, I left him and returned home.

I have thought it necessary to say thus much lest you or any others sh'd suppose I sh'd have been concerned in attempting any unjust confession from Lancashire, and also to declare that my
only motive was, what I have always conceived my duty upon such occasions, viz't, to obtain any information from persons in his unhappy situation which might be serviceable to the community.

I am, &c.,

RICHARD JOHNSON.

[Enclosure No. 12.]

CAPTAIN WATERHOUSE TO GOVERNOR HUNTER.

His Majesty's ship Reliance, 22nd May, 1799.

I had the honor of receiving your Excellency's letter, dated the 15th of April, mentioning that the three officers* of the New South Wales Corps, together with the Judge-Advocate (who were members of a Criminal Court of which I was a member), requesting you would transmit with your dispatches such observations as they had made on the trial of Isaac Nichols, and desiring to know if the Judge-Advocate had informed me of your desire to have a copy of the minutes of that Court, and the votes of the different members.

In answer to which, I have never heard from the Judge-Advocate, either verbally or in writing, of your wish to have the copy of the minutes or the votes of the different members.

And I most certainly conceived that when that Court was dissolv'd I had complied with the oath, done the duty requir'd of me, and had nothing farther whatever to do with the prisoner, except any circumstances should come out favourable to the prisoner afterwards (and not generally known to the Court at the time the prisoner was tried). In that case the duties of humanity, tho' not of right, would prompt me to represent it to your Excellency, with the hope that its being favorable to the prisoner would induce your Excellency to exert the power delegated to you of extending your mercy to the prisoner.

Altho' I never should have thought of giving any reasons or making observations on the evidences in support of the verdict I had given (having taken an oath to decide by the evidences bro't before me according to the best of my judgment), yet, in consequence of your Excellency's information (and for which I beg leave to return your Excellency my thanks), I must request you will transmit with your dispatches such observations as I have made on the trial of Isaac Nicholls, and which I shall have the honor of transmitting to your Excellency.

I remain, &c.,

H. WATERHOUSE.

* Note 122.
OBSERVATIONS BY CAPTAIN WATERHOUSE.

22nd May, 1799.

I must preface the observations I have to make on the trial of Isaac Nicholls by the following remarks:—

That, from a residence of some years in this colony, and being a constant member of our Courts of Criminal Judicature, that I never sat on any one in which more circumspection and caution were necessary in receiving and putting a confidence in the evidence produc'd.

In the first place, the prisoner to be tried, Isaac Nicholls, had been for some years a free man, who bore so exemplary a character that it had recommended him to the particular notice of the Governor and his aid-de-camp, Capt'n Johnston, who, in consequence of the goodness of his character, had rais'd him to the situation of superintendent of all the public works carrying on at Sydney under their immediate inspection; a man in whom was placed an unbounded confidence, who was in affluent circumstances and making money fast.

Now, contrast this with the man Bich'd Baylis, who prosecuted, a man of a most notorious and infamous character, who acknowledges himself to have been concern'd in all the robberies committed about Sydney, the intimate friend of a man (Sam'l Wright) who was executed some time before for a burglary in which Baylis was concern'd. He was the friend and concern'd with Wm. Collins in a robbery for which Wm. Collins was then under sentence of death, in addition to which he had turn'd King's evidence to save his own life; he had convicted one man, Wm. Collins, but the circumstances where such that although condemned to die his sentence could not be put into execution until his Majesty's pleasure was known. He had yet another person to convict to fulfill what the law requir'd of him as King's evidence. I will ask, under those circumstances, what would not so unprincipled a character undertake to do?

I shall take little notice of his evidence, or of his evasions and omissions; but of the time he swore he wheel'd the tobacco to the house of Nicholls, which was at the first dawn of day; he has lay'd the time when nobody was stirring, and fix'd upon a man as his companion who was sometime before executed, therefore could fear no contradiction from him. He might equally have sworn to taking the tobacco to any other person's house under those circumstances as Nicholls, "which he did." Nicholls's servant was indited under the same charge as his master; Nicholls, therefore, lost his evidence, and therefore could only say he knew nothing about it except what his servant had told...
him that morning after he got up. I must here mention that Baylis is the only evidence that speaks to the fact; the others on the part of the prosecution are only hearsay.

I shall now commence with the different evidences in support of the prosecution.

James Mansfield, a seaman belonging to his Majesty's ship Reliance, swears he saw a man carrying a basket supposed to contain tobacco on the Sunday evening up the rocks. It will be necessary here to elucidate this man's evidence, altho' he does not mention Nicholls’s name. H. Kable, the chief constable, found the tobacco about four o'clock on the Sunday afternoon (it was stole that morning), and plac'd a constable to watch it, for the purpose of detecting the person who should come to fetch it away, which constable was so negligent of his duty as to admit a man who by chance saw it to take it away without his observing him. H. Kable, finding the tobacco gone without any person being detected, went immediately in quest of it, and found it in a house on the rocks. Fearing a reprimand for negligence, he gave this man a bottle of spirits to return it, and it was again placed for the purpose of detection. The person who by chance saw it and remov'd it must have been the person whom Mansfield saw.

Henry Kable, the chief constable and the next evidence, swears he was sent for by Nicholls, and acquainted by him that two men had come to his house early that morning and wanted his servant to lodge some tobacco for them, which he refused to do, but directed them to a public warehouse, but on their leaving the house they took a different direction (and that towards where the tobacco was found), which circumstance, and hearing of the robbery, made him send for Kable and give him this information.

Jas. Remnant swears he deliver'd a message from a man (Jos. Taylor) to Baylis, concerning Nicholls—which Taylor after this swears he never sent, but which Baylis acknowledg's to have received; it is evident one of them must be perjur'd.

Joseph Taylor, the following evidence, besid's denying having sent the message, swears that Bayliss had related to him nearly what he had depos'd to in the Court, with this addition, that Nicholls, without any previous acquaintance, connection, or conversation, came up to Taylor in the middle of the street at noon-day, and ask'd him (Taylor) if he thought Baylis was staunch, for if he was no harm could happen to him (Nicholls). I think it very improbable that any man in his senses, guilty of the crime of which Nicholls is charg'd, would lay himself so open to a stranger, and in that abrupt manner—nay, to a friend; he must have had great confidence in him.
I must here again advert to character, for in a colony of this kind, compos'd of men who had forfeited, many their lives, all their liberties to the injur'd laws of their country; amongst whom perjury is not consider'd as a crime, but has been here in some instances a source of gain; I have therefore always consider'd it as necessary to pay as much attention to the general character and conduct of the person who gives evidence as to the evidence itself. In the present instance, J. Taylor's house was the constant residence of Baylis, the house at which the different persons concern'd in the late robbery met, drank, consulted, and from which house Baylis went for the purpose, as he says, of wheeling the tobacco down to Nicholls's house. Taylor acknowledges knowing of the robbery from Baylis, but in the room of mentioning it and giving them up he screen'd them all that lay in his power; no wonder then that their stories agree. Those are circumstances that struck me most forcibly at the time of the trial.

James Lacey only relates a conversation he says he had with S. Wright while under sentence of death (Wright is the man who stole the tobacco Nicholls is accus'd of buying), in which he says Wright told him he had sold a quantity of tobacco to Nicholls that he had stolen. Jas. Lacey, I think, is one of the worst characters living; on a former trial he hir'd three men to perjure themselves in favor of a man who had commit't murder, and for which they stood in the pillory. I think no stress can be lay'd on this man's evidence.

Richard Broomfield's evidence relates a similar conversation with Wright as Lacey's. The strongest objections that could be, was against this man's evidence being taken. Broomfield the evidence was sever'ly punished and sentenced a twelvemonth in the gaol for striking Nicholls, who, in his situation as an overseer, detected Broomfield in stealing corn. Broomfield had likewise repeatedly declar'd that revenge was sweet, and that he would have it out of Nicholls if it was seven years to come.

Willm. Johnston's (executioner) evidence relates to a confession of Wright's in the cart going to be executed, similar to Lacey's and Broomfield's (waving his being the hangman) in the same cart. On the same seat (which was only three feet six inches long) sat another man, who swears he never heard a word of the confession.

Hugh M'Donald, a prisoner for debt, in whose room Wright was confined till he was executed (the gaol being burnt down), evidence says that in all the conversations he had with Wright (and he was in the habit of advising and reading to Wright) that Wright never once mention'd Nicholls's name to him.
Thos. Smith's (Cap'n McArthur's servant) evidence is what he heard Wm. Wright (brother to Sml. Wright that was executed) say his brother told him, and which Wm. Wright, when call'd upon, positively swears he never said.

Capt. McArthur's evidence is what his servant, Thos. Smith, told him.

Wm. Balmain, Esq.,—evidence says that H. Kable, chief constable, informed him that Nicholls told Kable where the tobacco was, and that Kable express'd himself much oblig'd to Nicholls for the information.

Here closed the evidence on the part of the prosecution, a combination of hearsays from one person to another.

After the prisoner had read his defence, he proceeded to call upon—

John Wm. Lancashire, who swears he was at work in Nicholls's house on Sunday morning, when the servant of Nicholls told his master, in the hearing of Lancashire, that two men wanted to leave some tobacco there that morning, which he had refus'd, on which they went away; and that he since had heard Mrs. Mullett had been robb'd of some tobaccoe. In consequence of this information, Nicholls dispatch'd Lancashire for Kable, the chief constable, to inform him of the circumstance, which is confirm'd by Kable's evidence on the prosecution. This evidence, with the corroboration, I think must have remov'd every doubt, if any doubt remain'd.

Saml. Sparks, a prisoner in the gaol with Wright, swears he never heard Wright mention Nicholls's name.

Jas.费alan and Thos. Colley—evidence only goes to establish the threats of Broomfield to have his revenge of Nicholls.

Jas. Wass was in the cart with Wright when going to be executed, and swears he never heard him mention Nicholls's name, which is sworn to on the prosecution by the executioner.

Willm. Wright, brother to Sml. Wright that was executed for the robbery, produc'd the last will of his deceas'd brother, in which everything his brother had is left to him, Wm. Wright. Four debts are mention'd in the will, but Nicholls's name is not mention'd. He likewise depos'd that his brother had inform'd him verbally of those four debts stated in the will, on the morning he was executed, at which time he ask'd his brother if Nicholls did not owe him some money, having heard it reported that Nicholls did, who repli'd, "No, he did not; that he never had dealings of any kind with Nicholls"; that his brother told him that himself and Baylis had wheel'd the tobacco into the yard of Nicholls's house, out of the sight of two men who were coming
that way, and who they suspected to be constables, and that they afterwards wheel'd it to the rocks, where it was found. He farther depos'd the day before his brother suffer'd he was in conversation with Thos. Smith (who gave an evidence on the prosecution), who desir'd the witness to advise his brother to bring Nicholls to justice about the tobacco, to which his reply was that his brother had not told him anything about Nicholls. Concieving this to be the fact, was there ever a stronger evidence in favor of a prisoner given before a Court of justice?

James Underwood, the next evidence, depos'd that Jos. Taylor (an evidence on the prosecution) had told him that Baylis was so soft and easy a fellow that had he known anything about the tobacco being sold to Nicholls that Baylis would have told him of it. The witness then replied to Taylor that he suppos'd there was nothing in it, to which Taylor answered no, and that Baylis never did tell him. I think if this evidence is compar'd with that of Taylor's it will appear what confidence can be put in Taylor's testimony, Underwood bearing a very excellent character.

The Revd. Richd. Johnson, the next evidence, depos'd that he attended Saml. Wright constantly after his condemnation and at his execution; that he repeatedly exhorted him to a confession of what he knew concerning the late robberys, &c. His reply was that he had no other confession to make but that of his own guilt, and that he never mention'd the name of Nicholls to him. I think it may be fairly inferr'd that had Nicholls been guilty, and Wright had wish'd to have made it known, the two most likely persons for him to have made it known to would have been his brother and the clergyman; but, on the contrary, he has not spoke of Nicholls but to his brother, and that was to declare he never had dealings of any kind with Nicholls.

Chas. Gardner, the following evidence, an overseer employ'd under Nicholls for two years and a half, deposeth that he constantly had access to the house of Nicholls at all times for orders, &c., and that he never saw any such characters as Wright and Baylis about the house, or anything that would lead him to suppose anything was carrying on that was not strictly proper.

The Governor, 
Capt. Johnston, 
Mr. Smyth, Provost-Martial, 
Mr. Moore, master-builder, 
Wm. Miller, baker, 
D. Cupit, dealer, 
Gave Nicholls a most exemplary character.
Near neighbours, who spoke as to his exemplary conduct.

After giving this trial a most serious perusal, considering every circumstance most attentively, I am the more confirm'd in my
opinion that the smallest shadow of guilt cannot be attach'd to Isaac Nicholls. I have always understood it was lay'd down as a rule to both Judges and Juries "that where any case is dubious, altho' supported by a variety of circumstances, that it is their indispensable duty to find a verdict favourable to the prisoner." I must likewise mention that I had been absent from Sydney three weeks, and only return'd to it the evening before the trial commenc'd, and consequently could not have had any knowledge of the circumstances by which I could have been in the smallest degree influenc'd; and it is my firm opinion he is an object well worthy of your Excellency's clemency.

H. Waterhouse.

[Enclosure No. 13.]

LIEUTENANT FLINDERS TO GOVERNOR HUNTER.

Sir,

H.M.S. Reliance, 30th April, 1799.

In answer to that part of your Excellency's letter of the 15th instant wishing to be informed whether the Judge-Advocate had made known to me your having directed him to prepare a copy of the minutes of the trial of Isaac Nichols to be transmitted home, with the votes of the officers who composed the Court annexed to it, I beg leave to inform your Excellency that the Judge-Advocate never made me acquainted with any part of such circumstance, either verbally or otherwise.

Considering the oath which was administered to me as a member of the Criminal Court of Judicature, a sufficient safeguard for the conscientiosness of my vote, both on the part of the community and the prisoner, I should have thought it totally unnecessary to have said anything either in support or vindication of my conduct, being well satisfied that in voting Isaac Nichols innocent of the charges brought against him I acted, as far as my knowledge would permit, with justice and impartiality, and according to the evidence brought before the Court. But finding by your Excellency's letter that those officers who found Isaac Nichols guilty of the charge wish to have transmitted home the observations on the evidence upon which the verdict was founded (for which communication your Excellency will be pleased to accept my acknowledgements), I think it right to note down the principal circumstances in each evidence, which induced me, on comparing them together, to draw a conclusion favourable to the prisoner, and these I have to request your Excellency will transmit to accompany the observations of the above-mentioned officers.

The first and sole evidence that speaks to the fact of Isaac Nichols receiving the tobacco is Richard Baylis. In his deposi-
tion it appears that he was told "he had better take the tobacco away again, as the alarm of Mrs. Mullett's robbery had spread, and the constables were in search of the tobacco and property." Was not an alarm and a search certain consequences of a robbery? Would not Nichols have well known how to provide against all this had he been in the habit of receiving stolen goods, as some future depositions imply? And had he agreed to have received the tobacco, would he have given up it and the profit he expected to make of it without any cause—for suspicion had not fallen upon him at that time. In this case he is represented as acting fearfully cautious. Immediately after we find the woman who lives with him and his servant intimately acquainted with the transaction—nay, he is represented in a future deposition, that of Joseph Taylor, as addressing a man in the open street upon the subject without the least reserve, a man that he was not at all intimate with, and seldom had spoken to! An instance of audacity seldom paralleled, and totally different from his former caution. And what a message does Nichols send to this evidence and the deceased, Samuel Wright?—"That the tobacco was placed between two rocks, near the new house building for Mr. Moore, and if they chose to go for it they might." This was parting in an easy manner, indeed, with what he had run such a risk in receiving.

Notwithstanding these inconsistencies, let us see what is opposed to this evidence. It is admitted by the prisoner that a basket of tobacco was wheeled into his yard; but according to William Wright (brother of the deceased), "it was until such time as two men, whom they took to be constables, went past," after which they concealed it between the rocks. Now, in such case, men would turn aside into any man's yard, and the more respectable he was the more they would be sheltered from suspicion. This testimony of Wm. Wright is no more than what his brother had told him; but it accords exactly with Henry Kable's evidence of the message which Nichols sent to him and his conversation with Nichols afterwards. And John Wm. Lancashire deposes that he heard the servant tell the prisoner, his master, of the tobacco being brought into the yard, and the concomitant circumstances, and that he carried the message, agreeing exactly with Kable and Wright.

On closing this evidence of Richard Baylis, we have one testimony for any part of it that we can believe. But in what quality does this witness come forward? By his own confession he was an accomplice in this and a previous robbery of Mrs. Mullet, and, if I recollect right, in the first robbery also. He was admitted as a King's evidence—as a man who saves his own life by
impeaching others! Such is the light in which this deponent and his evidence appeared to me, and such is the deponent and the evidence upon which this prosecution principally rests.

Passing over the evidence of James Mansfield, as being too vague and uncertain to draw any conclusion from, I will proceed to examine the most material hearsay evidence. That of James Remnant has no relation to the prisoner Nichols; but it serves to contradict Joseph Taylor, for he swears to have received a certain message from Taylor, to be delivered to Richard Baylis, at Toongabbage, which message Taylor denies giving to him. But Baylis acknowledged to have received such a message, although it does not appear in the minutes of the Court.

Of Joseph Taylor's evidence, besides the above contradiction, I would ask whether it is at all probable that the chief overseer, let his principles be what they might, should address a man of such character as this evidence in the open street, without any reserve or cautionary preface, upon a subject that so nearly concerned his liberty and property? At the same time, let it be remembered that Joseph Taylor himself acknowledged, although it does not appear in the minutes, that he was not at all intimate with, or in the habit of speaking to, the prisoner, Isaac Nichols, and particularly that he never had exchanged a word with him upon the subject in question before he met him in the open street, as described in the evidence. I cannot pay attention to any part of this man's testimony.

To the depositions of James Lacey and Richard Broomfield, I oppose that of Samuel Sparks, James Fealon, and Thomas Colley, and think them sufficiently answered; premising that the members of the Court that tried Morris believed Lacey was certainly the suborner of the false witnesses on that occasion.

In speaking of the evidence of William Johnson, the executioner, I would observe that Samuel Wright must have had great enmity to the prisoner, if we are to believe the evidence for the prosecution; for it should seem he considered Nichols as the principal cause of his untimely end. This being the case, would he not, by deposition before a magistrate, endeavour to gratify his revenge, especially when that and the cause of justice so exactly coincided. But no, a man to whom it would be of little use to tell it,—one whom the very situation he holds, in this country at least, stamps as infamous,—comes forward and says he told it to me! It is to be observed that the clergyman, who is also a magistrate, was with the said Wright after the conversation with the executioner is said to have passed. A confession to this gentleman might have answered his purpose, but he never mentioned the name of Nichols. Can we believe that when he
was in a few moments to suffer death, that if he had considered the enormity of Nichols’s conduct as the original cause of his unhappy situation, and which at this time must have been very fresh in his memory, that he would not have mentioned it? It appeared to me too great an inconsistency at that time, and does so now.

The evidence of Joseph Wass and Hugh McDonald say nothing against the prisoner.

Captain John McArthur relates a conversation with his servant, Thomas Smith, which no doubt took place. Admitting even that William Wright really did say to Thomas Smith what the latter deposes upon oath he did,—what purpose does it answer? William Wright was not upon oath when he said it; and if he had said the same thing before the Court itself, under the same circumstances, he would not have been believed! But the same Wright upon his oath declares that his brother, on being asked, denied that Nichols owed him anything, or ever had anything of him. But what weighed more with me was the debts owing to the deceased; one of which was for Brazil tobacco, acquired (there can be little doubt) by the same means as that which Nichols is said to have bought. But no mention is made of any debt owing to him from the latter, although the executioner says the deceased Wright considered Nichols to owe him more than £60.

The testimony of William Balmain, Esq., nearly corroborates that of Henry Kable as to the information the latter received from Nichols; but he seems to have understood it as descending more into particulars than it really did.

The evidences to the character of the prisoner were good, and spoke highly of him. On considering how trifling the profit in retailing this tobacco would have been, when put in competition with his liberty, his property, and fair prospects; that there was but one evidence to the fact; that this evidence was in the worst of all situations for claiming credit to his storey, and that the storey itself was inconsistent. I could not possibly find him guilty, more especially when the testimonies intended to corroborate it were only hearsay, some of which was twice, and, in one instance, three times removed from the original speaker; that, independent of being hearsay, it abounded with incongruities, was contradicted in some cases by opposite evidence, and the storey in toto by the probability of the case; for I certainly think that the testimony of his neighbours do away the likelihood of his having been concerned long enough as a receiver to have made it worth the risk. Upon these circumstances and considerations it was that I acquitted Isaac Nichols of the charges brought against him.
On a careful perusal of the minutes of the Court I have the satisfaction of discovering an additional circumstance in favour of the prisoner's innocence, which may perhaps be more satisfactory still. The time that the tobacco was found by Henry Kable, the constable, makes it next to an impossibility that the prisoner could have conveyed it between the rocks. As far as can be selected from the times in Richard Baylis's evidence, and taking no notice of two Sundays coming together, the story he means to tell is that the tobacco was stolen on the Saturday night or Sunday morning, and that soon after daybreak on the same morning the witness had wheeled it to Isaac Nichols's. In the course of the day he was taken into custody on suspicion, and on the next morning, or Monday, was liberated. On the same Monday, in the evening, he was informed that it was hid between the rocks, from whence we are to infer that on Sunday night some time the prisoner had hid, or caused to be hid, the tobacco in question. But it was found an hour and a half before sunset on Sunday evening; consequently must have been carried there very early in the morning, for we cannot suppose that any man would carry such a thing about to hide in the middle of the day, and on that very day when the hue and cry was out after it. Nichols, therefore, certainly could not have placed it where it was found. But how exactly it accords with the testimony of William Wright and Lancashire—that when the constables were past they brought it out of Nichols's yard and concealed it there.

The circumstance of James Mansfield seeing a basket of tobacco on his shoulder is easily accounted for by Henry Kable.

As I have spoken of some circumstances that do not appear in the minutes of the Court, it may not be amiss to inform your Excellency that I have delivered in a paper to the Judge-Advocate pointing these circumstances out; and as I much doubt whether it will be attached to the minutes, and my notes upon some parts of the evidence would, in consequence, be inadmissible, I send your Excellency the following copy.

I am, &c.,
Mattw. Flinders.

Additional Notes by Lieutenant Flinders.

4th May, 1799.

On examining the minutes of the Criminal Court that tried Isaac Nichols, &c., Mr. Flinders makes the following remarks on them, and on showing them to Captain Waterhouse he agrees to their truth, and that they ought to be made known to Richard Dore, Esq., Judge-Advocate.
Extract from the trial of Boaz Venner and others:—"The Court declared to the prisoner Venner that it was [with] regret they acquitted a character so implicated in guilt, but the insufficiency of evidence did not warrant a different verdict according to law." To the best of my recollection the Court declared nothing to the prisoner Venner but that he was acquitted. They did, indeed, privately talk of his guilt, and few seemed to doubt his having some knowledge of the robbery. I am uncertain whether the Court desired the Judge-Advocate to say anything of this nature, but certainly it never was said.

It appears in the evidence of James Remnant that he delivered a certain message to Richard Baylis at Toongabbe, which he was desired to do by Joseph Taylor. In the evidence of the said Joseph Taylor it is denied that such a message was sent. But it does not appear in the minutes of the Court that Richard Baylis acknowledged to have received that same message, which he certainly did acknowledge. To the best of my recollection he was called into Court a second time and asked that question, the Court having perceived the disagreement between Remnant and Taylor. This circumstance is the more material as, in my opinion, it served in a great measure to do away the evidence of the aforesaid Joseph Taylor.

Another circumstance also appeared in the evidence of this witness Taylor, which I do not find taken notice of in the minutes of the Court. He acknowledged to questions by the Court that he was not at all intimate with, or in the habit of speaking to, Nichols, and particularly that he never had exchanged a word with him before upon the subject in question till he met him in the street, as described in the evidence. This destroyed the probability of Taylor's evidence, in my opinion, and perhaps of others; therefore it is material.

LIEUTENANT KENT ON THE TRIAL.

Observations on the trial of Isaac Nichols, principal overseer of the gangs of labourers for carrying on the public works in the town of Sydney, under the direction of Captain George Johnson, aid-de-camp to his Excellency John Hunter, Esqr., Captain-General and Governor-in-Chief, &c., &c., by Lieutenant William Kent, Commander of His Majesty's ship Supply, one of the members who voted the prisoner not guilty.

In the four indictments preferred against the prisoner he is called a labourer. I have never known him, during the three
years and upwards I have been in this country, in a situation that could authorize classing him among the lower order of the people; he has ever appear'd to me a respectable man in a respectable situation.

Richard Baylis (the evidence admitted on the part of the Crown) is a youth of uncommon bad character, constantly engaged in some degree in robberies, and in the habit of continually living in places frequented by housebreakers, &c., and whilst in Sydney he generally resided in the dwelling of Joseph Taylor, which is well known to be a place of bad fame.

In the deposition of this Baylis, upon the trial of Collins, Vanderstein, and Chandler, it appears Mrs. Mullett's house was broke open on the Saturday night, or early on Sunday morning, and a quantity of tobacco stolen from thence; that Richard Baylis (by the direction of Samuel Wright, one of the thieves some time ago executed for robbing the house of Simeon Lord in this town) took one of the baskets of tobacco on a wheelbarrow, and convey'd it about five o'clock on the Sunday morning, to the house of the prisoner, Isaac Nicholls, where he inquired of the servant for his master, who called him downstairs; Nicholls asked Baylis where Samuel Wright was, and during his conversation Wright came in; that Nicholls and Wright conversed together; that the witness heard Nicholls tell Wright if he would come in the evening he would pay him for the tobacco. By the desire of Nicholls the witness deposited the tobacco in the right-hand room in the house. When this was done Nicholls's servant desired Baylis to leave the wheelbarrow and call for it again, lest there should be any suspicion about the tobacco. A few hours after he call'd for the wheelbarrow, and was told by Nicholls's woman he had better take away the tobacco, as the alarm about Mrs. Mullett's robbery had spread, and the constables were in quest of the stolen tobacco and property. Baylis replied he would call for it in the evening. He took away the wheelbarrow, and as he was returning therewith he met the prisoner Nicholls near the gaol, who asked him where Samuel Wright was, to which he replied he was coming down Sydney with one Jack Colly. He took the wheelbarrow home to Joseph Taylor, from whence he was taken into custody on suspicion of robbing Mrs. Mullett of the tobacco. Samuel Wright was also apprehended afterwards. The next morning (Sunday) he and Wright were discharged.

How this again comes to be Sunday is astonishing! for here is positively two Sundays together without any intervening day, and related by the evidence circumstantially. On being discharged, as before stated, Baylis went to the house of Joseph
Taylor, where he usually resided, when Taylor expressed his surprise at seeing him out of custody without a hearing. Baylis replied he thought it was a planned thing between Kable, the gaoler, and Nicholls, the prisoner, to detect them in their pursuits after the said tobacco, supposed to be planted. In the evening (being Monday) he, Baylis, with Wright, went together to the house of Isaac Nicholls, when the servant informed them Nicholls was not at home. In the course of the same evening they called again, when the servant informed them his master was at home, and accosted them thus: "Oh, you are come about the tobacco." The servant then went up to Nicholls, and brought a message from him, importing that the tobacco was placed between two rocks near the new house building for Mr. Moore, and if they chose to go for it they might. Baylis and Wright then quitted the house, and Baylis refused to go for it, saying he would not be hanged about it. Wright say'd he would go for it if he could get a boat, to which Baylis answer'd he was sure there were constables set to watch it. Baylis returned home to Taylor's house, and related what had passed, when Taylor observed to him that he thought it was as he mentioned, from the circumstance of their being released in the morning.

Richard Baylis, in his evidence, says the tobacco was taken to Nicholls's house at five o'clock on the Sunday morning, and on the evening of the same day (although he calls it Monday) he was told it was planted between two rocks, near Mr. Moore's house, by Nicholls's woman. It is worth observing by his own deposition at this time he was in prison.

At five o'clock in the morning at such season of the year at this place it is daylight. The dockyard is between the house of Isaac Nicholls and Mr. Moore's, and the fence of the dockyard runs into the water over the rocks on that side Sydney Cove, which rocks are steep to, so that there is no way of passing from Nicholls's house to the two rocks where the tobacco was found but on the main road, by the hospital and other public and private buildings, along which many people must have been passing and repassing. I therefore say it was utterly impossible for a person of Nicholls's respectable appearance between five o'clock in the morning and two hours before sunset to carry so bulky an article as a basket of Brazil tobacco along the road without being particularly observed.

[Lieutenant Kent then proceeds to comment upon the various other evidence offered, substantially to the same effect as Capt. Waterhouse and Mr. Flinders. He concludes in these words:—]

The only evidence who pretends to speak from his own knowledge on the part of the prosecution against Isaac Nicholls is
Eichard Baylis, who was deeply concerned in the robbery himself, and acted under the influence of fear, as appears by his answer to the ninth question put to him by the prisoner.

The rest of the evidence is hearsay, some from a second, and even from a third hand; and much surprised am I they should have been taken and put upon the minutes of the Court. It is unnecessary for me, I conceive, to make any observations on the prisoner's defence, or the evidence he brought forward in support of it. I voted the prisoner, Isaac Nicholls, not guilty from the most perfect conviction of his innocence; and if it had appeared to me there was a chance of his guilt, I should still have doubted there being sufficient legal evidence to convict.

These few observations are humbly and respectfully submitted to his Excellency Governor Hunter by his most obedient, humble, and devoted servant,

W. Kent.

The Duke of Portland to Governor Hunter.

(Despatch marked "Separate," per store-ship Walker; acknowledged by Governor Hunter, 15th November, 1799, and 5th January, 1800.)

Sir, Whitehall, 26th February, 1799.

Since I finished my dispatch to you of the 21st December last, I have received information which, although it has not been regularly and authentically communicated to me, is, nevertheless, of such a nature as to make it incumbent upon me to investigate the truth of it.*

It highly affects the credit of your administration and the general character of Government in such a manner as to require the most immediate and unequivocal refutation of it, and I cannot do you the injustice to suppose that you will not be able to give me the fullest satisfaction in that respect, and after assuring you that if it was in my power to ascertain the parties who have given this information, or from whence it has been transmitted, you should not be left unacquainted with them.

I proceed to let you know that it is asserted that the price of necessary articles is of late doubled. That the same wheat is received into the Government stores at ten shillings per bushel which the settler is under the necessity of selling to the huckster at three shillings. That spirits or other articles are purchased by the officers of his Majesty's forces in New South Wales and retailed by them at the most exorbitant prices to the lowest order of the settlers and to convicts. That the profit received on such articles is often at the rate of one hundred shillings for one.

* Note 122.
That this sort of traffic is not confined to the officers, but is carried on in the Government House, although it is not affirmed that you have any participation in such proceedings. That the officers and favoured individuals are allowed to send large quantities of grain into the Government stores, whilst those who have only the ability to raise small crops are refused, and consequently are obliged to sell their produce to hucksters at the low rate above mentioned.

This is the substance of the communications which have been made to me, and although, as I have already told you, I cannot believe them to be generally well-founded, and, least of all, that you yourself have any participation in these malversations, yet that the practice of them should in any degree be imputed to yourGovernment is a circumstance which gives me great pain and uneasiness, more particularly when I advert to the very strong and specific instructions which were given you on your going to your Government, with a view to prevent the possible existence of most of the evils above mentioned; and that, moreover, you have from time to time received further directions for enforcing them to the utmost of your power.

If those instructions and directions have been attended to, many of the charges above mentioned cannot exist. Moreover, without reference to those charges, I must observe that the operation of those instructions could not but have a most salutary effect in providing in a great degree for the subsistence of the settlement, and I cannot, therefore, but observe with surprize the great amount of the bills which have been drawn by you for expenses, of which a considerable portion ought to have been defrayed by the labour of the convicts belonging to the Crown had they been employed conformably to those instructions, and that those bills have been sent over unaccompanied by the proper vouchers, wherein you must be sensible that you have rendered yourself personally answerable until those accounts are passed by the proper departments which are competent to that service. It behoves you, therefore, to lose no time in putting these accounts into a proper train to be settled; and it is no less material, and I cannot too strongly impress upon you the duty and necessity of satisfying me of the falsehood or futility of the charges which have been made against you by furnishing me, without delay, with such Public Orders that have been issued by you as contain the regulations under which grain has been received into the public stores, by which I am persuaded it will appear that the market has been left as open as possible to every description of settler.
1799.
26 Feb.
Hunter called on to make an explanation.

You will also transmit to me copies of such other public documents touching the established regulations of your Government as will refute the other assertions which have been made to your injury.

And with respect to the officers being allowed to sell or retail spirits or other articles (exclusive of the produce of the land or ground allotted to them) as above stated, it is so utterly inconsistent with their professional character, and with the duties annexed to it, that I cannot allow myself to suppose that you can have let a suspicion of it remain unsatisfied. But, should your tenderness for the profession have so far prevailed as to have induced you to suspend the investigation of it, I desire that no further time may be lost, and that you will immediately proceed to institute an inquiry, in the course of which, if it should be proved by the deposition of creditable witnesses that any officer has transgressed in this respect, you will take the first opportunity of sending him home, together with evidence in proof of the charges, to be laid before the Commander-in-Chief, to whom I shall not fail to communicate a copy of this dispatch.

I am, &c.,
PORTLAND.

P.S.—I take this opportunity of informing you that his Majesty has been graciously pleased to appoint Lieutenant-Governor King to succeed you in your Government in case the same shall become vacant by your death or absence.—P.

THE TRANSPORT BOARD TO GOVERNOR HUNTER.
(Per store-ship Walker.)

Sir,
Transport Office, 29th March, 1799.

The Owners of the Friendship and Luz. St. Anna, Two Ships engaged by this Board for the conveyance of Convicts from Ireland to New South Wales, having contracted to provide each Vessel with an extra Number of Seamen, in lieu of a Military Guard for the greater security of the convicts on the passage; we request you will be pleased to give directions upon the arrival of the said ships at your Settlement that their respective Crews may be carefully mustered, and cause the report to be transmitted to us by the first opportunity that we may be able to ascertain whether the Terms of the Agreement* entered into for that purpose have been duly fulfilled on the part of the said Owners.

We have, &c.,
AMBROSE SERLE,
WM. HY. OTWAY,
JNO. HUNT.

* Note 124.
PORTLAND TO HUNTER.

THE DUKE OF PORTLAND TO GOVERNOR HUNTER.

(Despatch, per store-ship Walker; acknowledged by Governor Hunter, 10th November, 1799.)

Sir, Whitehall, 10th April, 1799.

It being judged necessary, in consequence of the increasing intercourse of this and other countries with his Majesty's colony of New South Wales, to ascertain the number and description of all such vessels as may arrive at or proceed from Port Jackson in the course of each year, I herewith inclose you the form of returns of ships and vessels entering inwards and clearing outwards, which you are to cause to be filled up in the manner therein prescribed, and to be afterwards regularly entered in a proper book for that purpose. Copies of these returns, attested by the Governor for the time being, are to be transmitted half-yearly to this office, with duplicates to the Committee of Privy Council for Trade and Foreign Plantations.*

In order that such returns may be perfectly correct, no vessel is to be allowed to land any article or to break bulk before the return of such vessel and of her cargo is filled up in conformity to the mode prescribed, and properly attested by the master.

This measure will be of the greatest use in preventing the importation of spirits without your licence first obtained for that purpose, and will afford you the opportunity of regulating both the entries and sales of such articles as shall be allowed to be imported into the colony, in such a manner as to prevent all monopoly, and afford the inhabitants an opportunity of purchasing the same at a fair and reasonable price. I am, &c.,

PORTLAND.

[Enclosure.]

[A copy of the form for shipping returns has not yet been found.]

THE DUKE OF PORTLAND TO GOVERNOR HUNTER.

(Despatch, per store-ship Walker; acknowledged by Governor Hunter, 15th November, 1799.)

Sir, Whitehall, 12th April, 1799.

You will receive by the Porpoise near four tons of a new copper coinage of a penny each.

The total value of the above coinage is £550, which you will take care to carry to the credit of Government, and to account for it in making such payments therewith for the public service as you shall from time to time judge most adviseable.

The circulation of this coinage must very much add to the comfort and convenience of individuals, and greatly facilitate their dealings with each other.

* Note 125.
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HISTORICAL RECORDS OF AUSTRALIA.

1799.
12 April.

It does not occur to me that there can be any inducement or motives of interest for sending this money out of the settlement; but if the contrary should be the case, it will be your duty to frame a suitable ordinance for preventing such an offence, subjecting all defaulters, as well the parties receiving as those disposing of them for exportation, to severe penalties.*

I am, &c.,
PORTLAND.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch† marked "Separate," per H.M.S. Buffalo, viâ the Cape of Good Hope.)

Sydney, New South Wales,
30th April, 1799.

My Lord Duke,

I inclose for your Grace's perusal and consideration a letter written to me by three officers of the New South Wales Corps, who were members of a Court of Criminal Judicature which I had occasion to direct might be assembled for the trial of several offenders.

Your Grace will observe that those officers are highly dissatisfied that I should interdict or suspend the immediate execution of a verdict given by the Court of which they were members, and that (in consequence of certain reports which at this time prevailed, and which, if founded in truth, it appear'd to me I should have come before the Court) I should have ventured to order a Court of Inquiry into the truth or falsehood of those reports, as highly material to a prisoner who had been found guilty by that Court.‡

How far I have been right or wrong in the exercise of that power which his Majesty has been pleas'd to delegate to the Governor of this territory, I will not allow those gentlemen to be the judges; I submit that to your Grace's wisdom, to whom I hold myself responsible. Their manner of expressing themselves to me, as the commander-in-chief here, is what I cannot suffer to pass without representation. They speak of not tamely submitting, &c., and that they are not to be deter'd from a conscientious discharge of their duty, &c. If this kind of language is to be permitted upon public service, we may reasonably expect it will, in time, be carried much farther. My letter to the Judge-Advocate—after the most close, carefull, and impartial investigation of the minutes of the particular trial alluded to—is herewith inclosed, together with other papers which relate to it. From these documents your Grace will discover my reason for sending this trial to England, and for desiring that the votes for and

* Note 126. † Note 99. ‡ Note 127.
against the verdict be given with it, and that I have done in
order to shew whether there is or not grounds for fearing that
party is likely to make its way into our Court. Notwithstanding
the favorable testimony I had given of the prisoner, I hold myself
wholly uninfluence'd by any partial motive; I am govern'd, as
becomes my duty, by the most rigid and inflexible justice; and
were it necessary to collect the variety of strange circumstances
which have attended this trial, your Grace wou'd, I trust, be
perfectly satisfied with my motives in saying so much upon it.

Those gentlemen, in their letter, insinuate something respecting
animadversions of mine upon what they call their verdict, and
of marginal notes which they understand I am to make upon the
face of the minutes of that Court, and which I confess myself at
a loss to understand, not having convers'd with any person on the
subject, except the Judge-Advocate, when I gave him my opinion,
in private, upon the verdict, by observing that there appear'd to
me, from the perusal of the minutes, to have been an error, and
that, in my judgement, the evidence for the prosecution, if
seriously consider'd as it ought certainly to be, wou'd not war­
rant a sentence such as has been pass'd upon the prisoner. This
observation of mine to the Judge-Advocate, in private, if he had
consider'd necessary to be made known to the members of the
Court, he shou'd have communicated it to the whole; but it is
made known to those only with whom he is in habbits of par­
ticular intimacy, and the other members are not considered.

It is evident, my Lord, that he (the Judge-Advocate) has not
only betray'd this confidential conversation, but that he has mis­
represented and added many particulars which had never enter'd
my mind. It wou'd certainly have been proper in the officers to
have call'd upon me and stated what they had been told, and by
whom they had receiv'd their information, before they had written
such letter. Were an opportunity within my power, I shou'd
consider it a duty I owe to the public service to have sent them
to England to answer for their conduct. I send my reply to
their letter, in which your Grace will observe I have desir'd to be
informed what were the animadversions they allude to, and who
had inform'd of them; but to this demand they have given an
evasive answer, and that in general terms, unwilling, no doubt, to
expose the author of those shamefull and false insinuations.

I shall only take the liberty of assuring your Grace that I
exceedingly regret no opportunity shou'd offer for an immediate
investigation of a conduct so unaccountable and improper. It is
clear to me, my Lord, that the three officers mention'd have been
press'd and persuaded to it by some artfull and restless indi­
vidual, whom I wish I cou'd with certainty discover, and the
1799.
30 April.
Opposition

to the exercise
of the royal
prerogative
in the case
of Nichols.

J.-Advocate has most unpardonably misrepresented the private conversation I had with him upon the subject.

You will discover, my Lord, by the various papers I forward by this conveyance that something like party has taken place, but from what spring or cause, or with what view or design, it may for a time be difficult to develop. I attribute much to the trading schemes and interests, to which I have ever been an enemy in this colony, and I consider a desire to incline me, from difficulty and embarrassments, to leave those concern’d in such traffic to their full enjoyment to be the chief cause of the present appearances of party. All these circumstances I am sure your Grace will view in a serious light. The people observe such appearances, and do not hesitate, when a prisoner is to be tried, to anticipate amongst themselves the sentence which will be his fate. Such considerations will impress upon your Grace’s mind the concern and anxiety they must occasion to whatever officer may have the chief command in this distant colony if he is strictly determin’d to consider, as far as he may be able, the public interest. But I have in another place had occasion to say that I am not dispos’d to shrink from difficulty upon public duty, and your Grace shall find me resolv’d to meet and contend with it wherever or in whatever shape it may appear to the hindrance of the King’s service. I have only to hope that such notice be taken of my representation as, in your Grace’s judgement, they may appear to merit.

When officers or other persons have cause of complaint let them come forward in a proper manner. I am never inaccessible to any man in the colony. Having no council to whom I can resort for opinion upon such a variety of concerns of importance as are by the restless and troublesome disposition of several persons here constantly pressing upon my time, I am oblig’d to be governed wholly by my own judgement, which is, no doubt, fallable as other men; yet I trust that in all I have done, or may continue to do, it will be conspicuously evident that I have no object but the forwarding his Majesty’s service and the promoting the public good.

The troubles I have had cause to complain of wou’d not, I am convin’d, have so often happen’d had not our distance from the parent country been so vast; representations wou’d have been consider’d whilst all the circumstances were recent, and a more frequent comunication wou’d have been the means of a prompt decision on the part of Government at home. This wou’d have been a check likely to suppress or discourage the restless and troublesome from those attempts which keep the colony in a continual ferment.

I have, &c.,

JNO. HUNTER.
MILITARY OFFICERS TO GOVERNOR HUNTER.

Sir,

Sydney, 6th April, 1799.

A letter of your Excellency's of the 29th of March, to the Judge-Advocate, has been communicated to us, wherein you declare an intention to transmit to his Majesty's Principal Secretary of State the trial of Isaac Nichols, for the purpose of obtaining the opinion of the law officers of the Crown upon it; and that they may see how far the late Criminal Court was unanimous in its judgement, or what was the majority for the verdict given upon Nichols. You expect that the officers who sat at that Court will subscribe their names to their respective votes; and we are further informed that you propose to accompany the trial with remarks of your own in the margin of the paper. If such be your intention, we hope we may also be indulged with the liberty of making our own remarks upon the different evidences, we being more perfectly acquainted with them than your Excellency can be, they having been taken before us.

We believe, sir, that it is an unprecedented thing to call on the members of any Court to make publick their individual opinions; but as your Excellency has been pleased so to do, we most cheerfully meet your wishes, from a perfect conviction of our own integrity throughout the whole proceedings, and, lest it should be imagined that we have given a verdict which we are ashamed to avow, to such an imputation, so injurious to our characters, we cannot tamely submit; we therefore, without hesitation, declare to you, sir, that we, together with Mr. Dore, the Judge-Advocate, found Isaac Nichols guilty of the charge upon which he has been convicted; and that we, together with Mr. Dore, sentenced him to be transported to Norfolk Island for fourteen years, and until the sentence could be carried into execution, to be employed as a prisoner in the gaol gang.

By so doing we feel that we have discharged our duty as men of honour, and men solemnly sworn to administer strict justice. Thus feeling, we may be pardoned for acquainting your Excellency that we think ourselves harshly and unjustly treated by the animadversions you have been pleased to make upon our verdict, and by the Court of Enquiry you have since instituted (which Court was unanimous in declaring the justness of our decision*) to discover whether evidence favorable to Nichols had not been suppressed, or, rather, whether, as we and the publick generally conceive, the setting aside our verdict might not be justified. We

* Note 128.
1799.
30 April.

Opposition to the exercise of the royal prerogative in the case of Nichols.

also beg leave to inform your Excellency that, whatever animadversions may be made on our conduct, they will never deter us from the conscientious discharge of our duty, nor shall we be intimidated by fearing that our particular votes and opinions may be demanded by your Excellency.

As, in consequence of your Excellency’s animadversions on the proceedings of the trial of Isaac Nichols, and also of the convening of the Court which assembled on Monday last, the trial of Isaac Nichols has become the topic of general conversation, we therefore hope your Excellency will pardon us in requesting that you will do us the justice to transmit to his Majesty’s Secretary of State, not only the minutes of the trial of Isaac Nichols, as taken before the Criminal Court, but also those of the late Court of Enquiry, together with this letter, and all the other papers that have or may in any way relate to that transaction.

We will hope that the step your Excellency has been pleased to take in convening a Court of Enquiry for the purposes already stated in this letter, and your animadversions as the executive power, may not be productive of dangerous consequences, and in future form a restraint upon officers who may be called upon to sit as members of a Criminal Court, and may induce criminals to persevere in their iniquitous practices, by observing the differences which so unaccountably arise between the judicial and executive power.

We have, &c,

NEIL MACKELLAR, Lieut. N.S.W. Corps.
JAMES HUNT LUCAS, Lieut. N.S.W. Corps.
NICHOLAS BAYLY, Ensign N.S.W. Corps.

[Enclosure No. 2.]

GOVERNOR HUNTER TO MILITARY OFFICERS.

Gentlemen,

I have receiv’d your letter of this day, and in reply thereto I have to inform you that your communication from the Judge-Advocate respecting my intention of laying before the King’s minister the minutes of the trial of the prisoner Isaac Nichols is correct; and I will be candid enough to tell you, gentlemen, that I have resolv’d upon this measure from motives of duty.

That trial has appear’d to me so very different from anything of that nature which has heretofore happen’d in this country that I have taken much pain and time in the investigation of the minutes, and in considering the different evidence, and I have
form'd my opinion of the verdict from that investigation. Con-
ceiving it, therefore, as a matter of the highest importance to his
Majesty's subjects inhabiting this colony, I have determin'd to
apply for instructions from his Majesty's minister, which instruc-
tions I trust will be founded upon the wisdom of the highest law
authorities in the kingdom. And let me also inform you, gentle-
men, that I have not the smallest objection to transmitting with
my despatches any papers you may have to forward.

Not having received any official information relative to the
individual opinions of the Court, I can only imagine from your
own letter that you, gentlemen, together with the Judge-Advocate,
were the majority for the verdict given, which verdict, from my
examination of the trial itself, I have ventured to consider erro-
nious, as the evidence strikes me; it will therefore remain for a
time uncertain which judgement is the most correct.

In Courts-martial it is forbidden by the oath administer'd to
the members that the opinions of the individuals shou'd be made
public, and in jurys they are to be unanimous; our Court is not
exactly similar to either, and when the members are no doubt
governed by conscience and the evidence before them, it can be of
little consequence to them who is acquainted with their respective
opinions. But on the present occasion it is only for the informa-
tion of his Maj's minister, in order that he may see how far the
Court was unanimous or divided.

I know not what animadversions you allude to when you com-
plain of being harshly treated by those which you say I have made
upon your verdict, and I wish to be inform'd what they are, and
by whom you have been inform'd of them.

The design of the Court of Enquiry I instituted was for the
purpose clearly expressed in the letter or precept address'd to its
members, and it was intended by me, as well as the minutes of
that enquiry, to accompany the trials which I forward to Eng-
land.

The executive authority in this territory, as well as others, is
lodg'd in the hands of the officer who may command in chief.
The members of a Criminal Court, when they have given their
verdict, have done the duty they were order'd upon, and have
nothing farther to do when the Court is disolv'd; the execution of
that verdict is left with the commanding officer, who may either
inflict the whole or only a part, and if he chooses to extend his
Majesty's mercy he may remit the whole. The Court have
nothing to do, as I have already said, after passing sentence. Nor
have that Court, or any of its members, any cause for feeling
burt at the Governor exercising the authority which is delegated
to him by his Majesty, to whom or his minister he can only be answerable for the exercise of that delegated power, or for whatever else he may do in his official capacity.

With respect to the papers which you have desir'd may be forwarded, I am pleas'd to find that I have anticipated that desire, and your present letter shall accompany them. In consequence of this wish on your part, I conceive it proper to inform the other members of that Court, lest they might be desirous of transmitting their observations also.*

JNO. HUNTER.

[Enclosure No. 3.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

Sir,

Sydney, 29th March, 1799.

I return you the Minutes of the last Court of Criminal Judicature, which I have most attentively perus'd several different times, and I have to desire you will Order to be prepared for me, Copies of the Trials of William Collins and of Isaac Nichols, it being my intention to forward them with my first dispatches to His Majs. Principal Secretary of State, the first (Vizt.) Wm. Collins being different from any Case of the kind which has ever yet happened in this Colony and the Latter, I am desirous of receiving the Opinions of the Law Officers of the Crown upon: The Officers who with you compos'd the Court before which the above Prisoners were tried, will no doubt subscribe their Names to their respective Votes in order that the Attorney and Solicitor Generals may see how far the Court have been unanimous in their Judgement, or what were the Majoritys for the Verdicts given upon those trials. 

I am etc.,

JNO. HUNTER.

[Enclosure No. 4.]

JUDGE-ADVOCATE DORE TO GOVERNOR HUNTER.

Sir,

Sydney, 29th March, 1799.

Your Excellency is perfectly regular in transmitting the proceedings on the Trial of William Collins to England the Patent expressly requires it under the circumstances attend'g Collins's Conviction. But give me leave to observe to your Excellency (and I deem it a part of my Professional duty so to do) that the Law Officers in England can take no cognizance whatever nor will they give an opinion on the Case of Isaac Nicholls, who has been Convicted by a Majority of the Members your Excellency appointed under your own precept to compose

* Note 129.
the Court of Criminal Judicature; had any doubts arisen to have warranted an Arrest of Judgment I should have reported them to your Excellency.

I am etc.,

RICH. DORE,

Judge-Adv.

Copies of the Trials shall be sent your Excellency soon as possibly they can be prepared.

[Enclosures Nos. 5, 6, and 7.]

[These letters are duplicates of the enclosures numbered 2, 3 and 4 of the despatch of Governor Hunter to the Duke of Portland, dated 21st February, 1799.]

[Enclosure No. 8.]

JUDGE-ADVOCATE DORE TO GOVERNOR HUNTER.

Sir, Sydney, 5th April, 1799.

I have observed of late, with much concern, that the style of your Excellency's letters to me has not been such as I conceived myself entitled to, whilst rectitude and Integrity were the leading principles of my Conduct—far from ever having had a thought of Offending you, Sir, either as Governor of this Territory, or a private Gentleman, I own I am at a loss to discover from whence your prejudice (or perhaps your displeasure) has originated—nor had I the most distant Idea when I came into this Territory that I should in my Official Situation meet a style of language here which I have been wholly unaccustomed to in England.

Allow me to observe to your Excellency that if I boast of my Indepency it is because It sets me above doing an Action that the World by the most strained Interpretation could challenge as mean or dishonorable.

How I can appear to your Excellency then to be readily disposed to forget or misunderstand such of your verbal directions as do not correspond with my wishes is a subject of surprize to me and an Imputation that no part of my Conduct has merited.

During a certain time I had the honor of your Confidence, and I believe no Man could be more respectful, more sincerely attached to your Interests, or more zealous for the prosperity of your Government than myself—nor will you find thro' the whole of my Correspondence one line that departed from that respect or indicated a wish to disturb the Tranquility of that Government. To your Excellency's Commands I have ever paid implicit obedience and ever shall do as my superior Officer, and altho'
I can scarcely suppose it possible that your Excellency has a serious thought that I could combine with any set of Men to snatch the executive authority out of your hands. Yet when I find a sentence in your last Letter that admits of such a Construction, my astonishment, give me leave to say, Sir, is proportioned to the sense I entertain how prematurely such a Reflection applies to me, whose Interest is almost inseparable from your own.

Permit me to refer your Excellency to the minutes of Proceedings of Magistrates respecting the carrying into effect the adjudication of a Criminal Court. You will there observe it was the order of the Bench and I well recollect that the Rev. Mr. Johnson if not Mr. Marsden was present, that such adjudication should be carried into effect “until the pleasure of your Excellency should be signified to the contrary.”

God forbid I should ever preside in a Court where one Member was of a stamp so unnatural as to wish to send a Criminal, cast for death, from the Bar to the place of Execution.

Your Excellency gave no intimation of the two Respite Collins and Lancashire nor did I understand what was your immediate pleasure respecting them until I saw it in the Gaol Report. Your Excellency’s directions in regard to Isaac Nicholls being new signified to me Officially are obeyed and shall be recorded.

I have, etc.,

RICH. DORE.

P.S.—I must trespass upon you for a further supply of Paper for the several Trials your Excellency has directed to be Copied.

[Enclosure No. 9.]

GOVERNOR HUNTER TO JUDGE-ADVOCATE DORE.

Sir,

5th April, 1799.

It is not my intention to enter further at present into the cause which I have for some time had for being dissatisfied with a variety of Circumstances,* which have fallen under my own Observation. I feel it a Justice due to the Situation which I have the honor to hold in this part of His Majesty’s Dominions, that my representations should be made, without loss of time, to the King’s Minister, who will Judge from the documents which I shall transmit, whether there has or has not been Cause for the Observations I may lay before him.

I send you a little Paper for the three trials, I have desir’d Copies of (viz.) Collins, Nichols and Lancashire with their respective defences. My order respecting the two Prisoners, Collins and Lancashire, were deliver’d to the Provost Martial.

* Note 130.
The attempts made upon the Latter Prisoner, under the pressure of his Misfortunes and Melancholy Situation, were cruel and unjustifiable.

I am etc.,

JNO. HUNTER.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch* No. 39, per H.M.S. Buffalo, vid the Cape of Good Hope.)

Sydney, New South Wales,

My Lord Duke,

1st May, 1799.

It becomes necessary I shou'd inform your Grace that since I did myself the honour of writing by the ship Marquis Cornwallis (vid Bengal),† a duplicate of which letter I send by this conveyance, I have anxiously waited for an opportunity of communicating the vast disappointment we have experienc'd in the hope and prospect of a very abundant harvest, from a most tedious and unfortunate drought. I can scarcely say that we have had a shower of rain for the last ten months. Our maize crops have completely fail'd us from that cause, and this will occasion a great reduction in our stock of swine. The wheat harvest has not turn'd out more than one-third of what, from the quantity of ground sown with that grain, we had a right to have expected had the season been moderately favorable. The whole country has been in a blaze of fire, our pasturage for a time destroy'd, and the streams of fresh water almost exhausted; this occasions the whole of our grazing cattle to suffer much, still I am in hope our loss from these unfortunate circumstances will not be so great as might be expected.

Your Grace will pardon me for repeating what the excessive want of sufferings of the people are for want of cloathing and bedding. Our storehouses are now completely empty, and had not the most rigid and scrupulous economy been practis'd for a very long time past, it is scarcely possible to describe what we must have suffer'd. Norfolk Island feels equally in consequence of our inability to supply their demands. No sufficient supply of such necessaries have been receiv'd here since the arrival of the Sylph two and a half years past,‡ and at the time we receiv'd her cargo the people were nearly naked. Your Grace may have imagin'd that the Ganges, Britannia, Barwell, and a second Britannia,§ added to our stock of such articles; but some of those ships landed their convicts either in rags or half-naked, and we had them to cloath from our savings.

As your Grace is sufficiently acquainted with what description of character the mass of the people in this colony is compos'd

* Note 99.  † Note 131.  ‡ Note 132.  § Note 19.
of, and that some of those who have been sent here are far from being well effected to our government, you will not be surpris'd that the little intercourse we at this time have with the mother country shou'd give room for the dropping of siditious anonimous papers, threatening what will be done at the proper time. The people grow insolent from what they suffer, and that insolence renders punishments more frequent and severe. That none may have it in their power to make a plea of any injustice being exercis'd upon them with respect to their time of servitude, I make it a rule three or four times in the year to issue to those who have completed their term of transportation discharge certificates, and if they are desirous of being at their own disposal we strike them off from the public victualing-book. Thro' these means, having had too many sent here who had not upon their arrival more than two years to serve,* together with the necessity of keeping up our artificer gangs for various essential purposes, we are weak in field labour, and on Norfolk Island they are still more so.

The vast number of idle and worthless characters who are let loose in this way, and who have no means or opportunity of getting out of the country, become really, my Lord, a dangerous and most troublesome pest. They will not work, but they contrive to form connections with the equally worthless of the other inhabitants, who from their domestic situations have an opportunity of affording the best information where robberys and burglarys can be most readily committed. Our police is pretty strict, yet these vagabonds often elude our utmost vigilance. And what renders such idle and wicked characters a still greater inconvenience is that they consume a vast proportion of that provisions which is rais'd in the colony and wou'd serve to feed the more industrious, and prevent that supply of swine's flesh being offer'd to the store which we otherwise shou'd have. They are well aware of the consequences of detection in their robberys, many having been retransported,‡ a sentence they dread more than death.

The commanding officer upon Norfolk Island writes me that they have succeeded this season in their wheat harvest much better than formerly, but that their last crop of maize fail'd them. All this wheat, he says, being the property of private settlers, who pay immense prices for labor, they will not supply it to the public store under 15s. per bushel. In short, my Lord, the only effectual means of reducing the price of labor, and consequently of everything rais'd by it, is by supplying the colony with European articles of every kind wanted here—as well the common necessarys of life as some of its luxurys—at a moderate expence. All will then do well, and the farmer, if industrious, will prosper.

* Note 22. ‡ Note 135.
I must beg to observe, my Lord, with respect to the Government's cattle, which by the inclos'd return you will discover grow numerous, I most anxiously wish to receive some instructions. I am convic't it wou'd prove of much advantage to their care and preservation were part supplied on certain conditions to industrious individuals. Your Grace will otherwise see the necessity of appointing a respectable person to take the whole under his direction, for, my Lord, it is vain to imagine that the Governor, with such a multiplied variety of duties to consider, can pay the necessary attention to that important trust.

The unlucky failure of our crops this last season, from which I had in the beginning such flattering prospect of having near two years' bread in the colony, has oblig'd me to submit to an increase in the price of swine's flesh, which I had in the last year reduc'd one-fourth. It is not possible, my Lord, during the excessive poverty and present distresses of the people, owing to the want of public supplies and the exorbitant expence of labor, that they can feed their swine under such misfortunes at a less price; such stock must be maintain'd from the labor of the owner. In consequence, therefore, of the entire failure of our crop of maize this year, I have ceas'd to issue that article to the people, and serve an additional quantity of wheat in lieu, in order that we may lose as few swine as possible, for they must be fed wholly on maize. Many persons who have turned their mind much to the rearing this kind of stock have assur'd me that the misfortunes I have mention'd have been so great a drawback upon their expectations from that stock that 2s. 6d. pr. lb. would not indemnify them for the expence of feeding. I, however, receive it at 1s. pr. lb. for the public store. But let me here observe, my Lord, that our failure this year is nothing different from what other countrys are subject to. It does not proceed either from the effect of climate or from a sterile country, but intirely from one of those causes which are not to be prevented or accounted for by any human wisdom, but which are sometimes experienc'd in the ways of Providence.

It wou'd be a great comfort, my Lord, to those who are charg'd with the general concerns of this colony were our intercourse with the mother country more frequent than in general it has been. It wou'd serve to keep the people more cheerfull and contented; it wou'd be the means of introducing many comforts into the settlement, and thereby spur the industrious to every exertion for enabling them to procure a share of such comforts; it wou'd open an avenue thro' which such convicts as might be out of their time might have an opportunity of quitting the country; and such as have no industry are very unfit to continue in it. But I
1799.  
1 May.

Purchases made from traders.

Disastrous flood in the Hawkesbury River.

need not fatigue your Grace with observations on these subjects. My general correspondence have already declar'd my sentiments, and to that I must refer.

The distresses and wants which I have had occasion to mention will, I doubt not, be sufficient to impress upon your Grace's mind the unavoidable necessity of such purchases from strangers as I am most unwillingly compell'd to make, and have at this moment an opportunity of being supplied with, and of which, for your Grace's satisfaction, I inclose a list, with the prices paid. If during the command of other officers in this country they were more fortunate in receiving supllys from home than I have been, the expences incurr'd during their authority will have appear'd proportionately less; yet I trust that the want of a more frequent comunication, and the expences occasion'd from that circumstance, will not be plac'd to the account of a want of due attention to the public interest on my part.

Before I conclude this letter, I must inform your Grace that immediately after the breaking up of the tedious drought which I have mention'd another misfortune succeeded, which, altho' not so ruinous to the colony at large, has prov'd a most distressing circumstance to the settlers upon the banks of the Hawkesbury River, where we have in some seasons rais'd from fifteen to twenty thousand bushels of wheat. No cause having appear'd which indicated an approaching overflow of that river, the people were not prepar'd for such a disaster. Some say the natives foresaw it and advis'd the inhabitants; but this report requires confirmation. Certain, however, it is that a very heavy fall of rain had taken place in the interior of the country, which being at that time in an uncommonly dry and parch'd state had not quickly absorbed any part of this torrent; it descended down the sides of the hills as from mountains of solid rock, fill'd all the low grounds and the various branches of the river, which, being in shape suddenly serpentine, cou'd not give vent so fast as the waters came down. The banks upon which our settlers were fix'd were overflown with vast rapidity. The Government store, which had been built upon the first settling of this part of the country, was not out of the reach of this inundation, and was, with all the provision it contain'd, swept off. The river swell'd to more than fifty feet perpendicular height above its common level, and the torrent was so powerful it carried all before it. Many of the people were taken from the ridges of their houses by a few boats they had amongst them just in time to save their lives, for most of the dwellings were cover'd, and the whole country here appear'd like an immense ocean. Many hogs, other live stock, poultry,
with much of the produce of the last unfortunate harvest, and the
domestic effects of the people, were hurried away before the
torrent. Fortunately, we lost but one man. Applications are
coming to me from every quarter of this distress'd district for
cloathing and bedding, of which we have none to supply. I will
do all I can to moderate their distresses, and I trust I shall not be
censured shou'd it occasion some expence.

Allow me to assure your Grace that it is the want of such
articles as have generally been sent us from England that occa-
sions the expences so much complain'd of, for when driven thro'
necessity to purchase from speculators and traders who sometimes
call here, we pay more than 500 per cent. above what the same
article cou'd be sent out for. The war, I well know, my Lord, has
been the chief cause of our wants; I am only desirous that the
real cause of every expence be clearly understood.

I have the satisfaction to believe that this inundation will be
the means of that land which has been overflown producing, for a
year or two to come, uncommon crops, and thereby recover the
loss it has at present occasioned to the people.

Applications have been made by the sufferers on the Hawkes-
bury for seed wheat to sow their grounds with, as also have
settlers in other parts of the country where the crops have failed.
I see the necessity of complying with these applications, for
preventing a continuance of scarcity. The quantity of fresh
pork which has for some time past been taken into the store will
appear to have occasioned expence, but I have the satisfaction
to say that I have at this time, thro' that supply, six months' salt
provision in store, which, without this pork, would have been all
expended, and the colony without any animal food.

Inclos'd is a continuation of the General Orders issued from
time to time.

To avoid, as far as possible, fatiguing your Grace with an
increase'd number of letters, I will take this opportunity of
informing that on the midnight of the 11th of February last our
public gaol, substantially built of double logs, which cost us much
trouble in the erection, was wilfully and maliciously consumed by
fire. No discovery can be made of the incendiary. I am now
erecting a strong and permanent building of stone, with very
thick and substantial walls, which will defy every such attempt in
future.

Before I conclude, let me here observe to your Grace that two
letters of marque, whalers, one of which had been here to refit,
and sailed from hence to the coast of Peru, have taken a Spanish
ship, bound from Lima to Quiquil, upon that coast, with a cargo

Results of
the flood
and previous
drought.

The cause of
the increase in
expenditure.

1799.
1 May.
of various articles,* and have sent her to this port, where she has
been tried by a Court of Vice-Admiralty and condemned as law­
ful prize.

Permit, my Lord, to take the liberty of observing that this
colony may prove at some future period, from its situation, a
settlement of much importance in case of either a Dutch or
Spanish war.

I have, &c,
JNO. HUNTER.

P.S.—7th June.† Nothing can distress me more, my Lord, than
to have occasion to relate accidents or misfortunes having taken
place in this settlement. But it wou'd be improper to conceal
from your Grace's knowledge anything which can in the smallest
degree occasion expence; I therefore add by way of postscript to
this letter,—that on the 4th, 5th, and 6th of June a very heavy
storm of wind from the southward, attended by an incessant
torrent of rain during those three days, took place here; by which
several highly essential buildings of a public nature, which have
been erected by great labour and a considerable expence of time,
but which, not being quite completed, were blown entirely down,
and we are thereby thrown back for near twelve months in what
I hop'd to have finish'd in a very short time.

The house erected formerly by Governor Phillip for the resi­
dence of the Govr. when his duty call'd him to Parramatta,
having about six months ago fallen down, being entirely decay'd, I
had got another of better construction almost up, but this gale has
damaged altho' not destroy'd it. A large substantial windmill
tower of stone, the second I have attempted to erect, was rais'd to
its full height, and we were employ'd in getting on its roof, but
not being yet clos'd in, or sufficiently shelter'd from the storm, it
was laid down to the ground; a variety of other buildings of
less magnitude, but equally necessary, are either level'd with the
ground or much injured. I trust, however, my Lord, that I shall
in less than another year get the better of these misfortunes, and
I hope without creating any additional expence but such as may
be the consequence of a loss of time.

JJJ

[Enclosures Nos. 1 and 2.]

[Copies of the returns of cattle and of market prices have not
yet been found.]

[Enclosure No. 3.]

GOVERNMENT AND GENERAL ORDERS.

21st August, 1798.

[A copy of this order re a sitting of the Court of Vice-Admiralty
has not yet been found.]

* Note 136. † Note 137.
27th August, 1798.

It is with much concern and displeasure that the Governor has for some time past observed a more than usual inattention to the Sabbath Day, and to the sacred duties which that day has been set apart for the performance of, that instead of employing it as the Christian religion, which we profess, intended, and as the laws by which we are governed have positively directed, it is occupied in other employments, and in the indulgence of every abominable act of dissipation. This must not—shall not, be suffered. It is therefore hereby strictly ordered: That the overseers of the different gangs do see their men mustered every Sunday morning, as well as at all other proper times and occasions, and that they do attend them to church; that the superintendents under whose direction such gangs are placed do attend to the due execution of this Order; that such gangs as are employed at a distance, as at Toongabbie, the superintendents there do direct that two or more of those gangs, according to the number he may have, be ordered to attend the church at Parramatta in the forenoon, and as many in the afternoon; that the constables in or near the towns of Sydney and Parramatta do see that due attention is paid to this Order; that the women, who, to their disgrace, are far worse than the men, be most strictly looked after and ordered to attend divine service regularly, or they will expose themselves to punishment.

That as example from superiors is certainly highly effectual in all such cases, the Governor expects that the officers will direct that a certain number of their domestic servants do attend the church; and for the more punctual and constant execution of these Orders he desires he may have, and he trusts he shall have, the assistance of the whole body of the officers, both civil and military. He is convinced that when it is well known that the officers will take notice of all disobedient and disorderly persons there will be less cause to complain of the shameful and disgraceful abuse of the Sabbath Day by the lower ranks of the people. Such assistance from officers would certainly be productive of a more prompt attention to Public Orders in general, and to the establishment of a more decent conduct in the inhabitants of this colony. The Governor trusts that the magistrates will in a particular degree show their zeal in compelling a due attention to the meaning of this Order, and prevent the opening of licensed public-houses during the hours of divine service, or any irregularity in a day set apart for public worship. If due attention is not paid to these Orders, and such shameful conduct in the people more rigidly looked after, the Governor is resolved to shut up every public-house, and to prosecute with the utmost rigour all who shall attempt to retail strong liquors without regular permission.

17th September, 1798.

Parole—Russia.  Countersign—Tartary.

The Governor, desirous of affording every possible encouragement in his power to the rearing of hogs in this colony, as well as of every other kind of stock, a circumstance which cannot fail of proving not only a public benefit, but highly to the advantage of those who devote a part of their time to this useful purpose, and which, from the now advanced state of the private farms, may be done with far less trouble and expense than formerly. In addition
to that information which the Commissary was some time past directed to give, the settlers and all others who apply a part of their time to this useful and advantageous purpose are given to understand that when any individual shall have prepared a number of such animals for the reception of the public store, they make the same known to the Commissary, who, in order to prevent any unnecessary extra expense to the feeder, will give immediate notice of the day and place where he will receive it. The Commissary is also at liberty to enter into an agreement or contract for a certain length of time, and on such conditions as may be agreed upon, with any person who will engage to furnish the public store either at Sydney, Parramatta, or Hawkesbury, with any certain quantity at stated periods.

2nd October, 1798.

Parole—Newport.  Countersign—America.

The Commissary is directed to issue on Saturday and Monday next the following ration, and continue it until further orders:

**To the Civil, Military, Free People, Watchmen, &c.**

- Beef 7 lb., or Wheat 10 lb.
- Pork 4 lb. Maize 10 lb.

**Convicts, &c.**

- Beef 7 lb., or Wheat 9 lb.
- Pork 4 lb. Maize 12 lb.

Women and children the usual proportion.

3rd October, 1798.


WHEREAS some worthless and infamous person or persons did on Monday last, between the hours of 7 and 8 in the evening, wilfully and maliciously set fire to the church and school-house, by which it was completely consumed. And whereas the discovery of characters so extremely dangerous to the colony at large, as well as to its inhabitants individually, is of the utmost importance: Notice is hereby given that if any person will come forward and give such information as shall serve to convict so horrid a character before a Court of Criminal Judicature they shall receive a reward of £30. And if the informer shall happen to be a convict, such convict, in addition to the above reward, shall receive a full and absolute emancipation, and be recommended to the master of any ship in which he or she may desire to leave the colony.

4th October, 1798.

Parole—Industrious.  Countersign—Laborious.

It having been represented to the Governor that many people who are concerned in petty dealings with every description of inhabitants in this colony consider themselves at liberty to imprison the persons of their debtors, when unable to discharge their demands, by which means the public interest is materially injured, and the Crown deprived of the services of such debtors:

Notice is hereby given, and the Governor expects it to be seriously attended to, that the public labouring servants of the Crown are not to be detained from their duty by imprisoning their

* Note 138.
persons in this way, the property they possess being considered as belonging to Government; and if any such dealers shall be desirous at any time of accommodating the labouring servants of the Crown with credit, it must be wholly and absolutely upon the strength of their good faith in the integrity of such people, and not under a notion that they can arrest and imprison them by forms of law; and it is from henceforth to be generally understood that Government will by no means dispense with the labour of its servants for the partial accommodation of any private dealings whatever.

Octr. 25th, 1798.


A Court of Criminal Judicature consisting of the Judge-Advocate, two Officers of His Majesty's Navy, and four Officers of His Majesty’s New South Wales Corps will assemble on Wednesday the 31st instant, for the Trial of such Prisoners as may be brought before it.

30th October, 1798.

ORDER GIVEN AT HAWKESBURY.

The Governor having understood that the people who are employed by Government at the Hawkesbury, such as sawyers, carpenters, and other working people, do apply more than half the time to their own purposes, and that through that imposition the public work is almost wholly neglected: The task which the sawyers have thought proper to establish for themselves is so clear an imposition that it is no longer to be allowed: Unless, therefore, they cut what is a fair weekly task, they are to be employed agreeable to the Public Orders lately issued, that is, from daylight until 8 o'clock, then an hour for breakfast, from 9 until 12, then one hour and a half to dinner, and from half-past 1 until sunset—these are the working-hours, except when a proper task is cut, which of the timber cut at Hawkesbury 600 feet cannot be reckoned too much. The labouring people who supply the pits can in three days furnish enough for the week, the rest of their time to be employed in splitting shingles, or paling for enclosing the public buildings, or as the commanding officer may judge best for the public service.

The navigation of the creek being nearly shut up by the trees which have been thrown into it, it is expected that every person having a farm upon its banks do exert their utmost endeavour to clear opposite their own grounds, otherwise it may be found necessary to employ people at their expense.

It is the Governor's intention, for the convenience of the settlers, &c., at Hawkesbury, to direct that a quarterly session be held there regularly for the settling all their civil concerns; the times of its sitting will be advertised.

The Governor cautions the settlers against the permitting worthless and idle persons to lurk about upon their farms, as it is expected they be in a certain degree answerable for the conduct of those whom they permit to reside upon their grounds or employ in their service. The district constables are desired to give in to the commanding officer once a month an account of the persons resident amongst the settlers in their respective districts, agreeable to their original instructions.
The settlers are desired, whenever they take a man into their employ, that they immediately enter his name with the chief constable, who is ordered to keep a list or register of the labouring people employed within the limits of his duty.

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Nov. 1st, 1798.


A Court of Criminal Judicature is Ordered to be Assembled this day, for the Trial of such Prisoners as may be brought before it.

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7th November, 1798.

Parole—Spain. Countersign—Portugal.

The complaints which are daily made to the Governor of the refractory and disobedient conduct of the convict women renders it necessary that some steps be instantly taken to make those troublesome characters more clearly understand the nature of their situation in this country, and the duties which they are liable to be called to perform. The Governor has judged it necessary to desire that every officer or other housekeeper in the colony who may have women servants in their family do immediately forward to the Judge-Advocate's office at Sydney the names of such as they employ in their respective families. He also desires that they will not employ or afford protection from public labor any but such as they are permitted to retain; and that when at any time they are desirous of discharging from their service or employment any servant of this description they do send an intimation thereof, with a character, to the above office. And as the Governor has never limited the officers and other housekeepers in the number of women servants which they consider'd indispensably requisite in their domestic concerns, he trusts they will afford him every assistance in their power which may enable him to detect imposition and serve to correct any abuse of such indulgence.

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Novr. 20th, 1798.


A Court of Civil Jurisdiction will be Assembled on Wednesday the 12th of Decr. at 10 O'Clock in the forenoon at Sydney of which all Persons having business to do before the said Court are desired to take Notice.

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26th November, 1798.

Parole—Attention. Countersign—Compliance.

The Public Order of the 7th (in which every officer or other housekeeper in the colony were directed to make a return to the Judge-Advocate's office, at Sydney, of the names of the women servants they might employ in their domestic concerns, and whose labor might be the property of the Government) not having been attended to except by a few individuals, his Excellency has judged it necessary to repeat it is his desire the above return be made as early as it can be done, otherwise he shall find proper to call all those women in to perform such work as the public service may require of them.
This Order is meant to extend to settlers as well as others who may have any of the female servants of the Crown in their employment. Those who reside in the neighbourhood of Parramatta will forward their returns to Mr. Atkins, those at the Hawkesbury to the commanding officer there.

5th December, 1798.


The time at which constables and watchmen have generally been chosen for the ensuing year being arrived, the Governor desires the magistrates will proceed as early as they can to the nomination or election of those who are to officiate during the next twelve months, and for this purpose an order in the name of the officiating magistrates sent to the different districts will be necessary for fixing the time when the return of those elected should be laid before them; and as there has appeared to the Governor, from the frequent escapes which have lately been made out of the gaol at Sydney, that an essential part of the duties of those men have been most shamefully neglected, or, which is still worse, that they have suffered themselves to be tampered with to permit the prisoners under their charge to effect their escape, it is hoped that the gentlemen who have the choice of such persons as are now to serve that office will be very particular in their election.

7th December, 1798.


The Governor having understood that the assembling of a Court of Civil Judicature so early as Wednesday, the 12th, will be attended with much loss and inconvenience to those whose crops may not have been cut down by that time, he has directed the assembling the above Court to be put off until Thursday, the 20th, when it will meet for the despatch of such business as may come before it.

10th December, 1798.


The wheat harvest being nearly at an end, the Governor desires again to remind those who are engaged in farming of the necessity of their exerting themselves in every practicable means for securing their crops, when stack’d, against accident by fire. The present dry and sultry season, he trusts, will of itself shew the necessity of using every precaution. Fencing in, digging a ditch, hoeing and raking the ground around their stacks, will, no doubt, be highly advantageous.

20th December, 1798.

Parole—Cleanliness. Countersign—Healthy.

Continual complaints are made by the inhabitants of Sydney of the dirt and filth which it is the practice of those who live near the spring to throw into the fresh water, to the great danger of the health of those who use that water. This public notice is therefore given that if any person shall be found to open the paling which surrounds the run of fresh water, or shall wash or steep anything whatever in or above the tanks, they will be immediately taken into custody and suffer such punishment as before a
1799, 1 May.

Orders re

Meeting of civil court.

Certificates for expirees.

Civil appointments.

Adjournment of civil court.

Meeting of officers.

Her Majesty's birthday.

Pleas of debt recoverable only in a civil court.

HISTORICAL RECORDS OF AUSTRALIA.

Court or Bench of Magistrates they may appear to merit, and if their house is near or opposite any part of the run of water it shall be pull'd down as a public nuisance.

AFTER ORDERS.

The Civil court of Judicature which met this day is adjourned until Tuesday January 8 when it will meet for the dispatch of such business as may come before it.

Decr. 22nd, 1798.


On Wednesday Jany. the 2nd Certificates will be granted at the Commissary's Office Sydney, to such men, as appear by the Accounts sent to this Country with them, to have Completed their time, and on Thursday 3rd Certificates will be delivered to such Women as appear to be intitled to them.

1st January, 1799.


Mr. John Gowan is appointed storekeeper at Sydney, in the room of Mr. William Stephenson, deceased.

8th January, 1799.

Parole—Chester. Countersign—Liverpool.

The Civil Court which had been adjourn'd from the 20th Dec'r until this day is farther adjourned, on account of the ill-health of the Judge-Advocate. Timely notice will be given of the time when it will again meet.

The Governor desires that on Tuesday, the 15th instant, the following officers will meet him upon public service, in the Court house at Sydney, at 10 o'clock in the morning, viz.:—The Commanding Officer and Captains of the New South Wales Corps, the Commanders of his Majesty's ships, and the First Lieutenant of the Reliance, the two clergymen, the Principal Surgeon, the Surveyor-General of Lands.

15th January, 1799.

Parole—Lisbon. Countersign—Tagus.

Friday, the 15th, being the day appointed to be observed as the birthday of her Majesty, the New South Wales Corps will parade at 12 o'clock, and fire three volleys, in honor of the same; and the batteries on the west and east points of the Cove will, between them, make up a royal sallute (twenty-one guns), the military firing the guns on the west point, and the seamen of the Supply those on the east.

16th January, 1799.

Parole—Montreal. Countersign—*

At a meeting of the Governor and the principal officers of the colony—civil, military, and naval—to consider of various matters of a public nature, amongst others it was the unanimous opinion that the Patent for establishing our Court of Civil Jurisdiction, in the clearest manner, has expressed "that the Civil Court only was competent to decide upon all pleas of debt." The Civil Magistrates will therefore hereafter be relieved from that duty, and will have chiefly to attend to those of the Justice of the Peace; they will, however, use their utmost endeavours, as

* Blank in Manuscript. † Note 139.
far as their influence can be effectual, in recommending the settling of trifling debts by arbitration, and thereby prevent such vexations litigation.

21st January, 1799.


The Governor desires that the officers, settlers, and others engaged in farming will give him a return of what quantity of wheat they may have reaped from their last harvest, as near as they can estimate, and also what ground they may now have planted with maize. He also desires a return of live stock.

The officers will forward their returns to Captain Johnston, and the constables of the different districts are desired to collect those of the settlers, &c., and forward them to the nearest magistrate, who is requested to send them address'd to the Governor.

The Governor wishes to have these different returns by the first day of February.

Jany. 23rd, 1799.


A Court of Criminal Judicature, Consisting of the Judge-Advocate—Three Officers of His Majesty's Navy, and three Officers of His Majesty's New South Wales Corps, will Assemble on Monday 28th Instant at 10 O'Clock in the Forenoon for the trial of such Persons as may be brought before it.

25th January, 1799.

Parole—Integrity. Countersign—Sincerity.

The filthy condition in which the spring-water in the tanks is so often reported to be kept in, by those who live near having repeatedly broke down the paling which surrounds them, or left it open when broke by accident, for the admission of hogs, this notice is given that none may plead ignorance: That such hogs as may be found hereafter within that paling will be liable to be destroy'd; and whenever the paling is found torn down it will be order'd to be repaired at the expence of those who may inhabit the house nearest to the fractured part. And if any person shall presume to dam up the water above the tanks, or dig wells so near as to prevent that supply so requisite for the public use, will be immediately prosecuted with the utmost severity.

Jany. 28th, 1799.

Parole—Fowey. Countersign—Cornwall.

AFTER ORDER.

The Court of Criminal Judicature which was to have Assembled this day is Postponed until to Morrow the 29th when it will Meet at 10 O'Clock of the forenoon.

1st February, 1799.


An Order was given out on the 18th June last directing that all measures, whether dry or liquid, be brought to the Government Store at Sydney, there to be proved and marked, and informing that whoever was found to make use of any measure without such stamp wou'd subject themselves to a prosecution.
This Order was given for the purpose of putting a stop to a species of robbery practised by dealers and boatmen, which had been complained of and detected at that time, viz., that of selling by a small measure and buying by a large one. It is now a second time directed that all measures of the above description be regularly stamp'd at the Government Store at Sydney before they are used. If any are found in use without such a stamp, after due time being allowed for this information becoming public, the proprietor will be subject to a prosecution.

Feby. 7th, 1799.


The New South Wales Corps will be under Arms to Morrow Friday the 8th at 12 O'Clock, for the purpose of attending the Execution of the Prisoner now under Sentence of Death.

Feby. 13th, 1799.


A Court of Criminal Judicature Consisting of the Judge-Advocate—Three Officers of His Majesty's Navy, and three Officers of His Majesty's New South Wales Corps will Assemble on Thursday the 14th Instant at 10 O'Clock in the Forenoon for the Trial of such Prisoners as may be brought before it.

Feby. 15th, 1799.


AFTER ORDERS.

The New South Wales Corps will be under Arms to Morrow Saturday 16th at 12th O'Clock for the purpose of attending the Execution of the Prisoner now under Sentence of Death.

Feby. 20th, 1799.


The Francis Colonial Schooner will Sail for Norfolk Island about Saturday next 23rd Instant.

28th February, 1799.


The Governor having received information from various quarters that, in direct disobedience of Public Orders, and in defiance of the consequences of detection, several persons in different parts of this colony have taken the liberty of erecting stills and providing materials for the purpose of distilling spirituous liquors. As it is well known to the whole colony that this destructive practice has long been forbidden in this settlement, and under the immediate authority of every officer who has commanded in it, it is scarcely necessary to say more on the subject than to call on the aid and exertion of the whole body of officers, whether civil, military, or naval, in suppressing it; and to desire that wherever they may understand it continues to be carried on, or attempted, they may use every means in their power to detect the guilty person, and to seize or destroy the utensils they may have provided for a purpose so certainly calculated to ruin the present healthy state of the inhabitants of this territory. All constables, watchmen, and other persons are hereby strictly enjoined, wherever they may have
cause to suspect this hidden trade is carried on, to make the same known to any magistrate or other officer, in order that steps be regularly pursued for bringing any opposition to these Orders to proof. If those persons who shall presume to carry on this noxious work after this information do happen to be free people, every indulgence they may have hitherto received from Government shall be immediately withdrawn, and they shall be ordered to quit this colony by the earliest opportunity. If a convict, they will receive such treatment for their disobedience as their conduct, in the opinion of a Court, may appear to merit.

5th March, 1799.

The Governor having received by the ship Rebecca, from the Cape Good Hope, authentic information of another most brilliant victory gained by the British fleet, under the command of that distinguished officer Admiral Sir Horatio Nelson, over that of the French, off Alexandria, in the Mediterranean, he has, therefore, believing that such intelligence would be highly gratifying to the inhabitants of this colony in general, thought proper to give a few of the circumstances of that glorious event in the Public Orderly Book. The battle was fought on the 1st, 2nd, and 3rd days of August last. The French were superior in the size of their ships and number of guns. They had been employed in transporting the French army, under General Buonaparte, into Egypt, which country they intended to conquer; but have received some severe checks from the Turks and Arabs, and are now much divided and discontented. The defeat and capture of their fleet occasioned the total destruction of all their transports, so that they are now cut off from any retreat into France.

Nine sail of the line were taken, two sail were blown up, and two sail only made their escape.

It is also confidently asserted at the Cape that the French had landed in Ireland ten thousand men; that they had been completely cut off by the Marquis Cornwallis, who, it is probable from this account, is commander-in-chief of the army in Ireland.

Ordered to fire from the battery a royal salute.

March 7th, 1799.

Parole—Saltash. Countersign—Cornwall.

A Court of Criminal Judicature Consisting of the Judge-Advocate, Three Officers of His Majesty's Navy, and Three Officers of His Majesty's New South Wales Corps will Assemble at 10 O'Clock in the Forenoon on Monday next the 11th Instant for the Trial of such Prisoners as may be brought before it.

March 22nd, 1799.


The Civil Court will Assemble on Monday Morning at 10 O'Clock the 25th Instant.

March 30th, 1799.


A Court of Criminal Judicature Consisting of the Judge-Advocate, three Officers of His Majesty's Navy, and three Officers of His Majesty's New South Wales Corps will Assemble at 10 O'Clock in the Forenoon on Monday next the 11th Instant for the Trial of such Prisoners as may be brought before it.
Majesty's New South Wales Corps will assemble at 10 O'Clock of the forenoon on Monday the 1st of April for the trial of such prisoners as may be brought before it.

April 29th, 1799.

Parole—Examination. Countersign—Decision.

A Court of Vice Admiralty will be held on Wednesday the 1st of May at 10 O'Clock in the forenoon.

30th April, 1799.

Parole—Corsica. Countersign—Cyprus.

The state of the public stores with respect to salt provisions having been particularly examined, it has become necessary, in order to prevent the necessity of a considerable reduction of the rations, to alter the allowance for the present to the following proportion, which will continue no longer than until the arrival of a storeship with supplies of salted provisions, viz.:—

- Beef ... ... ... ... ... 5 lb. per week
- Pork ... ... ... ... ... 3 lb.
- Wheat ... ... ... ... ... 12 lb.
- Sugar ... ... ... ... ... 6 oz.

8th May, 1799.


On Saturday next the Commissary will issue to such men as may be entitled as much blue gurrah* and some thread, as will make a frock and pair of trousers. The women and children who may also be entitled will receive a proportion in the beginning of the week.

9th May, 1799.


The district constables are desired to collect as soon as possible a list of the names of all the men women and children who live within the limits of their respective districts and transmit them to the magistrate residing at the place from whence they receive their provision.

10th May, 1799.


That those people who have been convicted in Ireland, and transported by the laws of that kingdom to this country, may be convinced that the Governor has used every means in his power to obtain certain information relative to the term of their transportation, he has now to inform them that he has received from Ireland a correct statement of the sentences of all those who came to this colony in the ship Queen, and that he is informed, thro' the Secretary to the Lord Lieutenant, that the lists of those who came here in other ships after the Queen may know the extent of their convictions by applying, when they have an opportunity, at the Commissary's Office, Sydney.

Such as may appear to have been sent here for life need not despair of being again in due time the masters of their own labors, as every man knows that a decent, orderly, industrious, and obedient conduct has frequently in this colony recommended many to public favor.

* Note 140.
11th May, 1799.


Medical Department.

On Thursday, the 16th instant, Mr. D'Arcy Wentworth will take the Parramatta duty, and Mr. James Mileham will return to the duty of Sydney.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Sdespatch* No. 42, per H.M.S. Buffalo, via the Cape of Good Hope.)

Sydney, New South Wales,

My Lord Duke,

By your Grace's letter of the 3rd December, 1798, I have receiv'd the estimate of expence for the civil establishment of this colony and of Norfolk Island, which your Grace may rely shall not be exceeded in any instance whatever.

You observe, my Lord, that great inconveniences have arisen from the bills which have been drawn from New South Wales on the Lords Commissioners of the Treasury having been unaccompanied with the proper accounts and vouchers. In my letter No. 33* your Grace will find a full and, I hope, satisfactory account of the manner in which the various sums are paid here for such grain or swine's flesh as may from time to time be taken into the store from individuals; and altho' I have formerly mention'd that the sallarys of superintendents, storekeepers, and crew of the Colonial schooner are all paid here on the spot, and consequently what may be issued from the Treasury for these uses shou'd be repaid into it by the agent; yet I will here observe that all these respective sums being issued in promissary-notes in the name of the Commissary, payable on demand, and approv'd by the Governor to give them validity, when paid away by the different individuals for such articles as they purchase from masters of ships or other persons, they are consider'd by such dealers whilst here as effectual value for their goods, and when they are about departing from hence they apply to have them consolidated by bills on the Treasury. Your Grace will see clearly by the nature of those purchases that no other account can be transmitted than the Commissary's vouchers, shewing to what uses the sums drawn for have been applied. To make this more clear and satisfactory to your Grace, I will inclose two or three of those promissary-notes which have been cancel'd, and which constitute our only current money.† And these, my Lord, are different from any issued on account of Government before my time. I will also inclose a copy of the list deliver'd by the Commissary to me when he offers notes for my approbation. As a voucher for the expenditure of this money, each person subscribes his name.

* Note 99.  † Note 141.  ‡ Note 142.
opposite the quantity of wheat, maize, or swine's flesh he may have sold to the store, and this signature is a receipt from the party to the Commissary that he has been paid. Similar lists are sent home by the Commissary with his accounts. But in future, my Lord, when any kind of stores are purchased from strangers for the use of the colony, to satisfy your Grace as far as it may be in my power, and to shew the necessity, a list of such purchase shall be sent, independent of the regular vouchers, with the prices paid annexed.

I beg permission to observe, my Lord, that the demands for stores and clothing which were sent home by Mr. Commissary Palmer were made out strictly in the manner your Grace has desired; the quantity demanded was in one column, and the quantity remaining in another.* Those demands, my Lord, are the only ones made by me, but not having been supplied as our necessities required, I have had occasion to mention in my various letters since that we were in want. I shall only add at present upon that subject that we have not an article of any kind of clothing in the colony or upon Norfolk Island, or a blanket to shelter the people from the cold of the night.

The tools and hardware sent in the Barwell and the Buffalo were a great relief, but of clothing there were none sent in either of those ships. I found it a very difficult matter to clothe the convicts brought in the Barwell; they were wholly in filth and rags when landed. Not having ever demanded any clothing for supplying the free people in this colony, who are to pay for it in grain or stock, no particular quantity has ever been specified for such purpose, but whatever articles may be sent for this end I will take care to direct they be correctly and distinctly accounted for.

The general returns of the state of the settlement, quantity of provision in store, &c., &c., shall not in future be omitted. I have only to hope, my Lord, that if those returns have not been as often made as your Grace might desire, that it may be attributed to the multiplied duties which have been, and continue to be, constantly pressing upon my mind, and which keep me in continual motion from one part of the colony to another.

There can be no doubt, my Lord, that when the live stock belonging to individuals and to the Crown is sufficiently numerous to admit of our feeding the people upon it we shall no longer require flesh provision from any other country; but to begin too early to apply it to that use would only serve to retard the independence for provision of this country upon any other. I am very desirous, for that reason, that we should not yet make any reduction in that valuable concern. The superfluous males have

* Note 143.
occasionally been applied to the feeding the sick. I must, how-
ever, here observe that, of the larger stock, the males which may
not be requisite for propagation are yet too valuable for laborious
purposes to begin to slaughter them for food.

With respect to your Grace’s objection to the purchase of
sugar,* I beg to inform you, my Lord, that it is issued as a part
of the establish’d ration, and if we had none we should find it
necessary to serve either an additional quantity of salt meat or of
grain, either of which would be found in general more expensive.
The ration originally establish’d in this country consisted of
various articles, as in the margin.† We now issue only salt meat,
or in lieu fresh pork, and wheat or wheat meal, together with a
small quantity of sugar.

It will not be possible in this season, my Lord, to attempt
carrying into effect your Grace’s desire of sending coal to the
Cape Good Hope,‡ the Buffalo being under the necessity of
receiving some repairs which, with our few hands, will require
more time than could be wish’d for enabling her to go this season
to the Cape, and the Porpoise is not yet arriv’d.

I formerly mention’d to your Grace that the coal discover’d to
the southward was inaccessible, being upon an abrupt dead coast
where there is no inlet to secure a boat in; but that discover’d to
the northward may be got at.§ I have not yet had an opportunity
of examining that place myself, therefore cannot say in what
quantities we may be able to procure it, and what may be the most
safe and eligible way of providing a cargo for a ship; but the
experiment shall be tried, my Lord, and I will endeavour myself
to obtain the local knowledge requisite for ascertaining to what
extent your Grace’s desire can be carried into effect.

I will not lose the present opportunity of mentioning to your
Grace that there is the strongest reason to believe, from the
experience of the whalers now upon the coast, that ships coming
here properly fitted and prepar’d for the variable weather we are
subject to upon it will most fully succeed. Those ships which
have kept the sea most, I am of opinion, will in five or six
months more nearly complete their cargos of the true spermaceti
oil; but most of those ships having come hither ill-prepar’d for the
weather they are sometimes liable to here, but fitted only for the
certain and serene weather they meet on the coast of Peru, have
had frequent occasion to return to this port for repairs, and not
having sufficient naval stores on board for their own use much
time has been lost. We have been so sparingly supplied with

† Convicts p’r week.—7 lb. of beef or 4 lb. of pork, 7 lb. fine flour, 1 pint of rice
3 pints of peas, 6 oz. of butter or a proportion of sugar. The whole of the military
and all the civil officers of the colony were then allow’d p’r day half-pint spirits.
* Note 144. † Note 145. ‡ Note 146.
such articles, I have had it but little in my power to assist them, and our own boats and small craft have been render'd useless for want. Every sort of woodwork those ships have requir'd they have had abundantly supplied, and such iron as we cou'd afford them.

Your Grace, I hope, will pardon me for the observation I am about to make. I am aware, my Lord, it can have no connection with your Grace's office or department, yet I cannot resist the desire I have of mentioning it, for, my Lord, I feel as a professional man for the naval officers employ'd on this distant service, where they can have no prospect of promotion in the line of their profession, whilst by every arrival from England they have the mortification to find hundreds stepping over their heads, many of whom had scarcely left school when some serving here had obtain'd the rank they now hold; and to add still more to the distress of their feelings, they observe rapid promotion taking place amongst the military serving here, whose duty in point of hardship or severity cannot be in any way compar'd with theirs.

By the condemnation of the Supply and arrival of the Buffalo, I find the service requires that I shou'd appoint Lieuten't William Kent, who commanded the former, together with his officers and crew, into the Buffalo. This officer having held his present rank eighteen years, I took an opportunity in my former dispatches to the Admiralty Board to recommend him to the notice of their Lordships on the plea of his zeal and exertions in the service of this colony, particularly manifested in his return from the Cape with a cargo of live cattle when it was expected there that his ship wou'd founder on her voyage back, so extrem'ly defective was the state of the Supply at that time.* He arriv'd, it was true, but in a most distress'd condition, and his ship was immediat'ly survey'd and condemn'd as unfit to trust the lives of the men in. This officer has now that service to perform in another ship, and I shall venture again to recommend him to the consideration of their Lordships, altho' I may probably be equally unsuccesfull for the want of a more powerfull advocate upon the spot.

I have, &c.,

[Enclosure.]

Promissory-note.

No. 2,065. Sydney, 22nd October, 1798.

I promise to pay William Miller or bearer the sum of fifty-nine pounds five shillings sterling on account of Government, being for two hundred and thirty-seven bushels of maize.

£59 5s. st'g. JAMES WILLIAMSON,

Paid. Act'g Commissary.

Approved, Jno. Hunter.

* Note 147.
My Lord Duke,

10th July, 1799.†

Soon after I had completed my letters to your Grace which will be receiv'd herewith, I had the honour of receiving your Grace's despatches of the 18th Sept'r and 3rd Dec'r. 1798 (in triplicate), by the ship Albion, which performed her voyage from England to this port in three months and fifteen days.

I am highly gratified by your Grace's approbation of the measures I had adopted for improving our civil police, and compelling a proper attention to all public regulations; your Grace's observation relative to the necessity of rigid discipline and good order in the situation I have the honour to fill is, indeed, my Lord, most strictly just, and I have no doubt under your Grace's authority of receiving the full countenance and support of his Majesty's Government in my exertions to that end.

Permit me, my Lord, to inform your Grace, that in the supply of stores receiv'd by the Barwell and Buffalo, cloathing has been entirely omitted; and your Grace will discover from some of my letters, forwarded herewith, what shifts and difficulties I have been driven to on that account. The labouring men have been working in the field and other places literally naked as the natives of the country, and the present inclement season has for want of the necessary cloathing and blankets reduc'd the people to great distress, and plac'd too many in the hospitals.

Upon the subject of the speculations, traffic, and monopolys, of which I have complained, your Grace will allow me to assure you that every means within my power for preventing its bad effects have been most fully resorted to in Public Orders, copy's of which I have regularly transmitted to shew your Grace what were my objects from time to time. These may serve to convince your Grace that such complaints as I have found occasion to make upon those speculations and other causes wou'd have been unnecessary had such Orders been effectual; but you will see, my Lord, that where I must depend for their due execution on persons interested in their failure, how little is to be expected from such Orders. Time, my Lord, will no doubt get the better of those inconveniences. The common necessaries of life will before long, I trust, become less expensive than they now are, and every hard-working and laborious individual will receive his share of those comforts which are to be obtain'd in this country by industry.

The articles which your Grace has propos'd shou'd be supplied to such persons as may be off the public store and labouring for

* Note 99. † Note 141.
themselves, and which are to be paid for in the produce of their labour, I am happy, particularly so, to find that I have had the precaution to direct (notwithstanding what your Grace had formerly written) that the Commissary shou’d charge an advance upon the prime cost of the different articles, by way of defraying the expence to the Crown in sending them here. It was my intention to have proposed this measure, and to have waited your Grace’s orders for that purpose. I am glad, however, that by this last dispatch I feel myself fully authoris’d in that particular agreeable to the orders which I had previously given, except in the amount of the advance, which I had establish’d at 25 per cent., and at which I propose it shall stand, instead of 10 or 15 as propos’d by your Grace, untill I receive farther orders. Those articles will be cheap to the people when compar’d with the heavy impositions of speculators.

Suffer me here, my Lord, to recur to my letters* on the subject of a public store on account of Government; and to observe, that as 100 per cent. is the least demanded by those who bring articles here for sale, and from that up to 1,000, and sometimes more, that such store I conceive by a small profit from 25 to 50 pr. ct. wou’d lessen the expence of maintaining the convicts, or were it only made sufficient to defray the expence of the civil establishm’t it might be thought an object, and wou’d certainly be a public benefit here. Your Grace will pardon me for these suggestions.

I beg to offer your Grace my best acknowledgement for your kind condescention in noticing my recommendation of the son of Captain Johnston. That steady and active officer has constantly aided me with his utmost exertions, and greatly reliev’d me from that continual anxiety which the public service here will for some time to come occasion to him who commands in chief.

With respect to the curing of pork upon Norfolk Island, I will give it every encouragement in my power, but I beg to suggest to your Grace that the packages in which salt meat brought here is in general sent are so extrem’ly feeble by the time we empty them that there is scarcely one in one hundred fit for that purpose again. I have directed that the different kinds of timber be tried in order to discover if we have any fit for staves; but hoops and more salt-pans must be sent us.

Upon the loss which your Grace regrets our having suffered by the dreadfull fires we are so subject to in summer, I must observe that I am happy to find I had long since anticipated your Grace’s ideas upon. If it were convenient to look into my Public Orders sent home, an Order to the same effect as that your Grace has

* Note 148.
propos'd will be seen to have been issued on the 24th November, 1799, since which a few idle and worthless people only have suffer'd from a neglect of this precaution.

I observe particularly what your Grace says with respect to the object in sending Mr. Park to this country.* Permit me, my Lord, to observe that altho' a thorough knowledge of the interior of this country is much to be desir'd, the gentleman design'd to explore it wou'd have (I may venture to say from my own experience) found difficulties to surmount which I fear his experience in the interior of Africa cou'd have given but little acquaintance with. The idea suggested by Sir Joseph Banks, as appears by an extract of that gentleman's letter to Mr. King,† is in my judgment the only practicable means of gaining an early knowledge of this immense country—a country, my Lord, which there is much reason (as far as we have yet carried our discoverys) to believe may afford many usefull articles. A vessel such as Sir Joseph mentions cou'd be built here; and I wou'd recommend, if such an intention and means of exploring the country shou'd be determin'd on, that the necessary naval stores for fitting her be sent out.

I have ventur'd to write upon the subject of exploring this country by traveling into its interior, from my own experience, because, altho' not a young man, my Lord, none who ever command'd here has traveled so far into it. And I am of opinion your Grace will be satisfied from my last letters that a knowledge not only of its interior, but of its seacoast, have been consider'd by me as objects of consequence. In the interior, altho' we meet but with few (and no hostile) natives, and with no ferocious animals to annoy us, we are oblig'd to carry provisions to subsist upon, which will always occasion our journeys to be limited within very confin'd excursions; but by entering with a vessel the innumerable appearances of harbours which were observ'd and carefully mark'd by that superior navigator, Capt. Cook, excursions cou'd be made from them, particularly where there may be extensive rivers or arms of the sea.

Your Grace may be assur'd that I do not neglect such means as may be in my power for trying what may [be] done to establish the weaving of cloth. The specimens sent by this conveyance, which, altho' prepared under many disadvantages, may serve to shew what may be expected as soon as we may have abundance of the raw materials in our power, which, I hope, will not be long. The sheep thrive exceedingly, and the specimens of woolen cloth will in some degree shew the quality of the fleece; the breed of sheep which produc'd this wool is between the Cape ram and

* Note 149. † Note 150.
1799.
10 July.

Progress of work on public buildings.

Bengal ewe. The web of linnen is our first essay, and is from the wild flax of this country, which will no doubt improve from cultivation; at one end of this web it is cross'd by a thread spun from the bark of a tree; and a web from that bark is cross'd at one end with a thread of wool. These specimens, I hope, will satisfy your Grace that much may be done here in that way in due time.

Every exertion is now making to recover the misfortunes sustain'd in some of our public buildings by the late tempestuous weather, and I look forward with hope that we shall have surmounted most of them by the end of this year. The prison I had propos'd will be large and substantial, built of stone, of which we have abundance fit for such use. But finding that it would create much expense, as well as much time, I called a meeting of the officers, chief inhabitants, and landholders, and deliver'd my sentiments upon our late accidents, as in the inclosed paper, with which desire on my part they readily complied, and that goal is now erecting at their expence, except in such iron as may be necessary, which will be supplied from his Majesty's store.

I have, &c.,

JNO. HUNTER.

[Enclosure.]

GOVERNOR HUNTER TO THE SETTLERS.

Gentlemen,

The unfortunate accidents and public losses which have been occasion'd by the late tempestuous weather have been such as to render it necessary on my part to pursue some decided step, not only for the more effectually and expeditiously recovering, as far as it may be possible, the time which has been lost by these misfortunes, but for the purpose also of relieving Government from the expenses attending the erecting such public buildings as are generally rais'd in the mother country at the expence of the inhabitants of the respective counties in which they are found requisite. It is scarcely necessary, gentlemen, to tell you that wherever the labouring servants of the Crown have been found sufficient for carrying on the public works which have been from time to time seen wanting, I have uniformly avoided calling in the aid of the inhabitants, or in any way creating an expense which might be seriously felt by them. But that such buildings as goals or public prisons are indispensibly necessary in this colony, I believe that none of its more industrious inhabitants will deny; and that a substantial and permanent one is particularly requisite in the town of Sydney, in which all our criminal trials take place, is, I believe, equally evident.
It will therefore be wholly unnecessary in me to dwell upon the expediency of some prompt or immediate step being pursued for the purpose of finishing offhand the goal, which is now in a certain degree of forwardness, and without which the magistrates and others employ'd under their authority in preserving the peace and the good order of the settlement must continue to experience much trouble and fatigue.

I have therefore called you together, gentlemen, to take your opinion upon the fairest and most effectual means, as well as the most expeditious manner of having that building completed.

You will no doubt have discover'd that the very few artificers and labourers whose work is the property of the Crown, and who can be spar'd from the public concerns carrying on in other parts of the colony, are very unequal to the various and highly essential works at present in hand, and which every officer wishing well to the public service, I am convinced, must long have regretted the want of; such works, I did hope, wou'd by the end of the present year have been nearly finish'd, but the misfortunes which have occasion'd my calling you together this day will retard the completion of such of those buildings as I have been most particularly anxious about.

I have now only to observe that I conceive every person possessing landed property in this colony, either by lease or by grant, as well as all such persons as may be engag'd in any mercantile concern, of whatever nature it may be, will consider the safety and security of their property, on which will very much depend their domestic comfort, as very precarious without the building I have mentioned, and that of the most secure kind. It is but fair, therefore, that the expence of such building be defray'd by them.

If it should be objected by any gentleman present (a circumstance which I can scarsely allow myself to suppose) that as all buildings of this nature which were found requisite in this settlement heretofore had been erected at the expence of the Crown it shou'd continue to be so now, to such an opinion it will only be necessary to reply that in the early days of this settlement there was scarcely any property but what belong'd to Government, and that such arguments cannot now apply, because the private property in this settlement is now become very considerable.

If you, gentlemen, shou'd be of opinion that the idea I have submitted to your consideration should, for the general good, be adopted without delay, it will then be proper you should consult upon the best means of making the assessment for carrying into immediate effect. And as it will not only facilitate but considerably hasten the completion of the building in question, I would...
1799.
10 July.

Appeal to the principal inhabitants to build a gaol.

recommend that a certain number of those officers who may have least public duty on their hands be chosen, to whom power should be given enabling them to enter into contract or agreement with any person or persons who may be disposed to undertake the work. Such iron, lead, and timber as may be requir’d for carrying out the work will be supplied at the expence of Government.

J.H.

26 July.

Decisions of High Court of Admiralty.

THE DUKE OF PORTLAND TO THE GOVERNOR OF THE COLONY.

(A circular despatch.*)

Sir,

Whitehall, 26th July, 1799.

To the Governors of all the Colonies where there are Admiralty Courts.

Within I transmit to you some Copies of a Report of the Judgement of the High Court of Admiralty on the Swedish Convoy pronounced by the Right Honble Sir William Scott on the 11th Ultimo; and as I judge it to be of great importance, that the principles of the Law of Nations in Maritime Captures, as therein explained and laid down, should be universally made known and adhered to in Our Colonial Courts of Vice Admiralty, you will not fail to communicate the same to the Judge of His Majesty’s Admiralty Court of the Island of for the guidance and direction of the said Court in similar Cases.

I am, &c.,

PORTLAND.

[Enclosure.]

[A copy of this report has not yet been found.]

27 July.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatcht No. 43, per H.M.S. Buffalo to the Cape of Good Hope.)

Sydney, New South Wales,

My Lord Duke,

27th July, 1799.

The Albion, south whaler, anchor’d here on the 29th of June, and deliver’d nine hundred tuns of salt pork, and the Hilsborough, transport, arriv’d yesterday, in which had been embark’d three hundred convicts, but I am sorry to say that such had been the mortality on board that ship two hundr’d and five only were landed here, and of that number six are since dead; most of them must for a time be placed in the hospitals.

Here again, my Lord, I am compell’d, much against my inclination, to recur to my former representations of the want of cloathing and blankets.

* Note 151. † Note 152. ‡ Note 99.
These people have been put on board this ship with a miserable matrass, and one blanket, and the cloaths only in which they embark'd, not a supply of any kind to land them here in, and those worne on board the ship are not fit to be taken on shore; yet, ragged as they are, I cannot suffer even those things which are liable to carry infection to be destroy'd, because I have nothing to supply in lieu, the whole colony being naked. I will direct every means to be us'd for preventing the goal fever* (which I understand to be the principal malady) from being introduc'd into our hospitals. Permit me, my Lord, to soliciite most earnestly that your Grace may issue such directions on the subject of cloathing for the people in this colony as may serve to furnish us with an early supply.

Your Grace may be assur'd that since the arrival of the Sylph near three years ago no general supply of slop cloathing and bedding has been receiv'd here, altho' by your Grace's letters I have had reason to expect some supplies in several different ships which have been here, but no supplies of that nature had been put on board except in one or two instances, in which enough to new cloath the convicts brought in the particular ships before they were landed were sent; those in the country have remained destitute. It has been particularly fortunate that some time past I had put a stop to the original plan establish'd here on the subject of slop cloathing, viz., that they be issued regularly at stated periods. Had I follow'd strictly that regulation we shou'd not have been so long able to supply the wants of real objects—to those only have all our late issues of such necessaries been confined, and the savings made from this precaution are now wholly exhausted.

The sick will require to be fed wholly on fresh provision for some little time, which I am happy to say I can afford them. I have judg'd it necessary for the advancement of his Majesty's service in the concerns of this colony to appoint into the ship Buffalo the officers and crew of his Majesty's condemn'd ship the Supply, and to send her this season to the Cape Good Hope for another cargo of live cattle, but the other ship design'd for this service (the Porpoise) is not yet arriv'd from England; she will most probably be too late for the present season. The Buffalo, I propose, shall sail early from hence, in order that her return may be practicable within the summer months, for greater certainty in preserving the cattle she may take on board at the Cape, and she will bear these dispatches thither.

I have, &c.,
JNO. HUNTER.
GOVERNOR HUNTER TO UNDER SECRETARY KING.

(Per H.M.S. Buffalo, via the Cape of Good Hope.*)

Dear Sir, Sydney, New South Wales, 28th July, 1799.

The Hilsborough, transport, being just arriv'd in this port with a cargo of the most miserable and wretched convicts I have ever beheld, I am constrain'd to recur to my many official letters on the subject of slop cloathing and blankets. Were you, my dear sir, in the situation in which I stand, I am convinc'd all the feelings of humanity, every sensation which can occasion a pang for the distresses of a fellow-creature, would be seen to operate in you with full force.

Figure to yourself a ship having out of three hundred people embark'd in England, and having stopped for their refreshment several weeks at the Cape Good Hope, yet hav'g upon her voyage buried of the above number ninety-five, and four since landing; those who still survive are in the most sickly and wretched state, put on board the ship in England with the cloaths only in which they stood, consequently arriv'd here naked, where cloathing is not to be found. Nor is it possible, my dear sir, when you look back to our last general supply, which was by the Sylph near three years ago, and very moderate in point of quantity, that you can wonder we shou'd at this time be without. The most scrupulous economy has been us'd in the management of that supply, other­wise long ago all work during the winter months must have ceas'd.

Originally in this colony there were stated periods for issuing slop cloathing, but our supplys since my command wou'd not admit of that necessary regulation; none have been serv'd but to such as were in the greatest distress for want.

Let me conjure you to use every means in your power to have us supplied in some way or other without loss of time, that I may no longer have occasion to give trouble to the Duke of Portland, for be assur'd it is with the utmost reluctance that I give his Grace so much.

I am, &c.,

JNO. HUNTER

P.S.—Mr. Mason, who is now surgion of the Buffalo, and who is so attach'd to this country that he proposes to continue in it if he can have the favor of a passage hither for his wife and three children, shou'd she apply to you, it will be doing a kind­ness to a deserving man, and no doubt a service to the colony, if you will have the goodness to order a passage for her in any ship coming here.

* Note 99.
HUNTER TO NEPEAN.

GOVERNOR HUNTER TO SECRETARY NEPEAN.

(Per H.M.S. Buffalo, vid the Cape of Good Hope.*)

Sydney, New South Wales,
15th August, 1799.

Sir,

Having receiv'd information by dispatches from his Grace the Duke of Portland of 6th February, 1798, that two ships were purchas'd for the purpose of replacing his Majesty's ships the Reliance and Supply on the service of this colony—the first of which being too weak and infirm to be longer employ'd here, and the latter being completely condemn'd as a mass of rotten timber; and having also learnt by letter from the Commissioners of his Majesty's navy that the Buffalo and Porpoise were fitting for this service, and desiring that I may furnish by the earliest and cheapest conveyance a passage to England for the officers and men who might navigate them hither:

The Buffalo having arriv'd in this port on the 3rd of May last, I take the first opportunity of requesting you will be pleas'd to inform their Lordships thereof, and also to mention that I have found it necessary, for the advancement of his Majesty's service in the concerns of this settlement, to remove into the Buffalo the officers and crew of the Supply (who have been ever since the condemnation of that ship employ'd in various ways upon the service of the colony), and to fit her with all possible dispatch for a voyage to the Cape Good Hope this season. The Porpoise not being yet arriv'd, I fear she will be too late to be prepar'd in time for the same service.

After having understood that their Lordships had order'd the H.M.S. above ships for this service, and altho' I had no information from the Admiralty respecting them, I yet conceiv'd that as two ships only were design'd to be employ'd here, and as I had given the Reliance such repairs as would enable her with safety to return home, I felt it my duty to direct Captain Waterhouse, her second commander, to be prepar'd to proceed this season round Cape Horn on his return to England.

The Buffalo being the superior of the two ships designed to be employ'd here, I can have no doubt of its being the intention of their Lordships that she shou'd be upon the same establishment as the Reliance has been, and that the chief command of that ship is intended for me, in order to my continuing to hold the authority of senior officer of his Majesty's ships employ'd on the service of this colony. The return of the Reliance will leave

* Note 99.
1799.
15 Aug.

Kent recommended as second in command.

Hunter's status in the navy.

Disadvantages of the colonial naval service.

Supernumeraries for the navy.

room for a second commander to the Buffalo, which I earnestly hope their Lordships will condescend to permit my filling up with Lieut. William Kent, late commanding the Supply, and senior lieut. upon this service, an officer respecting whose merits, long services, and zeal for the concerns of this settlement, I took the liberty of mentioning in my letter to you of the 18th August, 1797, in order to its being laid before their Lordships.

I confess, sir, that altho' from the immense distance of this remote colony from Europe there may be but little probability of any naval officer arriving here of senior standing upon the list to me, yet I beg you will do me the favor to express my concern to their Lordships that any difficulty shou'd have been found when I had the honor of being nam'd by his Majesty for this command in altering the establishment of the Reliance. I was thro' that difficulty oblig'd to submit to a temporary reduction of my naval rank, and to receive my naval Commission as first commander of that ship. I, however, trust that their Lordships will see that by allowing my proper rank to take place in the Buffalo it need not occasion a change in that of any other officer, the second in command being still a commander, nor will it be any material increase of expence to the service. It might be attended with this advantage—that it would effectually prevent any interference with my naval authority shou'd a junior post-captain ever enter this port.

Their Lordships will, I trust, pardon me for taking the liberty to observe how extrem'ly melancholy and discouraging this situation must be to the naval officers employ'd here, who may have the misfortune to continue to serve for so great a length of time in this country without that chance of advancement which an employment nearer home might offer. I cannot help feeling, as a professional man, for those naval officers serving under my orders. They frequently learn of promotions amongst their acquaintances at home who were, many of them, not in the service when some of those serving here were capable of taking charge of a ship, and the additional mortification of observing rapid promotions amongst the military serving in this country, whose duty in point of severity cannot be compar'd with the sea officer.

I shall continue to hope that, altho' serving at so great a distance, their Lordships will consider them not the less meritorious. Before Lieut. Kent shall sail from hence I shall direct him to take on board the Buffalo a certain number of supernumerarys of a description which may be found of use to his Majesty's ships at the Cape. This measure I hope their Lord-
HUNTER TO PORTLAND.

1799.
15 Aug.

ships will approve, as I can have no object in view but the forwarding to the utmost of my power his Majesty's service.

JNO. HUNTER.

P.S.—I transmit by this conveyance a copy of the rough survey which I have had made of the strait which I in a former letter had occasion to say I believ'd to exist between Van Dieman's Land and the southern promontary of this country. Lt. Flinders and Mr. George Bass, late surgeon of the Reliance, were the officers I employed upon this service, and they completely circum-navigated Van Dieman's Land,* formerly consider'd a part of this country.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch† No. 44, per H.M.S. Buffalo, vid the Cape of Good Hope.)

My Lord Duke,

30th August, 1799.

Sydney, New South Wales,

Having in my letter (No. 42) express'd my concern that the various accounts and necessary papers which relate to the concerns of this colony had not been as regularly transmitted to England as your Grace and the Lords of his Majesty's Treasury might have desir'd, I think it necessary to say that I have given most particular directions that the Acting Commissary use every possible means and exertion for forwarding every paper which can be prepar'd by the time the present conveyance may be ready to leave this port, and I have to hope they will be clear, distinct, and satisfactory.

The papers which I here enclose are design'd merely to explain with as little trouble as possible to your Grace such things as I am desireous should be clearly understood.

The monthly state of provision (No. 1) and the numbers victual'd are deliver'd to me regularly in consequence of an order I gave for that purpose in 1797. The purchases of late made are contained in No. 2, with the prices paid annex'd.

As a farther reason why the necessary vouchers in support of the bills drawn have been delay'd so long, it becomes necessary to mention that Mr. Commissary Palmer, having written to the Acting Commissary that, as some alteration had taken place in his instructions, he was desireous that no accounts should be transmitted untill his arrival, which has been so long look'd for

* Note 153A. † Note 99.
that I gave directions there be no longer any delay, but the vouchers for the expenditure of the sums drawn, together with every other necessary paper, be immediately forwarded.

I send a list (No. 3) of such materials as are wanted for carrying into effect our endeavours to manufacture both woolen and linnen.

This being the last letter I shall trouble your Grace with by this conveyance (his Majesty's ship Buffalo, to the Cape for more cattle), and having this moment receiv'd the surjion's return of births and deaths, and a state of the hospital during the last twelve months, I inclose them, and beg to refer your Grace to Mr. Balmain's letter to me relative to hospital stores and more medical assistance.

I have, &c,

JNO. HUNTER.

[Enclosures Nos. 1 and 2.]

[Copies of these commissariat returns have not yet been found.]

[Enclosure No. 3.]

[A copy of this return has not yet been found.]

[Enclosure No. 4.]

SURGEON BALMAIN TO GOVERNOR HUNTER.

Sir,

General Hospital, at Sydney, 29th Aug., 1799.

The enclosed is the State of the Sick and Hurt for the last twelve months which, also contains an account of all the Births and Deaths that come within our Observation, for it sometimes happens that Children are born and people die without our receiving any Information of it.

Permit me to take this Opportunity of requesting that you will be pleased to repeat your application for the Supply of our Wants at the Hospital and also to remind the Minister how requisite it is that the number of Medical Assistants should be augmented.

Your Excellency will remember that some of our Demands are of two years Standing and I am persuaded you feel to see us so much in want of every necessary.

I have, &c,

W. BALMAIN,
Surgeon to the Territory.
**General State of The Sick, Hurt, etc. in New South Wales from the 31st July, 1798, to the 31st July, 1799:**

returns and vital statistics.

<table>
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<tr>
<th>Civil and Free People</th>
<th>Convicts in Hospital and Quarters</th>
<th>Births</th>
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<td>Sick, Hurt, &amp;c., in August, 1798.</td>
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<td>Sick, Hurt, &amp;c., in Jan., 1799.</td>
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<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Sick, Hurt, &amp;c., in March.</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Sick, Hurt, &amp;c., in April.</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Sick, Hurt, &amp;c., in May.</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Sick, Hurt, &amp;c., in June.</td>
<td>1</td>
<td>...</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Sick, Hurt, &amp;c., in July.</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
</tr>
</tbody>
</table>

W. Balmain,  
Surgeon to the Terry.
AN ACCOUNT of Live Stock and Ground in Cultivation in his Majesty’s Settlement in New South Wales, in August, 1799.

By Whom. | Horned Cattle | Sheep | Goats | Acres in Wheat | Acres in Barley | Acres in Maize | Acres in Potatoes
---|---|---|---|---|---|---|---
Government | 5 17 | 122 360 | 169 | 339 | 23 | 28 | 30 | 200 | ... | 80 | ...
Officers in general | 32 59 | 66 162 | 1,077 | 2,266 | 341 | 763 | 513 | 873 | 67 | 264 | 3 4
Settlers | 10 15 | 4 5 | 270 | 482 | 548 | 1,061 | 2,916 | 4,992 | 15 | 2,596 | 4 ...
Total | 47 91 | 192 517 | 2,016 | 3,087 | 912 | 1,051 | 3,459 | 6,125 | 80 | 2,583 | 74 4

OBSERVATIONS.—Weak in field labour, owing to the various detachments of artisans and labourers employed in many essentially requisite public works.

There are large tracts of garden-ground, in which are contained, in the aggregate many acres of potatoes. Much land on which the heavy timber is fallen, but not yet burnt off and prepared for cultivation.

J. Hunter.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(My Lord Duke,)
Sydney, New South Wales, 5th September, 1799.
The Commissary’s Vouchers for the Expenditure of the various Sums drawn by me for the use of the Colony, up to the 30th of last June, will be transmitted by this Conveyance to the Lords of His Majesty’s Treasury, and which are a Continuation of those accounts sent by the Ship Barwell in Sept 1798. A general State of the Colony will accompany those Papers, But for Your Grace’s more immediate inspection, I inclose a Copy of that Statement and have to hope and trust, that the general information respecting the Concerns of this Settlement forwarded by this opportunity, may serve to Satisfy Your Grace, That altho’ tried, perplex’d and press’d by a variety of difficulties, Nothing has been wanting on My part for forwarding to the utmost of My Power and Ability, that part of the Public Service of which I have been honor’d with the direction.

I have, &c.,
JNO. HUNTER.

* Note 99.
<table>
<thead>
<tr>
<th>Settlement</th>
<th>June 30, 1799</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hawkesbury</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parramatta and Togabhoo</td>
<td>1111</td>
<td></td>
</tr>
<tr>
<td>Captain-General and Governor-in-Chief.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deputy Judge-Advocate.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Surveyor of Lands.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provost-Marshal of the Territory.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chaplain.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Surgeon.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assistant Surgeons.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deputy Surveyor of Lands.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deputy Commissary and Acting.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Superintendent’s Storekeepers, &amp;c.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boat-builder.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Major.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Captains.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lieutenants.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensigns.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quarter-master and Deputy Commissary.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Surgeon.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Serjeants.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corporals.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drummers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Privates.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Women.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

State of the Settlements at Sydney, Parramatta, &c., New South Wales, 30th June, 1799.
<table>
<thead>
<tr>
<th>Time</th>
<th>Settlements</th>
<th>Free People and Settlers Victualled</th>
<th>Free People and Settlers not Victualled</th>
<th>Emancipated</th>
<th>Convicts</th>
<th>Numbers on the different Rations</th>
<th>Vinctualled from the Public Stores</th>
<th>Whole the Public Stores</th>
<th>Number in the Settlements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1799</td>
<td></td>
<td>Registry of Vice-Admiralty Court.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>June 30</td>
<td>Sydney</td>
<td>78 30 24</td>
<td>500 7 6</td>
<td>15 3</td>
<td>265 305</td>
<td>12 6</td>
<td>1,066 366 266 140 1,892 1,474 2,426</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Parramatta &amp; Toongabbie</td>
<td>53 65 40</td>
<td>150 20 4</td>
<td>6 1</td>
<td>506 156</td>
<td>131 2</td>
<td>658 104 160 65 1,147 927 1,504</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hawkesbury</td>
<td>40 6</td>
<td>21 12</td>
<td>6</td>
<td>4 3</td>
<td>98 79</td>
<td>106 5 1</td>
<td>89 100 94 48 431 323 956</td>
<td></td>
</tr>
</tbody>
</table>

General total in settlements, 4,740.

James Williamson, Acting Commissary.
PORTLAND TO HUNTER.

GOVERNOR HUNTER TO THE SECRETARIES OF THE TREASURY.

? September, 1799.

[A copy of this despatch has not yet been found.]

THE DUKE OF PORTLAND TO GOVERNOR HUNTER.

(Despatch per transport Speedy; acknowledged by Governor Hunter, 20th April, 1800.)

Sir, Whitehall, 5th November, 1799.

I have laid before the King your letters of the dates and numbers mentioned in the margin.*

Before I enter into the particulars of those dispatches I must observe to you that the last general return which you have transmitted me from the settlement is as far back as the 31st of August, 1796, and I must remind you that, besides the general return of the whole settlement and of the returns in store in the usual form, you are instructed to send returns of all other articles in store, with a list of such as are or will be at a certain period more particularly wanted, instead of attending to which regular mode of proceeding you have left it to be gathered and collected as it could from detached parts of your correspondence what was the state of the settlement in regard to supplies of every description.

Your letter No. 33 states the arrival of the Barwell "with a few stores," and acknowledges the receipt of my letter of the 31st of August, 1797. Upon examination of the lists and bills of loading inclosed in that letter, and upon a comparison being made of them with the stores brought over by the Barwell (which it was your duty to have done), you could not but have seen that they included, amongst a great variety of others, every one of the particular articles which in No. 33 you state the settlement to be most in need of, the value of all which you would also have found amounted to £2,261 10s. 7d. prime cost, exclusive of thirty tons of steel and iron, of which the last-mentioned article made the principal part.

You inform me that part of the expenses for discharging, which you drew bills on your first arrival at the settlement, were incurred by your predecessor; a fact which, when I consider the very large amount of these bills, I am willing to hope may be the case; but as it does not appear to this moment that a single voucher or letter of explanation has accompanied any one of your

* 1798—10th January, No. 30; 15th February, No. 31; 1st March, separate; 2nd March, No. 32; 25th May, No. 33; 1st July, No. 34; 25th July, separate and particular; 20th August, No. 35; 20th August, No. 36; 7th September, No. 37 25th September.
1799.
5 Nov.

The issue of notes by the Commissary condemned.

The maintenance of assigned servants.

The possibility of trading amongst officers being encouraged by Hunter's order.

A public store for retail sale.

bills, you must necessarily be answerable for them all until such time as satisfactory accounts and vouchers are produced in support of them.

The extreme irregularity of the Commissary's being allowed to issue notes for articles of provision is a circumstance which I cannot pass over without marking with my most decided disapprobation. Such notes, if necessary to be granted at all, should not only be subscribed but be issued by the Governor upon returns made to him that the articles for which they have been given in payment have been first properly examined and lodged in the public stores.

I trust that the order which prohibits any officer, civil or military, from being allowed to receive provisions from the public stores for more than two convicts of any description whatever has been strictly enforced from the time it was received, and that particular care has been taken that all those of that description beyond that number have been clothed and fed at the expense of the individual officer who has been permitted to employ them.

I cannot but be apprehensive that that part of your Public Orders of the 25th June, 1798,* which informs the inhabitants "that you are assured by the officers that they will most readily stand forward in behalf of the whole colony, and purchase from ships calling here whatever goods or comforts they may have for sale, and that every person having money to purchase may claim their proportion of such purchase without the assistance of any other agent, which will be the means of their receiving the articles at a much lower rate, and that this being the case every person is desired to keep the possession of their own money until they are apprized by public notice that a cargo has been brought, the officers having undertaken the trouble of officiating as agents for the general benefit of the whole colony," has been considered as a sanction to officers engaging in traffic, and as an apology for the proceedings which I have but too much reason to fear may be found to have disgraced His Majesty's service in the persons of several of the officers of the New South Wales Corps. I am willing, however, to hope that the instructions which you have received on this subject, and the orders with which Colonel Patterson was charged on his departure from this country,† will have put an effectual stop to this evil.

As you represent the utility which would be derived to the settlement from the establishment of a public store under the direction of Government for the retail sale of various articles, I know not how to account for your not having adverted to the directions which were transmitted to you for that very purpose in my letter of the 31st August, 1797, by which you would have

* Note 154. † Note 155.
found that you were directed to receive the value of the articles to be sent from hence in grain and live stock from the settlers and others purchasing the same, as that letter must have been in your possession at the time of your writing.

You mention your having erected a few redoubts and having repaired a battery, but that you are in want of small arms, ammunition, &c. These articles, with four cannon, have been sent to you by the Walker, South Sea whaler.

It does not appear to me to be necessary to appoint any other engineer than such officer as, upon communication with Colonel Patterson, shall be judged most competent to that service.

You state that there is a sufficiency of salt provisions in the colony to last till the spring of this year, in addition to which upwards of 700,000 lb. weight of salt provisions have been sent to the settlement.

You also gave it as your opinion* that if proper salt-pans, salt-petre, and coarse sugar were sent to Norfolk Island it would be able to supply New South Wales with a quantity of salt pork. As for salt-pans, you should not be ignorant that they were long since sent to New South Wales, and it must have depended upon yourself by proper application to have been supplied with salt-petre by means of the vessels which have resorted to you from the East Indies. At all events, therefore, as I have heretofore observed, the experiment of salting pork in Norfolk Island ought long since to have been made, and I have no doubt it would have succeeded, and will succeed perfectly well without the article of brown sugar.

The additional allowance required by Mr. Balmain of 5s. per diem for attending the sick sailors in the hospital, in lieu of 13s. 4d. now allowed for every cure, is a matter of arrangement which must be made with the Navy Board or Admiralty, and cannot be included in the estimate for New South Wales.

In consequence of the requisition you have transmitted for medical and hospital stores, I have directed the articles specified in the inclosed list to be sent by the Speedy.

I have examined the statement† you have transmitted of the expenses incurred in New South Wales and Norfolk Island—the first for one year and ten months, ending the 30th June, 1798, amounting to £34,829 1s. 4d.; and the latter for a year and a half, amounting to £9,669 0s. 6d. According to this calculation, the expenses incurred in New South Wales for the time stated are at the rate of somewhat more than £18,000 per annum, and no less than £29,177 1s. 3d. of the above sum is for grain and swine's flesh. As the sums laid out in the purchase of these two articles respectively have not been kept distinct and separate, it is impos-

* Note 156.  † Note 157.
1799.
5 Nov.

Supplies of provisions.

I am clearly of opinion that of the labour of the men and women convicts who have been victualled at the public store during the period in question, with the exception only of the two convicts at most to each civil and military officer, had been fairly employed in the cultivation of the lands for the account of Government, no grain whatever need have been purchased for the public stores during that period; indeed, the fact speaks too plainly of itself to need any further comment.

With respect to the purchase of swine’s flesh and fresh provisions, as it appears that you had a supply of salt provisions sufficient to last the colony till the spring of 1799, and as a further supply of seven hundred thousand pounds weight of salt provisions has been sent to the colony, I have a right to expect to find that the charge for swine’s flesh as well as for grain will in a great measure have ceased from the 30th of June, 1798, the period to which your account of the expense above mentioned is made up.

The inclosures referred to in the duplicates of my letters which you received by the Barwell were transmitted by the Porpoise, and triplicates will now be conveyed by the Speedy, in which Lt.-Governor King resumes his voyage, after having been most unfortunately delayed by the return of the Porpoise into port.

It is my intention that the supply of stationery to the amount of £30 per annum shall be sent out annually for the use of His Majesty’s Government in New South Wales, and a supply to that amount will be transmitted to you by this conveyance.

I have also directed ten pipes of port to be sent by the Speedy, or by the first opportunity, in case she cannot receive them, to be disposed of amongst the civil and military officers at prime cost, without any other additional charge than what may be necessary to cover the expense of freight and insurance; but with respect to spirits, the unauthorised and unrestrained sale of which has been so destructive to the colony, you will find by the inclosed copy of the letter which I wrote to Mr. Secretary Dundas upon that subject that I have done my utmost to strike at the root of that alarming evil by preventing the exportation of it from that quarter, from whence I understand it has been most generally supplied; and I cannot but be sorry to find myself under the necessity of calling upon you to consult the instructions you received from his Majesty, and to remind you of the directions which have been repeatedly given relative to the restrictions under which such spirits as are admitted into the colony are to be disposed of.
I have laid before his Royal Highness the Commander-in-Chief your report of the conduct of the late Ensign Bond, whose resignation* should not have been accepted, as it was evidently given in with a view to defeat his being tried by a Court-martial. As the case now stands, he must be sent home by the very first opportunity.

On the subject of Norfolk Island, and of Captain Townson's conduct in the capacity of Lieut.-Governor of it, there can be no doubt that it is his duty to communicate with you directly, as often as opportunities offer for his so doing; at the same time it is no less his duty, in consequence of the unavoidable separation between you and him, to omit no opportunity of transmitting information to his Majesty's Government whenever he is so fortunate as to obtain a conveyance for it by means of any vessel which sails from Norfolk Island without intending to touch afterwards at Port Jackson.

With respect to the island itself, I am sorry to be under the necessity of observing that it appears from Captain Townson's account to have been left for a considerable length of time without receiving that assistance from you which he had represented the island to stand in need of. Indeed, it appears from Captain Townson's letter to me of the 9th of May, 1798, to have been reduced to that state of extremity which you can only be justified in having suffered by the absolute impossibility of relieving it from New South Wales, a case of which it is very difficult to suppose the existence.

Captain Townson observes that from an oversight in the Judge-Advocate, who had not properly explained the Patent earlier, nine persons, who had been capitally convicted, have received conditional pardons from himself and Governor King. He also very properly observes on the dreadful state of suspense which those people must have suffered from the uncertainty of their fate for two years. As I have not their names, I cannot obtain a pardon for them under his Majesty's sign-manual; but they should be forthwith assured of receiving the Royal mercy as soon as I can be furnished with a list of them.

With respect to the comparative degree of expence incurred at New South Wales and Norfolk Island, it certainly appears, from the concise statement you have given of it, that that of Norfolk Island has exceeded that of New South Wales nearly in the proportion of two to one in the course of the period for which you have stated it; but whether this alarming excess has arisen from the state of want and distress to which that island appears to have been reduced, or for want of proper management, it is impossible at present to determine. Taking the comparative average

* Note 158.
of expences of both places from the commencement of the settlement, the result, as far as I have been able to calculate, is much in favour of Norfolk Island, and the excess to be greatly on the side of New South Wales, for I observe that the bills drawn by you from September, 1795, to this date, which have been received here, amount to £80,854 8s. 6d., and those drawn from Norfolk Island by Governor King and Mr. Townson amount to £4,012 4s., and how much of the former sum has been applied to the expences of Norfolk Island the documents before me do not enable me to form any conjecture.

Having now made all the observations which appear to me to be necessary on the points contained in your several dispatches, which are now before me, it is with very sincere concern that I find myself obliged to add that I felt myself called upon by the sense of the duty which I owe to the situation in which I have the honour to be placed to express my disapprobation of the manner in which the government of the settlement has been administered by you in so many respects—that I am commanded to signify to you the King's pleasure to return to this kingdom by the first safe conveyance which offers itself after the arrival of Lieutenant-Governor King, who is authorised by his Majesty to take upon him the government of that settlement immediately on your departure from it.

I am, &c.,

PORTLAND.

[Enclosure No. 1.]

[A copy of the invoice of hospital stores per transport Speedy has not yet been found.]

[Enclosure No. 2.]

THE DUKE OF PORTLAND TO THE RIGHT HON. HENRY DUNDAS.

Sir, Whitehall, 19th October, 1799.

I have but too much reason to believe that it is the practice of persons going from the East Indies to the colony in New South Wales to take on board their ships great quantities of spirits, which are disposed of to the settlers, and even to such of the convicts as can afford to purchase them, by which means the fruits of their industry, consisting of their live stock and every other article of provision, as also of clothing, become sacrificed to the exorbitant demands of those who retail that pernicious article, and the improvement of the settlement is very much retarded, and the public expences incurred on its account are proportionably increased. I have therefore to request that you will be pleased to take the proper steps for preventing the exportation of spirits from the different Presidencies in India to that colony, as it is intended in future to send from this country such
a quantity of spirits as may be judged necessary for the consumption of the colony in order that it may not be distributed, except under proper licences and certificates, to be granted by the Governor of the settlement.

I am, &c.,

PORTLAND.

7th November, 1799.

[A copy of this despatch has not yet been found.]

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch* No. 46, per whaler Britannia to England.)

Sydney, New South Wales,

10th November, 1799.

My Lord Duke,

In obedience to the orders contained in your Grace's letter of the 10th April,† relative to the keeping a correct register of all ships entering into or clearing out from this port, I have seen it necessary to appoint to the management of that duty Richard Atkins, Esq. That gentleman has officiated as a civil magistrate for the last seven years; he is Registrar of our Court of Vice-Admiralty, and he has assisted me in the inspection of the public works carrying on in and about Parramatta, Toongabbie, &c.; in which several offices he has at all times given me the most perfect satisfaction. He is one of those whom I have excepted when representing the body of the officers being concerned in the trade complain’d of. But from none of his appointments does he receive a single shilling; he, however, has cheerfully undertaken this duty, finding I had no other fit person to appoint to it.

Your Grace will discover, by my whole correspondence having been so long written in my own hand, that I am, thro' the loss of my secretary,‡ without that assistance which my situation requires, and that I, consequently, must employ some capable and intelligent person to undertake the management of the register now order’d to be kept.

I cannot omit upon this occasion to express my satisfaction at this measure, because I foresee that the growing consequence of this colony will probably give occasion to the establishment of certain duties upon all imports from the East Indies, America, coast of Brazil, &c., which will not only help to defray the expenses of the colony, but will be felt as a very considerable relief to the laboring people of the settlement, inasmuch as it will effectually cut up the destructive monopolys and ruinous traffic so long and so heavily felt.

I have, &c.,

JNO. HUNTER.

* Note 99.  † Note 159.  ‡ Note 160.
1799.  
10 Nov.  

Specie for the colony.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.  
(Despatch* No. 47, per whaler Britannia to England.)  
Sydney, New South Wales,  
10th November, 1799.  

By your Grace’s letter of the 12th April last, which I had the honour of receiving by the ship Walker, I learn that a copper coinage to the amount of £550 may be expected by the Porpoise. The circulation of this money will be attended with the most comfortable accommodation to the people in their various dealings with each other.

I do not, as your Grace has observ’d, see any inducement or interest which can encourage any to take it out of the colony; but I shall not fail upon its first issue to publish such Order as may prevent any attempt.† Shou’d it at any time hereafter be found convenient to Government to order a silver coinage for this country, were it not more than half or two-thirds of the intrinsic value of what it might pass here for, so as to render the loss considerable to any who might attempt to carry it away, it wou’d be felt a vast advantage, and wou’d effectually prevent those forgerys to which a paper currency subjects or exposes us.

I have, &c.,  
JNO. HUNTER.

UNDER SECRETARY KING TO GOVERNOR HUNTER.  
14 Nov.  

[A copy of this letter, acknowledged by Governor Hunter on 20th April, 1800, has not yet been found.]

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.  
(Despatch,* per whaler Britannia to England.)  
Sydney, New South Wales,  
15th November, 1799.  

The ship Walker having anchor’d in this port on the 3rd instant, by that arrival Lieut.-Col. Paterson and Captn. Abbott joined the regt., and by the same conveyance I had the honour of receiving dispatches from your Grace.

It is not in my power, my Lord, to furnish language sufficiently expressive of my extreme astonishment and sincere regret at the contents of your Grace’s separate letter of the 26th Feby. last, written, I find, in consequence of the appearance of an anonimous letter‡ from this country, in which I am accus’d of conniving at,

* Note 99.  † Note 161.  ‡ Note 162.
HUNTER TO PORTLAND.

if not participating in, that mean species of trade which has so often been with me subject to complaint to your Grace, and which I have so long in vain been strugling to suppress.

The dark and infamous assassin whose production that letter is suppos'd to be, from the specimens I have already known of his diabolical departure from truth, I can believe capable of villifying the immaculate character of his God. The man who shall have been found inclin'd to exert his little endeavours against the Constitution and Government of his native country can never be suppos'd or consider'd friendly to any superior authority in this or in any other; the higher the rank, the more expos'd to the attack of such a leveler—it is not consistent with his principles or opinions that there shou'd continue upon the face of the earth any distinction between man and man. He has here nothing to do; his age and infirmitys, his former situation in society, and his respectable connections have at all times dispos'd me to render his present state of exile as easy and comfortable to him as it wou'd admit; but, my Lord, by his attack upon my character he shews his cloven foot, and had he it more in his power with weak minds to work upon, his ability and inclination appear only calcu­lated to blow up the dying embers of expiring sedition. What he has ventur'd to accuse me of, I will prove from my public corres­pondence and other documents, I trust to the satisfaction of your Grace and the world, is altogether an infamous fabrication of his own, assisted by some of those abandon'd wretches with whom he has been seen so often to converse here, and founded wholly upon the most studied and infamous falsehood.

Can it be suppos'd, my Lord, that a man at my time of life, previous holding the rank I have the honour to be arriv'd at in the pro­fession I have been bred in, and to which I have risen by virtue of a character never yet stain'd by one mean, base, or dishonor­able action—can it be conceiv'd that after having by a life truely and sincerely devoted to the service of my sovereign, after having spent forty-six years of that life in constant and active employ­ment in all the quarters of the world, during which I have risen thro' all the ranks and gradations of my profession, and at last arriv'd at the highly flattering and exalted office of being appointed the representative of his Majesty in this remote part of his dominions—can it be believ'd, my Lord, that a man possess­ing a single spark of virtuous principles cou'd be prevail'd on thro' any latent object, any avaricious view, by any act so mean, so low, so contemptible, as that of which this anonimous villain has dar'd to suppose me capable, to bring disgrace upon that eli­vated situation? No, my Lord, I thank God I possess a share of pride sufficient to keep me far above any mean or degrading
1799.
15 Nov.

Indignation of Hunter.

Dishonesty and suicide of Hunter's servant.

The purchasing of grain from the settlers.

action. I am satisfied with what the Crown allows me, altho' that in my situation in this expensive country is small enough, yet, my Lord, I am satisfied, nor do I conceive it consistent with the dignity of my office to endeavour in any way whatever to gain more, were it even in a less censurable manner than that which has been mention'd. Let me live upon bread and water with a pure and unpolluted conscience, a fair and respectable character, in preference to rolling in wealth obtain'd by such infamous, such shamefull, such ignominious means as this letter-writer alludes to.

I have no turn for traffic, my Lord; I never had. But such an abominable trade as he mentions, your Grace, I hope, may have discover'd from my correspondence has ever been my detestation.

It is a source of much distress to me, my Lord, to see occasion to trouble your Grace by requesting your recurrence to that correspondence, to the most material parts of which I will add a reference at the end of this letter. You will find, my Lord, that it teems with complaints against the very conduct which is the chief subject of this anonimous letter. Can it be conceiv'd, my Lord, that a man possessing common understanding cou'd commit himself of so much inconsistency?

I will here take the liberty of mentioning to your Grace a circumstance of which this seditious assassin may have thought convenient for his vile purpose to take advantage.

Many of the gentlemen in the colony having soon after my arrival been of opinion that my principal servant had got himself link'd into a society of infamous characters of both sexes in this place, and conjunctur'd that robbery's of a very serious nature were practising upon me when I was absent upon service in other parts of the colony, they gave me information. I accus'd this servant and depriv'd him of his trust untill I cou'd investigate the fact. Fear of detection at once gave proof of his guilt, and he instantly shot himself thro' the head.* I then, too late, discover'd, to my very great loss and expence, that those suspicions were but too well founded. It is highly probable that the circumstance he has mention'd respecting Government House may have been artfully built upon the above or some other of the many robbery's which have been made upon it. The occasion of the tragical death of this man was known to the whole colony.

What he observes respecting the lower orders of the people being prevented from delivering their grain into the public store, and that they are thereby oblig'd to sell it at three shillings per bushel to officers who receive ten shillings from Government. That they are prevented, my Lord, is not true, and that it is contrary to my positive orders that any such restriction or distinction shou'd ever happen is well-known in the settlement. But

* Note 12
that for the gratification of the moment some of the most idle and worthless may have sold their grain at that rate, and during the time the Government stores have not been open for the reception of grain, is not improbable, and that he and his associates, as probably as any others, have been the purchasers; such orders, however, as have appear'd proper for preventing grievances of this nature, your Grace will be satisfied by looking into the general regulations, have never been omitted when seen necessary; and that your Grace may the more readily have references to those General Orders, I will add a kind of index, which will point out the date of particular regulations under their respective heads.

Your Grace has desire'd I will transmit an account of such directions as I have occasionally given out upon the general concerns of the colony. You will pardon me, my Lord, for saying, that your Grace having shewn by this desire an opinion that I had been so remiss in my duty as to have neglected a part so essential, so indispensably requisite for your Grace's information, gives me great pain and concern, because conscious that at the very moment when your Grace has appear'd to censure me for this omission those very regulations were laying in your Grace's office; they have been regularly transmitted with my dispatches from time to time, and to them I have had frequent occasion to refer your Grace. But lest they may have been accidentally mislaid, I send inclos'd another copy, to which I intreat your Grace's attention. No information, my Lord, relative to the concerns of this colony which it may have appear'd necessary your Grace shou'd possess has ever been suppress'd; I have rather been of opinion I shou'd be consider'd too minute. Suffer me here to refer your Grace to a Public Order of the 25th June, 1798. In this there appears an evident design of a confederated interest to deceive me. Had this proposal been follow'd up, an end wou'd have been put to the oppressive monopolys complain'd of, but it was not so.

Your Grace is so good as to say it does not appear that I have any participation in the iniquitous proceedings mention'd in the letter. Pardon me, my Lord, for observing that I feel this as a doubtful or negative acquittal; I hope, therefore, upon this subject your Grace will have the goodness to institute, if possible, such enquiry as may serve for satisfying your own mind, and for wiping away the odium of even the most distant conjecture to the injury to my reputation.

Such things having happen'd immediat'ly under my government, I agree with your Grace will appear unfavourable to my administration of the government, but that can only be in the

* Note 163. † Note 164.
opinion of those who are deficient of the local knowledge necessary for enabling them to judge correctly. But, my Lord, let me solicit your Grace to recur to my letter of complaint against those shameful proceedings, which I have reason to believe you may have been prevented by business of more immediate importance from attending so early or so closely to as I could have wished. From that correspondence your Grace will discover that the manner in which that highly improper traffic has been carried on, an angel from Heaven possessing the omniscient attribute of the Divine Being would not have been able, as a single individual, to prevent it. Guards on board of ships, with proper instructions; constables and watchmen planted along the shores, with a reward held out for discovery, have not been found sufficient to enforce obedience to Public Orders on this subject, because, as I have formerly said, their interest appears to have had different objects in view than the detection of this illicit, this forbidden trade.

Your Grace will, I trust, pardon me for observing that theoretical reasoning at a distance and our practical experience on the spot differ very widely. There was a time, my Lord, in this settlement, and that was when I was formerly employ'd here in its service, when a Public Order answer'd every end proposed—the Governor had no farther trouble; the various persons then upon service here had no objects of a private nature to withdraw them from a due attention to every public regulation; orders were attended to by all in authority—they felt the public interest theirs. If that be contrasted with what I have experienced, and have had some occasion to represent to your Grace, how different will appear the situation of the first Governor of this colony and mine. In those days to be employ'd here was like a party of amusement; in the present it requires an incessant labour of the mind, and a strength of body equal to that of a lion to struggle with, and to counteract those difficulties which I have already laid before your Grace.

Your Grace will be enabled to form some judgement of the veracity of the anonymous letter-writer by being informed that he and his friends here had the modesty to apply to me (after I had given directions for the destruction of stills for distilling spirituous liquors in this colony) for permission to erect one for this very purpose, giving some trifling reason for the application. I positively refused, and forbade any attempt of that kind. I soon learnt, however, that this party had hired some Irishman who had a knowledge of making what they call'd whisky, and that they labour'd in the night-time in this forbidden trade, and that they sold this pernicious article at forty shillings p'r gallon. I had
occasion to give a second order forbidding any farther attempt, and threat'n'd them with the consequence if they persisted. This villifying writer was as active as any in this destructive practice.

With respect to the vessel which I had permitted them to build, and to complete which they were assisted with materials out of the public store by my direction, to compensate them for a boat they had unfortunately lost, I allowed them to send her with a small venture they had for Norfolk Island, but being restricted by my instructions in the building of vessels which might be capable of infringing on the charter of the East India Company, and having reason to suspect that they wish'd to make a run to China with her, I determin'd to limit them by the inclos'd certificate, which I conceiv'd quite sufficient for their protection from that danger he has been desirous of making his friends believe they were in, for want of a regular register, and with which certificate they were perfectly satisfied, and admitted it was a sufficient protection. Your Grace will judge from this circumstance the credit due to such a character.

Their former boat—if he wishes to allude to her—I have to observe that she was built entirely for fishing along this coast, and required no other mark, distinction, or authority than any other built for such purpose. Had they require'd a certificate they might have had one; but as the escape of convicts was at that time but too frequent, I was in doubt whether such a boat, so authoris'd, might not have too well answered that end.

His ideas upon discoverys and examination of coasts, &c.—The ignorance of the man upon such subject renders all he says unworthy notice; and I am of opinion your Grace does not expect that I should condescend to put my nautical judgment and experience in competition with such superficial pretender.

The trade he speaks of and the hucksters he has mention'd, I apprehend, my Lord, upon that subject it is not necessary I should add anything in this letter. I have already written pretty fully, and to that correspondence I must beg to refer your Grace. I have also taken the liberty of mentioning in what way we might get the better of the poverty and beggary it occasions. I will not, my Lord, presume to suggest what are the most effectual steps to be pursued for obtaining that correct and impartial statement of the degree to which the monopolys and other malversations complain'd of have been carried, and who the persons are who have been concern'd in them. Your Grace will clearly discover that such enquiry will be most effectually made by disinterested persons, unconnected with the party's accus'd as well as those who complain.
I have no desire to detain your Grace a moment longer than may be necessary, but you will permit me, my Lord, to say that the situation I have the honor to fill under your Grace's immediate authority and direction obliges me to claim, from that justice for which your Grace is so eminently distinguish'd, that protection for my character which an officer serving at so great a distance may require from the poison'd shafts of any reprobate assassin who chuse to attack it. I have also, my Lord, to request that as that infamous letter, as far as it effects me, has no doubt been seen at most of the public offices, such parts of this letter as may relate to it be also made as public. If I have at any time, my Lord, been deficient in any of those official formalitys which I ought to have observ'd with respect to the necessary papers on all the concerns of the colony, it will be found that I have never lost sight of its real interest, as far as I have had the power of promoting it; and it will also be found upon investigation that the troubles I have had to contend with have been the chief cause of those omissions.

I certainly do, my Lord, and I ever have, considered myself responsible for the sums drawn in my name, or by my authority, and for every other part of my duty, and your Grace may rely that I have no wish or desire to shrink from the most scrupulous enquiry, but do most ardently press it may be brought forward on the spot as early as possible, as far as relates to the insinuations contained in the anonomus letter; but with respect to what may concern the expences of the colony, the papers I now transmit to the Treasury, together with the Commissary's accounts sent by the Barwell and the last ship which sail'd from hence, I trust will now be laid before their Lordships, and be found clear and satisfactory. The want of a more perfect knowledge of those forms bas in some degree occasion'd the delays your Grace has notice'd.

However irksome my situation may be render'd by the contemptible insinuations which appear to have been obtruded upon your Grace to my injury, and however insignificant I feel the miserable savings from my sallary in this now expensive country, I shall only say that such considerations will never have weight with me upon public service. It is the honor only, my Lord, of the situation I hold which makes it a single moment desirable to me, for it will never afford me any other advantage, comfort, or enjoyment, than that of exerting myself whilst I am able for the general good. I, however, must observe, my Lord, that had either age or any other infirmity, whether corporal or mental, render'd my return to England absolutely necessary for the preservation of my life, I shou'd certainly prefer the sacrifice of that life by
continuing here, to the ruin of that fair and unspotted character which has, I thank God, distinguish'd me thro' so long, so faithfull a service. I must therefore continue to press upon your Grace such investigation upon the spot, where every necessary information can be had, as may leave that reputation as unblemish'd at my departure as it was clear and untarnish'd when I receiv'd the honour of his Majesty's Commission.

Shou'd it appear to your Grace that the ardency or warmth of my feelings upon this occasion may have hurried or betray'd me into an unguarded manner of expressing myself, I trust that the feelings of your Grace's own impartial and upright mind will allow for and pardon it.

I have, &c.,

JNO. HUNTER.

P.S.—The military officers have applied to me for an investigation of their conduct with respect to the charges exhibited against them in the anonimous letter already mentioned. Your Grace will judge how far it will be possible for me to enter with effect into such an investigation. In the present state of the trading interests in this colony it wou'd require the attention of men unknown to and unconnected with any of the partys accused.

GOVERNOR HUNTER TO THE DUK£ OF PORTLAND.

(Despatch No. 48,* per East India packet, Swallow, vid China.)

Sydney, New South Wales,

My Lord Duke,

Two native boys have lately been most barbarously murder'd by several of the settlers at the Hawkesbury River, notwithstanding Orders have upon this subject been repeatedly given pointing out in what instances only they were warranted in punishing with such severity. The above two youths had been in the habit of being much with the settlers, but from the manner in which this shocking murder was perpetrated I judg'd it highly necessary to have the murderers taken immediately into custody, and a court was instantly ordered for their trial. The court having unanimously found the prisoners guilty of killing two natives, were divided with respect to the nature of the sentence, as your Grace will discover by the trial, which is herewith sent at the instance of the majority of the court. The manner in which this decision appears to have been come to, I conceive, my Lord, not to have been correct. I am of opinion that a reference to His Majesty's Minister shou'd have been recommended by the court to the Governor, and not from the court directly and independantly.

1799. 15 Nov.

1800. 2 Jan.

SER. I. Vol. II—2 C  * Note 99.  † Note 165.
of the Commander-in-Chief, because the power either to approve and confirm or to moderate the severity of any criminal sentence is delegated by His Majesty to him.

Those men found guilty of murder are now at large and living upon their farms, as much at their ease as ever. I conceive, from the nature of the Governor's authority, I might have rejected the bail and kept the prisoners under confinement until the effect of the special reference was known; but I have been unwilling to shew to the colony that any difference is likely to take place between the judicial and executive authorities, particularly when in the smallest degree inconsistent with lenity. If I am mistaken in my ideas upon the above trial, I hope and request to be instructed.

You will discover, my Lord, what a host of evidence is brought forward from that quarter to prove what numbers of white people have been kill'd by the natives; but could we have brought with equal ease such proofs from the natives as they are capable of affording of the wanton and barbarous manner in which many of them have been destroy'd, and to have confronted them with those of the white inhabitants, we should have found an astonishing difference in the numbers. Every information within my power respecting the light in which the natives of this country were to be held as a people now under the protection of His Majesty's Government was laid before the court. The Order given upon that subject, both before my time and since, was made known to it. I also laid before its members an article in His Majesty's instructions to the Governor, which is strong and expressive, and is as follows:—"You are to endeavour by every possible means to open an intercourse with the natives, and to conciliate their affections, enjouying all our subjects to live in amity and kindness with them; and if any of our subjects should wantonly destroy them, or give them any unnecessary interruption in the exercise of their several occupations, it is our will and pleasure that you do cause such offenders to be brought to punishment, according to the degree of the offence."

The intentions of His Majesty from this part of the Governor's Instructions are clear and evident. The above cruel act is the second which I have brought before a Court of Criminal Judicature in order to prevent, as far as in my power, this horrid practice of wantonly destroying the natives. Much of that hostile disposition which has occasionally appear'd in those people has been but too often provoked by the treatment which many of them have received from the white inhabitants, and which have scarcely been heard of by those who have the power of bestowing punishment.
The mischiefs which those people can with ease to themselves do to us renders it highly essential to our own comfort and security that we should live on amicable terms with them. Fire in the hands of a body of irritated and hostile natives may with little trouble to them ruin our prospects of an abundant harvest, for that is the very season in which they might spread desolation over our cultivated lands, and reduce us to extreme distress; and they are not ignorant of having that power in their hands, for after the destruction of the above two boys they threatened to burn our crops as soon as it could be effected. I cautioned the settlers in consequence that they might be upon their guard. They did not, however, attempt it.

Their violence against the military proceeded from a soldier having in a most shameful and wanton manner killed a native woman and child, a circumstance which had not come to my knowledge until long after the fact had been committed.

I have, &c,

Jno. Hunter.

P.S.—I must observe to your Grace that the frequent attempts made by ships which arrive here in the service of Government to smuggle spirits on shore in opposition to the Port Orders, I saw it necessary to bring two mates of the ship Walker before a court. It will appear by the trial herewith sent that they were acquitted; but those attempts, in opposition to the regulations of the port, being also a breach of their charter-party, may leave it in the power of the Commiss'rs of His Majesty's transport service to mulct the ship.

Anex'd to this trial is one for forgery, a crime in too much practice here. The prisoner is found guilty by a bare majority of the Court.* It is, therefore, refer'd for His Majesty's consideration, agreeable to our patent.

[Enclosure No. 1.]

TRIAL FOR MURDER OF TWO NATIVES.


Thomas Rickerby being duly sworn, deposeth that on the nineteenth day of September last Mary Archer came to this witness and inquired if he had heard of two Natives having been killed—that he answered "he had not." That Mary Archer then observed to him that two Natives had been killed the night before: that the witness

* Note 166.
then asked her if she knew who killed them, that she answered "Yes"—that John Pearson had told her Edward Powell the Constable, Simon Freebody, James Metcalfe, William Timms, William Butler, Thomas Sambourne and Bishop Thompson were all together when the Said Natives were killed, but that Pearson, Sambourne and Thompson had nothing to do with the Murder—That in consequence of this Information the witness being Chief Constable at the Hawkesbury went up to Powells with two more constables namely David Browne and John Soare that Powell was from home—that there were in Powells house Metcalfe, Thompson and he believes Timms and Sambourne—that on enquiring of them if they knew anything about the two Native Boys being murdered, they, one and all made an answer that they knew nothing about it—but Sambourne said they were as decently buried as any of the White People that had been killed by the Natives—that the witness asked Sambourne if he would show him where they were buried—that Sambourne told him "No"—that on leaving Powells house he met with Powell of whom he made the like enquiry about the murder and by whom he was answered that he knew nothing about it—that he had killed none of the Natives, nor did he know who had—that Powell refused to inform the witness where the bodies were buried, but on a search he at length discovered and dug them up, having got assistance for that purpose—that he left the bodies on the ground whilst he went up to Lieutenant Hobby, the commanding Officer at the Hawkesbury—that Lieutenant Hobby, accompanied by Mr. Braithwaite and the witness to the spot where the bodies lay. and on examining the bodies, it appeared that the hands of both the deceased boys were tied behind them, and that there was a wound through the body of the least of the boys, as if given by a Cutlass. and another wound on or about the hip as if given also by a Cutlass, the other boy appeared to have been shot through the body by a ball from a musket and one side of his head and down his face appeared to have been much cut by a Cutlass—that Powell the Constable being sent for he was examined and in the first instance denied knowing anything of the matter but on being further interrogated said Powell declared he understood it to be the Governors orders to kill the Natives where they found them—that Lieutenant Hobby said he had given no such Orders nor did he believe the Governor had given any to that effect—that Powell then said it was done at the request of Sarah Hodgkinson the widow of one Hodgkinson who had been killed by the Natives about three weeks before that time—that the witness thereupon went to the widow Hodgkinson and asked if it had been at her request—that she answered "It was"—that the bodies were then buried and five Persons taken into custody for the Murder that Powell (one of the Prisoners) asked the witness how many he had apprehended and on the witness telling him he replied there were eight of them and they would all fare alike.

(Witness examined by Court—Extracts)

Q.—Have you not known that after such outrages parties have been sent in pursuit of them?
A.—Yes.

Q.—Have not the parties so sent out often killed some of the Natives they were ordered in pursuit of?
A.—I have understood so.
Q. — Have you never known the Natives to have been seized after having committed Robberies or Murders and sent to Head Quarters?
A. — Yes, I remember one Charles who was so secured.
Q. — Do you know what was done with that Native?
A. — Set at liberty — I understand so.
Q. — Do you know for what offence that Native was committed?
A. — Yes, I heard for spearing one Goodall.
Q. — Do you know from your own knowledge or only from common report that Charles was the Native that speared Goodall?
A. — From common report.
Q. — Did you not likewise hear from report that it was not him?
A. — Yes, I heard it was not him, but that he was in company with those who did it.
Q. — Did you ever hear of the two deceased Natives having been troublesome, committing in parties Depredations or Murders?
A. — I have heard that the youngest boy was detected in stealing corn, and was shot at and wounded — and I have heard that the eldest was concerned in killing a man upon the Race ground* but I believe the said two Natives have since lived in habits of Friendly Intercourse with the Settlers.
Q. — Do you know that after the Natives have committed depredations and even Murders, that they have been received into the houses of the Settlers?
A. — Yes, they have.

Isabella Ramsay being duly sworn deposeth that about the time the above Natives were killed she believes it might be the evening of the same day, the said three natives came in to her house at the Hawkesbury with the musket of Thomas Hodgkinson who had been lately killed by the Natives in the Woods, and delivered up the said musket — that Freebody and another person then came into the witness's house and questioned the Natives as to the manner in which Hodgkinson had been killed — that they explained in the best manner they could — that it was for the sake of the Victuals he had with him and that three of them were concerned in killing him — that the night preceding the murder three other natives slept with him — that they passed the part of the next day together and towards the evening made a fire and ate — After which said Hodgkinson and Wimbo laid themselves under the covering of Blankets that the said three other natives afterwards secured their two muskets and put said Hodgkinson and Wimbo to death with their waddies — That Freebody and his companion having left the house, the former shortly returned accompanied by Powell — that soon after the biggest of the Natives got up for a drink of water to whom Powell said "You shall have no water here. You have killed a good fellow and you shall not live long" — that John Pearson, a neighbour then came in, when the said Native got up a second time for a drink of water — that Freebody gave him some water, and Powell said they should be killed for they had killed a worthy good fellow, and it would be a pity to see them go away alive — that Butler soon after came into this witness's house with a bright cutlass and asked if the Natives were there, saying, "What Sentence shall we pass upon these black Fellows — I will pass sentence myself — they shall be hanged" — that Metcalfe came into witness's house with several others, who said, "We will not kill them, we will carry them out as the means of finding the Natives

* Note 167
who killed Hodgkinson "—that Powell then asked the witness if she had any ropes, and being answered that she had not, he said it was a pity they should escape, as he understood it was the Governor's and Commanding Officers Orders that the Natives should be killed wherever they could be met—that said Powell then directed Butler to go to his house and bring some rope—that Butler accordingly went and returned with one Rope saying he could find no more there—that Powell himself went and brought in two other ropes, and the hands of all the three Natives were tied behind them, and all the people who had by this time assembled at her house in great numbers took out the said Natives, and in about a quarter of an hour after they had left the house the witness heard the report of two muskets being fired.

Questions by the Prisoners to this Witness.
Relate to the Court in what manner the Natives were Armed when they came to your house.

Ans.—They had each a Spear and a Warmaraa and a Waddy and Hodgkinson's Firelock, that one of them had got a coat of Metcalfe's on which being pulled off a Tomahawk was there concealed under his arm.

Q. by Metcalfe.—Did I not tell you when I brought the Natives in with Hodgkinson's piece that the said three Natives had acknowledged sleeping with Hodgkinson in the woods the night before he was killed?

Ans.—I recollect something of your saying that they had slept with him, either the night he was killed or the night before, but was so much frightened that I cannot recollect.

Q.—Did not Jonas Archer inform you that the eldest of the deceased Natives was concerned in the Murder of the man on the race ground?

A.—Yes—I have heard him and several others say the same.

Q. by Powell.—When I came in and found you alone with the Natives in your house, did you not tell me you was glad to see me for you was in fear of your Life?

A.—Yes—I was glad to see you come in with the other man for I was in fear for myself and Children.

Q.—Why did you stand so much in fear of the Natives—have you ever sustained any loss or injury by them?

A.—We have been robbed by the Natives but from their general inhuman behaviour I was the more afraid of them—and from hearing of the many depredations they committed.

David Brown being sworn deposes that he had seen the bodies of the deceased Natives that they appeared to him to have been murdered and he was ordered to take care of them until they were buried. That the Witness lives at the Hawkesbury, and saith the Natives are a very dangerous set of people and not to be trusted for after a man has given them all he has, they would not scruple to kill him—that about two years ago he was bringing water for his Stock when one of the Natives threw a spear at him which struck him in the throat, and that in pursuing said Native three others came up which rendered it prudent and necessary for the witness to retire into his house—that he was informed the next day that a Settler had been Killed—that the witness knows of many robberies and murders perpetrated by the Natives.
Thomas Sambourne being sworn deposeth that about three weeks since he was at work on Edward Powell's farm when James Metcalfe one of the prisoners came to him with a Firelock on his shoulder and told him he had been alarmed by three Natives on Forrester's Farm where he was working, which Natives had a musket with them—who delivered the Musket to said Metcalfe who carried the same home—that the witness then went to Forrester's house, the Dwelling before described of Isabella Ramsay, where the witness found three Natives of whom he asked if there were not more of them, who answered "there was" another called Major Worgan out upon the ground—that the witness went down to him and stopped with him about an hour—that the witness returned to Forrester's house about nine or ten in the Evening when the people were coming out of the said house with said three Natives—that the witness left them and standing behind a tree for his own security—he heard the report of two Muskets being fired, that he went up to the place from whence said Report came and saw two Natives lying dead being two of the three he had before seen in the house as above said that the people talked about burying them but that he then departed and went about his Business.

(This witness having grossly prevaricated in his Evidence and have departed from the substance of his Testimony on Examination before the Committing Magistrate whereby he connived at being admitted Evidence for the Crown with a view to shelter himself from the imputed guilt of this transaction, and having therefore failed in verifying or establishing the former part of Examination, The Court do order the said Thomas Sambourne to be taken into custody and stand committed for the next Criminal Court to answer such Charges as shall then be preferred against him.)

John Pearson being duly sworn Deposeth that last Wednesday month he called in at the house of Isabella Ramsay where he found three Natives of whom he made enquiry who it was that had killed Hodgkinson—that the said Natives informed the witness that Terribandy, Major White, and others whose names he did not recollect (Terribandy is the reputed brother of the eldest Native that was killed) and that one of the said Natives on being asked by the witness what they did there, said they had brought in the gun of the deceased Hodgkinson and had given it up to Metcalfe—that Freebody and Powell then came in when she expressed herself glad to see them as she was very much frightened at the Natives being there—that the woman and her children were at supper at this time, when Timms, Butler and Metcalfe with Thompson and he believes Sambourne came into the house—that in the hearing of the witness Butler (who he thinks had a cutlass in his hand) called out "Where are these Natives—leave them to me—I'll soon settle them"—That Butler then asked for Rope, but none being in the house Powell said if you will go over the way you will find two Ropes upon the Dogs—that Butler then went out and returned with two ropes—that the witness then went away to cut some wood and on his return to the house saw the three Natives with their hands tied behind them and some rope round their necks—that the said Natives were then taken out by several persons—namely, Timms, Butler, Metcalfe, Freebody, Powell and Thompson—that the witness remained in the house where he was accustomed to sleep and to keep the woman Company—that about a quarter of an
hour afterwards he heard the report of two guns fired—soon afterwards a person whom he believes to be Timms returned to the house and made enquiry for a spade with which he went away—that the witness retired to Rest immediately afterwards as also did the Woman and he heard no more of them. The Witness further deposes that one of the said Natives in putting off a coat dropped a Tomahawk which had been secreted in the sleeve thereof up his Arm.

(Court adjourned to next day.)

Lieutenant Thomas Hobby of the New South Wales Corps being duly sworn deposes That he was Commanding Officer at the Hawkesbury when Thomas Rickerby, Chief Constable there, applied to him respecting a murder committed on two Natives, and requested the witness to accompany him to view the bodies—that he accordingly went, and on their way to the place the witness met Mr. Robert Braithwaite, whom he asked to accompany him also; that they proceeded together, and on the spot they viewed the bodies of two male Natives, on the younger of which they discovered one wound near the left Breast, and another in or about the back, which appeared to the witness to have been made with a cutlass—on the other Native, near the jaw, the head was nearly severed from the body—that the hands of both said Natives were tied behind on the back of each of them—that the witness sent for Powell, one of the prisoners, and examined him respecting the murder—that Powell for some time denied any knowledge thereof, but at length acknowledged he was present, but did not kill the said Natives—that Metcalfe was also questioned by the witness, who answered him to the like effect as Powell had done—that on returning home the witness met Freebody, another of the prisoners, whom he also examined, but doth not recollect particularly what he said—that Powell told the witness he had understood the Commanding Officer had given orders, and that the Governor had also given orders, that all the Natives should be killed—that the witness then replied he had never given such orders, nor did he believe that the Governor had—the witness further saith that Powell said it was done at the instigation of the widow Hodgkinson.

Questions by the prisoner Powell.—What orders did you give to a party of soldiers who went out to bury the body of Thomas Hodgkinson that had been killed by the Natives?

A.—My orders to the soldiers were to go out with the men who were sent to bury the bodies of Hodgkinson and Wimbo (who were murdered by the Natives about two months since), and "that if they fell in with any Natives on the road, either going or returning, to fire in upon them."

By the Court.—What were your reasons for giving such orders, and by what authority did you do so?

A.—About two months since, or thereabouts, I was informed by different people that it was the intention of the Natives to come down in numbers from the blue Mountains to the Hawkesbury and to murder some of the white people, and particularly some soldiers—and a day or two after receiving this Information, one Small-Salts came to me and related that he had been attacked the preceding day by the Natives on the road between Parramatta and the Hawkesbury, and that if he had not been armed with
a loaded Musket and a brace of pistols he should have been murdered, as the Natives threw one or two spears at him—I then came down to Sydney and waited on the Governor in order to make His Excellency acquainted with these circumstances—the day following Andrew Thompson, a constable from the Hawkesbury, came down to Sydney and informed me that Serjeant Goodall, a marine settler on the road between Parramatta and the Hawkesbury, whilst at work on his own grounds, had been attacked by several Natives, and so dreadfully wounded that his life was despaired of; I then waited upon the Governor again and communicated this last information—His Excellency appeared to be much displeased with the conduct of the Natives—as I had been subpoenaed down to Sydney on a trial, I observed to the Governor that the sooner I returned to the Hawkesbury the better—the Governor was of the same opinion—I then asked his Excellency what was best to be done if the Natives persevered in committing such enormities—the Governor replied that something must be done—on which I signified to the Governor my intention, if the Natives should still continue such violent outrages, to send out a party of the military to kill five or six of them wherever they were to be found—His Excellency directed me to act discretionally against the Natives, leaving it entirely to me—the next morning I left Sydney and returned to the Hawkesbury, where I arrived the second day about ten o'clock; in the evening of the day of my arrival there, Corporal Farrell called upon me with the information that he knew where to take the Natives that had wounded Serjeant Goodall (who was then reported to be dead) I then ordered Corporal Farrell to take a soldier and go in pursuit of the Natives immediately—but that the Natives were not to be fired upon unless they made resistance, in which case they were to bring them in dead or alive, or words to that effect—The next morning Corporal Farrell returned, bringing with him a Native named "Charley," which Native I sent down under a guard to the Governor—on the return of the said Guard, Corporal Farrell and a private soldier named Henry Lambe came to me and reported that said native was, according to orders, taken before the Governor, who expressed himself, in the hearing of the guard of soldiers, that he could not take upon himself to punish the Native in cool blood, but that the Commanding Officer at the Hawkesbury should have punished him on the spot where he was taken—The Native was thereupon discharged.

Q.—Do you know that the Native you sent down to Sydney was concerned in the wounding of Goodall?

A.—I was informed by Corporal Farrell that the said Native was concerned. I then went to the Native, he denied wounding Goodall, but said he was present, and offered to take me, or any other person that I would send, to the Native that did wound him—that he was known by the appellation of Major White, this I declined, from conjecturing that this offer was merely made to afford him an opportunity to escape.

Q.—Did the settlers make any representation to you on the discharge of said Charley, the Native?

A.—Yes—many of them said they were not safe in their houses neither did they consider their Crops secure on their grounds and, further, that the said Charley (the Native) was a great savage,
and had been concerned in murdering a person on the Race-ground, and was supposed to have been concerned in other murders.

Q.—When you sent a party of soldiers out in pursuit of the Natives, were they accompanied by settlers or any other description of persons?
A.—Yes—they were, I believe, by several.

Q.—Did you, when you gave orders to the party to go out and shoot any of the Natives they should meet, consider those Orders to extend to the settlers, or others that accompanied the Party?
A.—Yes, I did, upon that excursion only.

Q.—Are you positive that your orders were so explicit as that the whole Party understood they were only to attack the Natives whilst upon that Excursion?
A.—Such were the Orders I delivered to the Sergeant, but it is possible they might be misunderstood.

Q.—Do you know that any of the prisoners at the Bar were present with the above Party?
A.—I do not positively know, but I have reason to suppose they were, from a remark made to me by Metcalfe—"that had I seen the bodies of Hodgkinson and Wimbolt that I should have thought nothing of the Natives being put to Death."

Q.—You mention a Resolution of the Natives to come down in numbers and kill several White People, particularly soldiers;—have you any knowledge why they formed such resolution?
A.—Yes; I have heard it was in consequence of a native woman and child being put to death by a soldier called Cooper.

Q.—Did you hear by report, or do you know, that said Cooper was the person that put the said Native woman and child to Death?
A.—I heard it from report by Mr. Braithwaite.

Q.—Did you know that any violence has ever been offered to the Natives, or Injury done to them by the White Men, without violence previously committed by the Natives upon the White People?
A.—No—I do not know of any Violence committed on the Natives at the Hawkesbury or elsewhere without provocation being given.

Q.—Since you have resided at the Hawkesbury, pray how many white People have been killed by the Natives?
A.—Two killed—one wounded so as to be left for dead, one attacked, and repeated Thefts.

Q.—How many Natives have been killed by the White People?
A.—Two since my command at the Hawkesbury, which I have held two months.

Robert Braithwaite Gentleman being duly sworn Deposeth that on or about the 20th September last he accompanied Lieut. Hobby and Thomas Rickerby the Chief Constable to view the Bodies of two male Natives who had been put to Death that the Hands of both said Natives were tied behind them that the wounds of the younger Native were about the right loin and the left Breast and they appeared to the witness to have been given by a Cutlas—on the other native a large wound appeared about the Chin and there was also the appearance of a musket Ball wound about his right breast that being informed Powell (one of the Prisoners) was concerned in killing said Natives he examined him that Powell denied any knowledge of the Fact, but on being further pressed by the witness to declare who had killed the Boy, Powell replied it was so Dark he could not see the Person—being asked the like Question
as to the Death of the other Native Powell replied to the Same effect as to the former Question—that on witness observing it was a very cruel way of killing them even had they been detected on Committing any Act of Depredation Powell replied had the witness seen the Bodies of Hodgkinson and Wimbo how they had been murdered by the Natives—that he would not have thought it inhuman and Powell further informed the Witness that the said Natives were killed at the desire of the widow of Hodgkinson.

Questions by the Court.—How long have you resided at the Hawkesbury?
A.—About twelve months.
Q.—Since your residence there how many White People have been killed by the Natives?
A.—I recollect four men to have been killed and Goodall to have been very Desperately Wounded by them and that a servant of mine was attacked by several Natives one of whom he had shot in his own Defence after having been robbed of a Kangaroo he had killed.
Q.—Pray how many Natives have been killed by the White People since you have Lived at the Hawkesbury?
A.—About Five including the one killed by my servant.
Q.—What is the state of Security or Danger of the Settlers at the Hawkesbury with respect to the Natives?
A.—I conceive the property of the Settlers on the Front Farms to be perfectly secure in popular situations—those of the back Farms and above the Creek in remote situations are exposed to great Danger from the Natives—I think the Persons of the People insecure both on the Farms and when they may be travelling on the roads—I have known several single Persons to have been attacked on the roads by the Natives altho' such Persons were armed.

David White being duly sworn Deposeth that on the Evening the two Natives were said to be killed he heard some Natives crying out and heard the report of a Musket and in about two thirds of a minute afterwards he heard a second report of a Musket fired that in consequence thereof he went down to the spot from whence the reports came and calling in at the House of the Widow Hodgkinson who was not at home at the time he waited until the said woman came in accompanied by Simon Freebody and William Timms—when the two latter informed the Witness that two Natives were killed—and Simon Freebody told the witness that Powell had fired at a Native whom Butler was holding by a Rope round his neck but let him escape and that another Native said Freebody declared himself had killed by thrusting a Cutlas into him that a third Native who was held by Timms, Metcalfe shot through the Body.

Question put by the Prisoner Powell.—Was the witness at Home when he heard the Natives cry out?
A.—Yes I was.

(Adjournment till 17th October.)

Jonas Archer being duly sworn Deposeth that about Six Weeks ago a Native called Yellowgowie came to this Witness's house and the witness asked him who of the Natives had killed Thomas Hodgkinson and Wimbolt that the said Native answered it was a Native.
called Major White that had killed them—the said Native also mentioned the name of some other Natives which the Witness did not remember—that in describing the manner in which the said murder was perpetrated he said that said Major White and another Native flung their Dowells (a sort of spear) into Hodgkinson and Wimbo the next day the elder of the two deceased Natives (as in former evidence named) came to the Witness and told the said Native that said Major White had got the gun belonging to the Deceased Hodgkinson and desired him to go and get it—that the witness went to the Widow of said Hodgkinson and told her she would get the gun in a few days and the said native Boy accordingly as the Witness hath been informed brought in the said gun.

Questions by the Court.—Did you understand from the Native Yellowgowlie that the Native Major White attended the deceased Hodgkinson and Wimbo as Friends in the Woods?

A.—Yes—Yellowgowlie said that White met the deceased Hodgkinson and Wimbow in the woods, and asked them if they had got any Pheasants—being answered "No" they made a Fire and the Natives made another being Evening about sundown which the Natives invited them to do observing they would get Pheasants the next Day—that in the Night the said Natives put them to death as before stated.

Q.—What was the reason do you suppose that the said Natives put them to Death?

A.—Possibly for the sake of their Provisions or because Wimbo had the Daughter of the Comrade of said White living with him.

Q.—Do you mean to say that the said Native's Daughter was forcibly detained by Wimbo?

A.—No I know she might have left him had she chose so to do.

Q.—Did you go out with the Party who went to bury the Bodies of the Deceased Hodgkinson and Wimbo and in what state did you find them?

A.—Yes—I did go out and saw said Bodies naked—There was wood over them—both were speared in the Bodies and Mangled, their Cloaths Provisions Arms and Blankets were taken from them.

Q.—Did you personally know this Native called Major White?

A.—Yes, I knew him well and he was under an Engagement to accompany me in the Woods at the time he killed Hodgkinson and Wimbo.

Q.—Do you know of what Tribe the two Natives who were killed belonged?

A.—I have often seen them with Major White and I believe one of them belonged to his Tribe—indeed they have often been together on my Farm.

Q.—Was the deceased Hodgkinson on friendly terms with the Natives?

A.—Yes—I think he was I have always seen him treat them kindly harbouring and feeding them in his House.

Q.—Do you know what orders the Soldiers had and what did you feel yourself authorised to do when out on the Excursion to bury the Deceased?

A.—I know not what Orders the Soldiers had in particular but understood it was to kill any Natives the Party could meet with and that was my Intention.
Q.—Did you understand the Orders to kill the Natives were to be in force after the above Excursion?
A.—Yes I did—nor should I have thought myself doing wrong by killing any of the Natives afterwards.

Q.—What do you know of the Characters of the two Natives that were killed and of the one that ran away?
A.—The one who ran away stole fowls of me and one of the Deceased stole corn from my Barn and the other informed me that his Brother had murdered a man upon the Race-ground.

Q.—Do you know how many White men had been killed by the Natives during the time you have lived at the Hawkesbury?
A.—I have lived five or six years at the Hawkesbury and to the best of my Recollection Twelve White Persons have been put to Death by the Natives.

Q.—How many Natives do you recollect being killed by the white Persons?
A.—About Twenty to the best of my Recollection.

Q.—Are not the Settlers or their Men in the habit of taking the women from the Natives and that the Native men are prevented taking them away through fear of Fire-arms?
A.—In two instances I remember lately—but cannot say whether the Women were detained by force—but they were taken away against the inclination of their Native Men and I know that said two Women were common to the White Men from choice.

Here the Evidence closed on the Part of the Crown.

The Prisoners produced a Defence in Writing of which the following is a Copy vizt.

PRISONERS' DEFENCE.

Honble. Gentlemen,

We the Prisoners at the Bar beg that the Honble. Court will permit our Defence to be read Stating every particular worthy of remark as also the Treachery of the Natives and subsisting animosities of the Different Evidences for the Crown.

That on Wednesday the 18th Sept. last past about sunset several Natives came to the Farm of Robert Foster (where was at work James Metcalfe) with a musket belonging to Thos. Hodgkinson who was most Cruelly Barbarously and Inhumanely Murdered by the supposed Natives at the Blue Mountains. James Metcalfe one of the Prisoners at the Bar not knowing their Intent enquired of them concerning the murdered men (namely Thos. Hodgkinson and John Wimbo) the Natives gave him to understand in a broken tongue that they (the Natives) slept with them the night before the Barbarous Act was committed the Natives then wished to know if the white Men were angry—James Metcalfe answered them in the negative for being surrounded on all sides with a number of them an Evil-minded Blood-thirsty Set of People he dare not at that time express himself as he would wish they being armed with weapons and some of them with their Spears poised—the said James Metcalfe invited them into the house and three Natives singled out from the rest followed him to the House of the said Robert Foster—but one (the Elder) on the way took up a Coatee which was laying on the ground belonging to the said Metcalfe put it on and followed to the House as before stated—Metcalfe then questioned them again concerning the murder of Hodgkinson and Wimbow on the Mountains—their answer was "not angry with any
more white men but very bad soldier very bad them"—James Metcalfe left them and proceeded to the house of the Widow belonging to the deceased Hodgkinson and informed her of what the Natives said as also producing and delivering the gun belonging to the Decedent which the said James Metcalfe had taken from the Natives—the Widow Hodgkinson then inquired of him who they were and Metcalfe described them to her in the best manner he could on which the Widow Hodgkinson replied they are the same Natives that called at her house and who were to have gone with Hodgkinson to the Mountains, but at the time proposed of going the Natives absconded and never were heard of until James Metcalfe first perceived them on the Farm before stated—only thus much was positively declared by William Fuller—that on his coming from the Bush about a fortnight before the murder of Hodgkinson and Wimbow was known he the said William Fuller saw a Blanket which he had lent to John Wimbow on one of the Natives Gins or Women belonging to the same Party as are now killed—James Metcalfe then left the House of the Widow Hodgkinson and informed several Neighbours what had happened concerning the Natives and that he (Metcalfe) had every reason to believe that they were come with no good intent for they were in great numbers at the back of the Farms—On which many of the Neighbours followed and proceeded to the House of Robt. Foster where the Natives as before were and asked them many Questions and shuddered to hear the Fate related of the Horrid Depredations which had been committed on the Bodies of our fellow Countrymen on the Mountains—the Barbarous and Inhuman Treatment they had met with and as far as could be understood the Natives who had committed the Horrid Deed were then present or at least at the back of the Farm—James Metcalfe during the discourse sat down to Supper—in the Interim many Neighbours came to a Determination to tye the present Natives hands and make them point out which of the Natives it was that murdered Hodgkinson and Wimbo and on going out of the House as aforesaid the Evening very dark and not being able to see anything before us the Natives rushed from us and one of the Three made his Escape and James Metcalfe went in pursuit of him and the rest of the Neighbours (unknown whom) followed them—on the return of James Metcalfe to the house of Foster as aforesaid he found Isabella Ramsay alone she was Happy at the return of Metcalfe fearing the Natives should make their return—he heard nothing more of it till next morning when he saw the Bodies dug up after being buried, and was immediately taken into Custody by Thomas Rickerby.

Edward Powell Deposes That on Wednesday the 18th Sept. last on his return from Parramatta to the Hawkesbury passing the Commanding Officers Door he (Powell) was asked by the Commanding Officer concerning the Prisoner which he had been with to Parramatta and some other private Business—the Said Powell was greatly fatigued and went into the kitchen of the Commanding Officer and remained there until dark—on his return home there were a great number of People in his House who gave him information of three Natives being at Foster's house who had been concerned in the murder of the unfortunate Hodgkinson and Wimbow besides many more at the back of the Farm—Edward Powell was advised to go to Foster's House—and on his Entrance saw three of
HUNTER TO PORTLAND.

1800.  
2 Jan.

Trial for the murder of two natives.

the Natives and Isabella Ramsay no other Person Present—she said that she was happy he was come as she was so Terrified that she could scarcely contain herself, the Natives seemed much alarmed and was for quitting the House he bade them not to be afraid—Powell then asked them concerning the murder of Hodgkinson and Wimbo and on hearing the name of Hodgkinson they endeavoured to run away out of the House and their countenances quite changed Powell then seized the biggest of the three and in taking him by the Arm a Tomahawk dropt from the sleeve of his Coatee; in the Interim a great number of People came in and agreed to tye their Hands and make them shew where the rest of the Natives were who assisted in the Murder. Powell then said to the Neighbours present, I have no Piece and am greatly fatigued I'll go home to bed Bishop Thompson has my Piece and he is gone down to the ground Powell then left them and on his way home he heard a great noise of the Natives Hallowing to the Natives at the back of the Farms to retreat Powell then heard words very loudly spoken saying “they are running away we shall loose them Fire Fire” on which a report was heard of some Discharge of Musketry Powell then went to Bed and in a short time afterwards the wife of Powell came to him and told him she had heard some People say as they were passing by that some of the Natives were killed the next morning he was ordered into Custody with some others being nearest at hand.

WILLIAM TIMMS, SIMON FREEDOB AND WILLIAM BUTLER Positively declare that they heard of the Natives being at the House of Robert Foster and they went as did many others to see them being (as was said) the Natives which murdered Hodgkinson and Wimbo they left them after some little time and proceeded to their different Homes: the next day William Timms went to see where the Natives were Buried as did many others. Timms said Ah my poor Master Hodgkinson was not buried like this he was Cut into Pieces with a Tomahawk and a Death Spear run through his yard and came thro' the back part of his neck on these words the said Timms was taken into custody and the others likewise on similar words were taken up also.

The aforesaid Facts caused the present situation of the Prisoners at the Bar—and Gentlemen we (the Prisoners) humbly beg Pardon for giving so much trouble to the Honble Members and detaining the Court, and detaining the Court still longer beg that they may here state a few remarks on the Evidence adduced against them.

First, in that of John Pearson who swears to being in the House of Isabella Ramsay with her at the time the Natives were taken out by the Neighbours—and remained there the whole of the Evening—Isabella Ramsay declares upon Oath that she was by herself until James Metcalfe returned from pursuing the Native that first ran away and made his escape and that the said John Pearson was not there—the third Evidence is that of David White who came forward through pure hatred and malice against the prisoner Edward Powell who has at divers times been necessitated to go and call him the said White into his custody (Powell being a Constable at the Hawkesbury) and many times searched the House for Stolen Property which was supposed he had and even thought he had committed many robberies on his neighbours—again the said David White maketh Oath that he never received any injury from any of the Natives when it is well known and a Proof can be
established that he David White has been frequently robbed by them as also many of his Neighbours and it would be superfluous here to state the many Depredations which they Daily commit as it would be detaining the Honble. Court and be intruding upon your goodness—Its well known by many of the Gentlemen Present that they are a Treacherous Evil minded Bloodthirsty set or Description of Men, that they will be Familiar and be with People for a considerable time, until perhaps they have received 9/10ths of a Loaf of Bread and then for the last Tenth they will murder two or three who before were their friends to get it, many Instances of a similar kind are known. Again it was generally understood it was a standing Order or at least it was so issued from the Commanding Officer to kill any of the Natives found in their way particularly after the Barbarous Cruel and Inhuman murder of the unfortunate Hodgkinson and Wimbo a murder the most horrid to have beheld any Gentlemen to have seen the mangled Bodies of the Deceased would have shuddered and even bore an antipathy against the cruel Natives in general, and that it behaves every man to be on his guard against them and their Intentions, never to give them any Encouragement for its through Indulgencies they have received makes them so knowing.

Gentlemen we humbly beg that you will be pleased to take what we have here stated into your humane consideration and be well assured of our Innocence in being accessory’s of killing them but that we leave to your better consideration and trust only to an Honble. and Impartial Jury for a Verdict which we trust will be in behalf of the unfortunate Prisoners. Honble. Gentlemen with every respect we Subscribe

Your most Devoted
most Obedt and very Humble Servts
etc. etc.

THE PRISONERS AT THE BAR.

On the Part of the Prisoners:—

William Fuller being duly Sworn Deposeth that he resides at Richmond—that he is a free man and lives by his Labor—that some time before Wimbo went into the Woods the witness lent him a blanket and one of the Blacks little Jemmy that were killed, with several other native men and women, the Gin or Wife of the said Jemmy came to the Witness’s House and had wrapped round her a blanket which the witness well knew to be the same Blanket he had lent to Wimbo and the witness was desirous to take away the said Blanket but was refused that the woman and the other Natives all ran away from the House and the Blanket still remains among the Natives.

Questions by the Court.

Q.—Did you see this Blanket in the Possession of the Natives before the two Natives were killed?
A.—Yes I did but cannot speak as to the time it was about a fortnight before the said Hodgkinson and Wimbo were known to have been killed.

Q.—Was you with the Party of Soldiers and others who went in pursuit of the Natives and to Bury the Bodies of Hodgkinson and Wimbo?
A.—Yes—I was.
Q.—Were any of the Prisoners of that Party?
A.—Yes—two, Metcalfe and Freebody.
Q.—How far did you consider yourself at liberty to act against
the Natives if you had met with any?
A.—To shoot them if I could.
Q.—Suppose any Natives should have come into your Farm after
the above Expedition would you have shot them?
A.—If I had seen any I suspected to have been concerned in the
murder of said Hodgkinson and Wimbo I certainly should.

William Goodall being duly sworn Deposeth that about six
weeks since he was working on his grounds when a party of
Natives about Twelve in Number came up and without the least
Provocation alarmed him by a desperate Attack with their Spears
and also Brutally Beat him with their Waddies after wounding
him in the breast and in two places in the Back with their Spears
and had not the Witness ran away from them they would have
killed him on the spot; that among the said number of Natives
he knows one who is called Charley—that on the witness making his
Escape with a Spear sticking in his back the said Natives pursued
him even to the Door of his House—that said Charley was after­
wards apprehended at the Hawkesbury as one of the Persons who
had thus wantonly attacked the Witness and was escorted to
Sydney by a Party of Soldiers as a Prisoner to His Excellency the
Governor and when His Excellency had examined said Charley (as
this witness was informed by the Corporal of the Guard) he was
liberated without any further Punishment.

Questions by the Court.
Q.—Before the Prisoners at the Bar were brought to Trial did
you think yourself at liberty to retaliate on the Natives for the
Injury you had received?
A.—Yes, I did.
Q.—What is your opinion now since the Prisoners have been put
on their trial?
A.—I wish to be informed after this attack on my life how I am
in future to act?
Q.—Did you not serve in the Detachment at the Hawkesbury as a
Serjeant?
A.—Yes I did upwards of two years I was discharged two years
ago last April since which I have lived as a free settler.
Q.—Do you recollect during your service at the Hawkesbury the
Natives committing any Murders Robberies or other Outrages?
A.—I do some I particularly well remember.
Q.—What steps were taken to Punish such Natives?
A.—Parties of Soldiers were frequently sent out to kill the
Natives but being the Senior Serjeant at the Hawkesbury I had
the care of the Stores and did not go out with any Detachments.
Q.—From whom did you receive your Orders from time to time at
the Hawkesbury?
A.—I received my Orders in writing from Captain John McArthur
at Parramatta and those orders were issued in consequence of a
Number of Murders about that Time Committed by the Natives.
Q.—Do you not know that the like Orders have been often
repeated by the Officers Commanding Detachments at the Hawkes­
bury?
A.—Yes—I do.
Q.—Was you not sent to the Hawkesbury for the express purpose of defending the Settlers from the attacks of the Natives in consequence of the representation from the Settlers that they were in Danger of being murdered by the Natives?
A.—I was.

Q.—Have you any knowledge why the Natives attacked you in particular?
A.—None.

Peter Farrell Corporal in the New South Wales Corps being duly sworn deposeth that on the seventh of last month about nine at night the witness was in the Barracks at the Hawkesbury when Joseph Phelps a Settler came in and reported there was a Party of Natives near his Farm who were known to have been present at the spearing of Goodall and that said Phelps informed the witness that he came for the purpose of signifying it to the Commanding Officer and being under some alarm he requested a Party might be sent out to drive them away the Witness then waited on Lieutenant Hobby the Commanding Officer who told him to take a Soldier and Phelps with him—that Phelps who was armed with a Firelock went with them to the house of John Burne where the witness and his party apprehended two Natives the one called Young Charley and the other Coppy; from the character the Witness had heard of the former he first secured him and afterwards the other and brought them both away—that on their return to the Barracks the elder Native (Coppy) effected his escape—that the Witness thereupon fired at (and has since been informed) wounded him—that Charley was brought into the Barracks and the next Day the Witness was ordered to hold himself in readiness to Escort such Charley with a party to Sydney by his Commanding Officer—that he proceeded to Sydney accordingly and brought his Prisoner to the Governor together with a letter from Lieutenant Hobby to His Excellency which he also delivered—that His Excellency made enquiry of the Witness who he had got there—that the Witness answered it was a Native who was known to have been at the spearing of Goodall and committing several barbarous depredations—that the Governor said "Well what am I to do with him why did not your own Commanding Officer at Hawkesbury do something with him"—that the Witness answered he supposed it was from a wish to make a more Public Example of this Native—that His Excellency remarked it was not in his power to give Orders for the hanging or shooting of such Ignorant Creatures who could not be made sensible of what they might be guilty of, therefore could not be treated according to our Laws that the Witness then requested to know what was to be done in the present case when the Governor told the Witness that immediate Retaliation should be made on the spot or words to that effect as it was the only mode His Excellency said he could—upon that some bystander observed that was impossible as the Natives always took advantage of the time and place—"Then" replied His Excellency "so soon as they can be caught"—that the Governor then admonished said Charley as to his future conduct and ordered him to be discharged—and as the Witness hath been informed ordered said Charley to be taken up to Mr. Cummings at Parramatta with whom he had lived—that the Witness returned to the Hawkesbury and made report verbally to his Commanding Officer of what had been done, which
he publicly repeated amongst the Settlers—the Witness further saith that the Governor ordered said Native Charley under the care of Mark Flood to be taken up to Mr. Cummings there to be further admonished.

At half past Three o'Clock the Court adjourned until Ten to­morrow Morning.

Friday the Eighteenth Day of October One thousand Seven hundred and ninety nine at Ten o'Clock the Court met pursuant to adjournment.

John Tarlington being duly sworn Deposeth that a few days before the man on the Race Ground was killed (but he cannot specify the exact time) the witness who resides near Toon Gabbee about two hours walk from the resort of the Natives about the Hawkesbury and Creek, on a Sunday morning two male Natives came to his House—that one of them was called little Charley and the other Macnamarra—that the witness welcomed them into his House and shook hands with said Natives that a free man his Servant did the same—that the said Natives left their Spears outside the House and asked for Bread which the Witness gave them—they then asked for meat that the Witness said "bye and by" as it was then dressing—that having suspicion of more Natives coming, the Witness went out to look and saw four more coming towards the House walking two and two abreast—one the Witness knew to be called Major White and one of the others little George—that was the youngest of the two Natives said to be killed by the Prisoners—the other two he also knew to be called Terribandy and Jemmy the latter the elder of the two Natives killed as aforesaid—that the witness also welcomed the four Natives into his House at which time the meat and cabbage was taking up—which the Natives had shared amongst them and had more than they could eat as they left part of what Witness had given them—that little Charley getting up for some water slipped out at the Door—that the witness followed to see what he was about when he saw about Twelve or Fifteen approaching towards his House—that the Witness welcomed them into his House also and they left their spears at the Door the same as the others had done—that his wife and his free man servant gave amongst them the remainder of the Victuals that he took them to the melon bed leaving the other Natives in the House with his wife and freeman and that whilst said three Natives were Eating Melons on the Bed in the garden where they grew the native Jemmy went some little distance from the Melon ground and shouting out something in the Native Dialect which the Witness did not understand about twenty or Thirty Natives thereupon immediately came out of the Bush and saluted the witness friendly—that the Natives in the House hearing the Voices from without came out to join them and the Witness's Servant followed them out when the Natives dispersed themselves about the grounds some taking corn and others Melons—that the witness hearing a voice saw a white man who came up to him and they saluted each other—that the Strange White Man asked the Witness if his name was John Tarlington to which he replied "Yes, and your name is Nicholas Redman if I am not mistaken." "I suppose"
continued the witness "you want to see Thomas Malong"—
that he replied "Yes"—then said the Witness "he will be here
presently"—that soon after said Malong came up to the witness
before he went to his acquaintance saying to the Witness "John
what brought all these Natives here" that the Natives then asking
for some more Bread and none being in the House the witness's
wife went out to get some accompanied by Charley the Native—
that in a few minutes after leaving the House the Native Terri-
bandy threw a spear at the Witness's free man Joseph Collins,
which wounded him so desperately that he died in a few days—
that they then attacked the witness and wounded him in three
places with spears and moreover beat him with waddies—that he
was fortunate enough to Escape with his Life by concealing him-
self in a Loft that the youngest of the Natives called little George
(said to be put to death by the Prisoners) thrust a spear wantonly
through his arm and the Wound he received in his side was given
him by little Jemmy the other Native (also said to be put to death
by the Prisoners)—that Nicholas Redman was next barbarously
murdered and mangled and Malloy was also severely wounded in
endeavouring to Escape—that the said Natives then plundered the
House and Premises of his Stock and every kind of Property he-
had—that when the witness thought they were gone he came
forth from his concealment and went in quest of his wife whom
he found had been severely beaten by Charley.

Questions by the Court.

Q.—Were the Natives whom the Prisoners are charged with kill-
ing concerned in the murder of Redman?
A.—Yes—they were.
Q.—How long is it since these murders happened?
A.—About Eighteen Months ago.
Q.—How old do you suppose the Native "little George" might
then be?
A.—About Eleven or Twelve years of Age, but I cannot speak to
any one certainty, they are so deceiving in their age—Jemmy
appeared to be about Fifteen or Sixteen years of age.
Q.—Have you heard of any other Injuries committed by said
Charley upon the White People since?
A.—I heard of Goodall being wounded by said Charley.
Q.—How did you hear said Charley had wounded Goodall?
A.—By Report.

Henry Baldwyn being duly sworn.

Question by the Prisoners.

Q.—Relate what Injuries you have received from the two Natives
said to have been killed by the Prisoners.
A.—I detected them with others stealing my corn and I have
frequently been robbed by other Natives.

William Blady being duly sworn deposeth that about six weeks
ago he was out Duck Shooting and met a Native called Major
White and one called young Jemmy (the latter said to have been
killed by the Prisoners) and another Native whose name is to the
Witness unknown came up to the Witness armed with spears—
that White enquired if the Witness had got any Ducks—the witness
answered he had not and asked said White why the Natives were angry with the white Men—that they answered they were angry with white men and particularly with the soldiers that White then shewed an Intention to throw a spear at the Witness by poising it towards him that the Witness thereupon stept back and guarded himself against a Tree—when he discovered another body of Natives making up to him the first of whom he well knew to be called Major Worgan and of him he asked why the Natives were angry with the witness—that such Worgan replied they were not angry with him for he was a very good fellow but the Soldiers were very bad—the former party now joined the latter and they all went off at a little Distance from the Witness apparently to consult together after which the Native Charley returned to the Witness and asked him if he was going home—that through fear he answered “No”—the said Natives then all departed together and the Witness soon after went home where he was informed by his wife that the same Natives (Seventeen in Number) many of whom she knew and described to her Husband had robbed and plundered the House of the Witness and taken away with them everything they thought proper.

Question by the Court.

Q.—Do you know the reason why the Natives are so angry with the white men and soldiers?
A.—No except by report I have heard of a Native woman and child being killed by a Soldier but do not know the reason why they were so killed.

Here the Prisoners desired to propose a question to Lieutenant Neil McKellar one of the Members of the Court, which being granted—

Q.—Pray Sir, when you commanded at the Hawkesbury what Orders did you Issue against the Natives for Committing Depredations on the Settlers?
A.—To destroy them whenever they were met with after having been guilty of outrages, except such Native children as were domesticated amongst the Settlers.
Q.—Was that order ever countermanded since?
A.—Not during my command at the Hawkesbury nor since to the best of my knowledge.

Question by the Court at the instance of Capt. John McArthur.—

By what authority did you give these Orders?
A.—By verbal Orders which I received from the Governor—I do not recollect receiving any in writing to that effect.

Question at the Instance of Lieut. Shortland.—When you were relieved at the Hawkesbury did you leave those Orders with the Officer that succeeded to the Command?
A.—I informed him generally how I conducted the Command.

Question at the Instance of Lieut. Flinders.—From your never contradicting the Orders to destroy the Natives in form did you consider the Orders for destroying them continued in force?
A.—Certainly otherwise I should have communicated them—but it was understood the Natives were not to be injured except in retaliation for any outrage recently committed.
John Francis Molloy being duly sworn deposeth that in consequence of no regular Surgeon acting at the Hawkesbury he was appointed in that capacity—that in the course of his practice for four years and a half Twenty Six White People have been killed by the Natives and 13 Wounded on the Banks of the Hawkesbury—and saith that several of them were killed and wounded in defending their property against the depredations of the Natives.

Here the Prisoners addressed the Court and observed that they had no other evidence to call but such as had already been produced relating to the general offensive conduct of the Natives they therefore forebore troubling the Court with any further Examination of Witnesses altho' they had several at hand ready to come forward.

The Court cleared and on being re-opened the Prisoners were put to the Bar and informed that the Court find them generally Guilty of Killing two Natives But reserve this Case under all its peculiar circumstances by special Verdict until the sense of His Majesty's Ministers at home is known on the subject. The Prisoners therefore will be severally enlarged on producing two responsible sureties to be bound in One Hundred Pounds Each—and each of the Prisoners individually in Two Hundred Pounds for their personal appearance to abide by such decision as His Majesty's Ministers may think fit to make on the case so specially reserved for that purpose as aforesaid—the Court highly disapproving of the Conduct of the Prisoner Powell as a constable ordered him to be Suspended.

The individual sense of the Members of the Court on this case was thus expressed:

CAPTAIN WATERHOUSE Finds the Prisoners severally Guilty of murdering two Natives without Provocation on the Part of the Natives. Captain Waterhouse further adds that by his opinion he means not to affect the lives of the Prisoners because it is the first Instance of such an Offence being brought before a Criminal Court and therefore the Prisoners were not aware of the consequences of the Law as applied to this Particular Case.

LIEUT. SHORTLAND Finds the Prisoners Guilty of Killing two Natives in a deliberate manner without any provocation from the deceased Natives at the Moment.

LIEUT. FLINDERS Finds the Prisoners severally Guilty of wilfully and inhumanly Killing two Natives unresisting and in no Act of Hostility or depredation.

CAPT. MCArTHUR LIEUT. MckELLAR LIEUT. DAVIS Find the Prisoners severally guilty of Killing two Natives.

Opinion as to the Sentence.
The Judge Advocate .......... The case specially reserved
Capt. Waterhouse ............... For Corporal punishment
Lieut. Shortland ................ For the same
Capt. McArthur ................. The case specially reserved
Lieut. Flinders ................. For corporal Punishment
Lieut. McKellar ............... The case specially reserved
Lieut. Davis .................. The Same
At a Court of Criminal Judicature holden at Sydney in and for this Territory by Virtue of a Precept under the Hand and Seal of His Excellency John Hunter Esquire Captain General and Governor in Chief in and over His Majesty's Territory called New South Wales on Monday being the Sixteenth day of December in the Year of Our Lord One thousand Seven hundred and Ninety Nine For the Trial of such Offenders as should be brought before the said Court.


The Precept being read and the Court duly sworn the following Prisoners were put to the Bar, namely

George Parker  (Charged with Disobedience of His Excellency's Port Orders,* obstructing an Officer in his Duty and other misdemeanours.)
Nathaniel Marshall

The Prisoner Pledged "NOT GUILTY."

John Roycroft being Sworn Deposeth that on Sunday Morning was a Week about the hour of one or two he was in a Boat under the Rocks stationed there by Order of His Excellency Governor Hunter to watch that no Spirits were landed from the Ship Walker, without a Permit and if Spirits were landed without such Permit the Witness was directed to seize such Spirits. That the Sentry about that time hailed a Boat going on Shore—which Boat would not bring to for him—that thereupon this Witness pursued said Boat, and that the people on board still refused to bring to—that he followed said Boat and got up to her just as she had reached the ship Walker, on the Side of which a Cask was hawling up from out of said Boat—that he put his Hand on two other Casks in the said Boat, seizing them in the King's Name, supposing them to Contain Spirituous Liquors and judged that Such was the Case from having rubbed his Hand on the Bungs of the said Casks—that upon telling the Prisoner Marshall It was Gin, Pistols were Called for by the other Prisoner Parker who said that if the Witness did not go from alongside, he would blow his Brains out—that he then quitted the Casks and went on Shore. The Witness says he Came a Convict to this Colony in the Ship Barwell and has been Usually employed as one of the Governor's Boats Crew since he arrived in this Country.

* Note 168.
(Four other Witnesses were called, after which the Prisoners produced their Defence. They pleaded that the evidence was purely circumstantial, it not being proved that Liquor was in the Casks, or attempted to be landed, and that Roycroft was incapable of giving evidence, having been convicted of Perjury in England, and sentenced to seven years transportation. This statement being confirmed by Thomas Smyth the Provost Marshal, and admitted by Roycroft.)

The Court being cleared and having Maturely deliberated on the Evidence and being re-opened are of opinion that an attempt had been made to Land Spirits from the Ship Walker in a clandestine Manner, and that there is Ground for an Action against the Owners for Breach of their Charter-Party, but as there is no Proof before the Court that Roycroft was regularly Authorized to make any Seizure, and as the Manner of his going alongside the Walker, unaccompanied by any other Person, was extremely irregular and improper the Court ACQUIT THE PRISONERS.

John Nicol, Master of the Ship, Walker, having been Sworn to a Copy of the Charter-Party (produced in Court) but which had not been duly Attested in England, the following Items are extracted to shew that a Provision against any Breach or the Articles therein Inserted, and particularly for the Offence with which the Prisoners stood charged, is made with a Penalty specified in such Charter-Party Namely (inter-alia)

"It is Agreed that neither the Master or any of the Ships Crew shall Land Spirits or any other Commodities at the Settlement of New South Wales that are forbidden by the Port-Orders, without a regular Permit first obtained from the Governor, Lieutenant Governor, or Commander in Chief for the time being.

To the true performing and keeping All and singular the said Agreements on the part of the Said Brown Welbank and Petyt on behalf of the Owners do hereby bind and oblige themselves their Executors Administrators and Assigns, and the said Ship, Apparel and Furniture unto the said Commissioners for Conducting His Majesty's Transport Service (for and on behalf of His Majesty) in the Penalty of One thousand Pounds of lawful Money of Great Britain by these Presents to be paid and recovered."

Dated from the Transport Office the 20th March, 1799.

[Enclosure No. 3.]

THE TRIAL OF CHAPMAN MORRIS.

The King against Chapman Morris

On the Prosecution of James Williamson for Forgery.

The Prisoner pleaded "NOT GUILTY."

James Williamson being Sworn Deposeth that a Note purporting to be the promissory Note of this Witness, Value £23, payable to John C. Morris or Order and now produced, is Not of his issuing, but that the Same is a forgery—that he never did draw or issue such a Note, but admits the Signature to be his Name and handwriting, and he Supposes the Said Note to have been fabricated.
from his having been in the habit of Sending Letters to the Gaol under his Hand on Business, from whence the said Signature must have been torn and the Writing over it introduced.*

James Remnant being duly Sworn Deposeth that the Note in question now produced is the Same he received of the Prisoner and that he gave a valuable Consideration to him for the same.*

The Revd. Samuel Marsden being Sworn Deposeth that about two Months ago a Convict named Job Williams (since sent to Norfolk Island) Came to this Witness and Signified to him that Mr. Williamson had Sent over some Notes to some Debtors Confined in his Suit in the Gaol of Sydney and that one of the said Notes so signed had fallen into the Hands of Morris (the Prisoner) or Lancashire but that he (Williams) knew not particularly by what means—that Lancashire had erased Mr. Williamson's Writing thereout with Wet paper, leaving the Signature only—that Morris and Lancashire, after Consulting together, drew a Bill upon the same Paper (so named as aforesaid) over the said Name and Signature of James Williamson—that Morris received the same and put it into his Pocket Book saying he would keep it there for two or three Months before he issued it, and said Williams further declared that if Morris was then to be searched, the said fabricated Bill would be found in his Pocket Book—This Witness observes that other Conversation passed on the same Subject, but does not recollect to the exact Effect—Saith that Williams declared he was present in the Gaol when the above stated Transaction took place.

(The next day the Prisoner produced his Defence, which was based upon the facts that Job William was utterly untrustworthy, that Wheat was the consideration for the Note in question, that Mr. Williamson often forgot or denied Bills which he had signed and had been repeatedly solicited by the Prisoner to settle Accounts with him. Also that the note said to be erased was in Kable's possession, quite uninjured. Six Witnesses were called for the defence, after which)

The Court cleared, and having deliberated on the Evidence, Find the Prisoner GUILTY of uttering the said Bill, knowing the same to be forged.

SENTENCE OF DEATH was passed on the Prisoner but as there were three dissenting voices from the Verdict of "GUILTY" This Case is specially reserved (according to the Royal Charter of this Territory) to be laid before the King and Council.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 49,† per East India packet Swallow, via China.)

Sydney, New South Wales,

My Lord Duke,

3rd January, 1800.

On the second of December last a Spanish merchant ship entered this port from the west coast of America. She was captured near the coast of California by three whalers who had letters of marque,‡ and ill-fitted for any more distant voyage they availed themselves of this settlement, and sent her hither, where

* Note 169. † Note 99. ‡ Note 170.
she has been tried by a Court of Vice-Admiralty and condemned as lawful prize. Her cargo consists chiefly of a quantity of spirit, and a larger proportion of wine, with some other articles, the produce of the coast of Peru. I would have wished it had been composed of anything less dangerous to our general concerns, and had it been possible to have sent her to any other place I would not have permitted her to have remain’d here.

The sale of this vessel’s cargo, your Grace will believe, may be attended with some inconvenience; but I must point out, my Lord, that notwithstanding I have long past mentioned the necessity of our being at all times in possession of a certain quantity of both spirits and wines in His Majesty’s stores, there never has been any sent out, not even for the purposes of fulfilling those engagements which have long ago been reported were necessary with such constables, watchmen, and diligent overseers as we have occasion to employ in the public service, both here and at Norfolk Island. I have therefore been repeatedly driven to the necessity of occasionally making those purchases (which is to me the most painful part of my duty) whenever I could, at as moderate an expense as such articles could be sent out at.

On the present occasion, my Lord, I must purchase, and there being at this time very little spirit in the colony but what this vessel contains, the officers of every description have applied. The settlers, and such persons as have occasion to hire labor, and who have of late been oblig’d to pay some of monopolists not less than £4 4s. per gallon for an adulterated spirit, for the purpose of paying part of the labor employ’d upon their farms, have also petition’d to be permitted to purchase a certain quantity at the first hand. I propose, therefore, to allow each person of this description to land a certain quantity to be applied to those uses. This will in some degree check the monopoly for a time, and ease the immense expences attending the cultivation of land in the present state of the colony. After this vessel’s cargo, which is considerably more wine than spirits, shall have been so much disposed and divided, I am in hope it will be found far less injurious than it otherwise would have been, for to prevent its being landed is not possible, my Lord, as I have already endeavour’d to show; of various evils, therefore, I am of opinion what I have proposed will be found amongst the least, and it will certainly serve to relieve those who require this article in reaping their grain and other laborious works.

Wine also must be provided for the hospital, both here and at Norfolk Island.

This being the second* Spanish prize brought hither, we cannot be surpriz’d, shou’d it be known that such capturers make a con-

* Note 171.
HUNTER TO PORTLAND.

venience of this harbour, if it shou'd provoke a visit from some of the ships of war from the Spanish settlements on that coast. We will, however, endeavour to be prepared for such visit. The guns lately arriv'd are mounted on the most eligible situation, and those of a smaller size I have remov'd to the most commanding eminences which cover the town of Sydney. The people are quartered, and the necessary signals appointed.

No port whatever, my Lord, is more capable (with the necessary works and heavy cannon upon its commanding situations) of resisting any attack from the sea; and those situations I cou'd with ease point out to an expert engineer, as far as may be requisite, against such an attack; or, indeed, were it even attempted by land, I am as well acquainted with every part of the ground as I am with the depth of water in the ship or boat channels. But whilst it is expected we turn our whole strength to agriculture and the raising of certain essential buildings which have very unfortunately been too long neglected, we have not people for such works, nor proper officers to direct their labour.

I send by this opportunity some letters which had been thrown overboard from the prize before she was taken possession of, and picked up by the captor. Not having persons here capable of translating them, altho' they may probably not contain any thing of importance, I have consider'd it proper they shou'd be laid before your Grace. I have, &c.,

Jno. Hunter.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch* marked "Separate," per East India packet Swallow, vid China.)

Sydney, New South Wales, 5th January, 1800.

In my letter of the 15th November last (a duplicate of which will accompany this), in reply to the separate letter I had the honor of receiving from your Grace of the 26th February, I have particularly entreated a recurrence to my general correspondence on the concerns of this colony, and also to my public regulations and Orders occasionally given out and transmitted for your Grace's inspection, in order to its being known what have from time to time been my general objects. Such personal orders and verbal directions as have been seen necessary it is not possible to give your Grace any circumstantial account of; but they are well known on the spot.

I am extrem'ly unwilling to give any unnecessary trouble to your Grace; but where the character of an officer, who can have

* Note 93.
nothing so valuable or interesting to him either in public or private life, has been so infamously traduced, and, notwithstanding the very subject of those despicable calumniations have been so frequently mention'd by me, but not so immediately notice'd as I have so often had cause to wish, I am convinc'd your Grace will most readily allow for the additional trouble I may give upon this occasion in again soliciting an examination may be had of those letters and regulations; for to suppose that an officer serving in so dignified a situation as that which I have the honor to fill cou'd have written his complaints with that earnestness and frequency which I have done to your Grace, and yet to act a part so very inconsistent, so mean, so despicable and disgraceful as that which a vile and cowardly anonymous writer has ventur'd to insinuate, I cannot help observing, my Lord, that to conceive him capable of such a conduct is to believe him a character the most wretched, abject, and deprav'd.

My public correspondence, my Lord, had your time permitted its being look'd into with that consideration so truly of consequence to a man situated as I am, and no less so to the concerns under my direction, wou'd have satisfy'd your Grace, that ever since my arrival upon this command, I had been particularly careful to have no one private object or concern whatever which cou'd for a moment withdraw my attention from the public service; and yet so unexpected, so infamous an attempt to implicate me with the mean, shameful, and disgraceful traders and dealers so justly complain'd of, is to me a most extraordinary and unaccountable circumstance. There is, be assured, my Lord, something at the root or foundation of this attempt which your Grace cannot possibly discover, or even suspect, nor is in my power immediat'ly to detect; but I will use every means I am capable of for satisfying myself how far my suspicions are well or ill-founded. Whatever effects such insinuations may have upon your Grace's mind relative to the manner in which I have done my duty, or whatever endeavours may have artfully and indirectly been exerted to incline me (thro' an opinion that unfavourable impressions had been made upon your Grace) to relinquish or desert my post, I shall only take the liberty of saying that every public service on which I have hitherto been employ'd, have, I trust, sufficiently prov'd that I have more fortitude and firmness. Let my exertions on the service of this colony, both formerly and since I have myself commanded in chief, be most minutely investigated; but those who may wish or desire my resignation, let those who dare accuse me of a single act degrading to my office stand forward; let those even whose conduct have compell'd me as a duty I ow'd to His Maj.'s service to
complain to your Grace, appear openly and fairly, and attempt to show in the most trifling degree any one act of mine at which I ought to blush, and they will find me prepar'd to meet them. However imperfect I may in other respects be, my Lord, upon that subject I feel myself invulnerable. Let my conduct and character as an honest and conscientious man, professing to possess that integrity which will be acknowledg'd an essential point in the character of an officer, be thoroughly examined and confirm'd; or let my deviation from the sacred path of truth and justice, from honor and every virtuous principle, be made known to the world; when your Grace shall appear satisfied in either the one or the other, I shall feel myself at liberty, if I receive His Majesty's permission, to quit a colony in which I have had more to struggle with than any consideration upon earth but a thorough attachment to the public service could have induced me to have undertaken had I known what it really was.

I have already said* that the colony fell under my authority at a most unfortunate period, and under the most difficult and unpleasant circumstances; yet, altho' I have surmounted much, and have thereby lessen'd the severity of that duty which must have otherwise fallen to the next commanding officer, I am not at liberty to obtain that credit which my perseverance and endeavours under such arduous difficulties might have claim'd and expected, and this I attribute intirely to the want of that full information which I wou'd have wish'd your Grace to have possess'd, and the want of which cannot be charged to me. Whatever has relation to our expenses, I am ready when call'd upon to demonstrate from whence they had their origin, and to what alone they can with truth or justice be atributed. I will prove beyond the shadow of doubt that no part can in any, the most trifling, degree be imputable to my measures.

I am, my Lord, a very plain man, bred to the honorable and respectable profession of a seaman in His Majesty's Navy, in which my best endeavours, wherever I have serv'd, have been exerted in that service, and my life occasionally ventur'd. I claim not the support of superior interest upon any occasion whatever, my Lord. I rest wholly and firmly upon the solid basis of my own zeal and integrity as an officer of some rank, and I am well satisfy'd I cannot have with your Grace a more powerful advocate, or more welcome recommendation than such qualities are. Yet, my Lord, in these days, when every species of deceit is in practice where found convenient or usefull in answering certain ends; when falsehood and misrepresentation has become the unfortunate fashion of the time, what character can be safe?

* Note 172.
None, my Lord, but such as are so weak, so flexible, as readily to
glide into the views and objects of the more artfull and design­
ing, and to suffer the public service to take its chance.

Having in my letter, alluded to in the beginning of this,
 omitted a few papers which may be satisfactory to your Grace, in
shewing how far I have been an enemy to the monopolys said to
have been made of the public store in receiving grain, and what
attempts I have us’d for checking or removing them; and finding
your Grace is desirous of more substantial proof than mer’ly my
declaration that such Orders as have appear’d necessary have
been given, all those regulations have been at all proper oppor­
tunitys transmitted for your Grace’s information on a variety
of subjects, yet in my last letter, as your Grace has appear’d
never to have seen them, I sent a complete copy from the begin­
ing of my command. I must particularly beg attention to an
Order upon this subject publish’d on the 23rd April, 1798,* which
was issued as an inforsement of the innumerable verbal direc­
tions which had been long given in consequence of such com­
 plaints as had been made to me. I send also the copy of a letter
I had occasion to write to the officer commanding at the Hawkes­
bury River on a similar occasion, and two letters of instructions
from the Commissary to the storekeeper on the same subject.

These, your Grace will say, serve to confirm the truth of some
part of the anonimous letters. I admit they do. But they serve
no less to show your Grace that every necessary step for putting
an end to such iniquitous proceeding was taken as soon as the
existence of such an evil was made known.

I have also said that I have no private concern to occupy my
time. I may at same time observe to your Grace, that such
having been discover’d soon after my arrival to be my ideas of
the situation of a Governor in this country, it did not add much
to my popularity with those whose dealings were likely to be
affected by my opinions and Orders. Those, however, were not
considerations of any moment with me. I rely’d intirely upon my
intentions being such as I conceiv’d your Grace wou’d approve,
and that I shou’d so far receive the support of Government as
to have obtain’d credit for them.

I shall continue to be of opinion that had my endeavours to
remedy the evils complained of here, and to bring, out of a scene
of the most unexampled perplexity and confusion, that order so
essential to the prosperity and wellbeing to such a settlement,
been as completely known to your Grace as I have been anxious
they shou’d, I am satisfied I shou’d have received that credit
which every officer who does his duty has certainly some right to
look for, and which I am well assured it is not your Grace’s

* Note 173.
HUNTER TO PORTLAND.

desire to withhold, but are well dispos'd to bestow if you are satisfied it is merited. I shall only further observe that, cou'd a complete investigation by impartial and unprejudiced judgement take place here, much information wou'd be obtained highly necessary Government shou'd possess.

I need not, I am well assured, from the conviction I have of your Grace's justice, request that whatever I may write in reply to the falsity and infamy of those insinuations which relate to me in that anonimous letter, may be made as public as that mean, scurrilous, and contemptible publication has been.

I have, &c.,

JNO. HUNTER.

[Enclosure No. 1.]

COPY of a letter upon service from the Governor to the Commanding Officer at Hawkesbury.

Sir, 23rd April, 1798.

Many complaints having been made to me that, in consequence of the continued monopoly made of the public store when open for the reception of grain, the distresses of the settlers and other poor labouring persons, whom I have so often wish'd to relieve by every means in my power, still continue, and that without the smallest diminution.

Those monopolys are so directly contrary to the Orders which have so often been given that I cannot pass over the storekeeper's disobedience of them longer.

I find from the Commissary's accounts that the granary at the Hawkesbury has now received fifteen hundred bushels of wheat, and that it has been put in by four* persons only, to the entire exclusion of those who can less afford to pay freight in sending it hither. I am, therefore, under the necessity of desiring that you will take the trouble to direct the storekeeper to order half that quantity may be taken out by those who have had any concern in this very improper monopoly, and let some of the settlers have room to be accommodated as far as the quantity requir'd will go.

You will also be so good as to inform the storekeeper that his conduct in this instance has been so highly improper that I shall certainly take an early opportunity of ordering some other person to take the management of that duty.

I cannot wonder at the settlers and others in their situation supposing that I have no real wish to relieve them, when time after time my endeavours for that end are frustrated by an inattention to the Orders so often given out, and that by the very people to whom they are chiefly directed in the Commissary Department.

I have, &c.,

JNO. HUNTER.

* Note 174.
1800.
5 Jan.

Restriction of government purchases of grain to a few persons.

1800.
7 Jan.

The price of grain.

HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 2.]

ACTING COMMISSARY WILLIAMSON TO MR. BAKER.

Mr. Baker, Sydney, 19th April, 1798.

Several complaints having been made to the Governor by the settlers at Hawkesbury respecting the taking wheat of the last order, it has been reported to him that the quantity ordered to be received was put into the store by three* individuals only, and that many people have brought small quantities, and were obliged to take it away again.

I am desired by the Governor to inform you that it was his intention that a proportion from each should have been taken, and also that you give the reasons why it was not so. Samuel Crafts, a settler at Hawkesbury, who brings this, and is one of complainants, has the Governor's permission to put in about one hundred bushels of wheat.

It is always my wish that no partiality in receiving wheat is to be shewn to any person whatever, and it is also the Governor's wish, if you can distinguish a poor, industrious settler, to give him the preference.

I am, &c.,

JAS. WILLIAMSON,
Act'g. Comm'y.

[Enclosure No. 3.]

ACTING COMMISSARY WILLIAMSON TO MR. BAKER.

Mr. Baker, Sydney, 27 April, 1798.

I am desired by the Governor to inform you that he had given the Commanding Officer at the Hawkesbury orders to direct you to return a proportion of the Wheat you receiv'd into His Majesty's Stores at the Hawkesbury on the 16th Instant to those people from whom you receiv'd it that an opportunity may be given to Settlers who may have a proportion to put in. I am commanded by the Governor to direct you to comply with that Order immediately and when done you will give me information.

I am etc.

JAS. WILLIAMSON,
Actg. Comm'y.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 50,† per East India packet Swallow, vid China.)

Sydney, New South Wales,
7th January, 1800.

My Lord Duke,

From an ardent desire of relieving the expences of government on this colony all in my power, I had a hope that this last season wou'd have offer'd me an opportunity of reducing the price of grain; but in that hope I have had the mortification to be disappointed.

* Note 174. † Note 99.
On the 2nd of last month I issued an Order informing all persons concern'd in farming that the price of grain would be reduced one-fifth.

The immense expence of labor upon the ground, of which I enclose a statement, will shew your Grace what a farmer's situation with that of his family would have been had I persisted in this endeavour of reducing the price under the present misfortunes of the people, many of which are entirely the effect of the want of those public supplies from Europe which alone can ease the heavy expences of this colony to Government, and encourage the exertions of industry. It is long, my Lord, since I have pointed out the only means by which our expences can be reduced, and, had not the more important concerns of the nation render'd it the less in your Grace's power to attend to my observations, I doubt not those difficulties which have stood in our way wou'd have been remov'd. Those difficulties which your Grace's want of time to notice upon my representation seem thro' that cause to have encourag'd some artfull and designing person or persons to attempt to sap the very foundation upon which I had built my hope of receiving credit for my exertions and endeavours to get the better of; but I trust, my Lord, that if truth and justice shall prevail they will find it too solid to be so readily undermin'd.

I have in my separate letter of the 5th inst., sent herewith, declar'd myself ready when call'd upon to prove what has been the original cause of our present expences, and to shew that I have labor'd incessantly for its reduction. It certainly cannot be conceiv'd by any that a continuation of our present high prices can meet with any encouragement from me, who have already inform'd your Grace that I have no private concerns of any kind to favour; and that I never shall have any in this colony, your Grace may rest assur'd.

I have for near the whole of the three last months (having no grain from individuals) been feeding the colony upon what I had rais'd on Government account last season, and it was fortunate I had reserv'd it until I had received all I cou'd from others. Very lately, and when all was expended, and the stores empty, report was made to me that the settlers declin'd getting any wheat ready for the store at the reduc'd price, giving as a reason that they were naked and wretched for want of every common necessary and common comfort, and that the expences attending the getting their grain in and secur'd they were now unable to pay if the price was at this time reduc'd.

Altho' the want of grain to serve out the weekly ration was now found difficult under the present distress'd state of the settlers, yet, if they did not come forward, the farms of the
1800.
7 Jan.

Hunter compelled to maintain the high price.

The supply of salt provisions.

The military ration.

Burning of Parramatta gaol by incendiaries.

officers were not equal to an immediate production of a quantity equal to the weekly expenditure, even when that of Government was added to it. To secure this necessary quantity weekly was an object with me, to whom every person look'd up for his stipulated allowance. I, therefore, saw it necessary to give out public notice that wheat wou'd be receiv'd this year at the last year's price, but that whatever might be the circumstances of the people in the next season they must be prepar'd for a reduction. Barley and maize will be at the reduc'd prices.

Our store of salt provisions is now reduc'd to five months. I had in consequence given directions for coming to a short allowance of two-thirds; but the Commanding Officer of the military having brought out with him some new regulation relative to the ration of the soldiers, by which it appears that in this colony they have nearly one-third more than any other description of persons here, I had upon the arrival of this new regulation immediately complied with it, and the Commanding Officer was very desirous it shou'd not so very soon after be reduced again. To accomodate his wishes I have put off a reduction of the ration for one month more, in hope that something may arrive which may render it wholly unnecessary. But I must observe to your Grace that we have no prospect at present of any quantity of swine's flesh to help to lengthen out our salt provisions, because the ruin of our whole crops last season, and the destruction of numbers of that stock by the overflowing of the river Hawkesbury immediately after, has greatly reduced our numbers.

I am concerned to have to represent to your Grace that on the night of the 28th ult'o our public goal at Parramatta, a strong and substantial log building of one hundred feet long, was wilfully and maliciously set fire to by some unknown person, and was entirely consum'd. There were at the time eight persons confin'd in it, who were with much difficulty saved from the suddenness of the conflagration; several of them were shockingly scorched, one of whom is since dead. If such misfortunes as those are not sufficient to give your Grace some idea of my troubles and vexations, as well as an opinion of the cause of some part of our expenses, I must continue to be at a loss how I am to explain or make myself understood. I have, &c.,

Jno. Hunter.

[Enclosure.]

EXPENSES OF FARMING AT THE HAWKESBURY.

Farm Expenses.

At a meeting held at the Hawkesbury this 14th day of January, 1800, by the undersigned inhabitants, appointed from the differ-
ent districts of this settlement, the following average prices for labor and other necessary articles of life was considered and concluded by them in a fair and impartial manner to have been paid as follows:—

To Wit—For the cultivation of one acre of wheat as by average computation to produce 25 bushells—

- Cutting down and clearing weeds ... ... 1 0 0
- Breaking up or tilling the ground ... ... 1 6 8
- Chipping or covering the wheat and sowing ... ... 1 2 0
- Reaping ... ... ... ... ... ... 3 0 0
- Carrying home, stacking, and thatching ... ... 2 0 0
- Thrashing and carrying in the barn ... ... 2 2 6
- Carriage to His Majesty's store, Sydney, porterage, &c. ... ... 1 19 7
- One bushel and half of seed ... ... 0 15 0

Total ... ... £13 5 9

N.B.—There is no allowance for first clearing the land, in the above Estimation, which is per acre 6 10 0

Average price of the necessary articles of life bought at Sydney by us, viz.:—

- Tea, per lb. ... ... ... ... ... ... ... ... ... ... ... ... 4 0 0
- Sugar, per lb. ... ... ... ... ... ... ... ... ... ... ... ... 0 2 6
- Spirits, per gallon ... ... ... ... ... ... ... ... ... ... ... ... from £1 10s. to 4 0 0
- Soap, per lb. ... ... ... ... ... ... ... ... ... ... ... ... 0 6 0
- Tobacco, per lb. ... ... ... ... ... ... ... ... ... ... ... ... 0 10 0
- Butter, per lb. ... ... ... ... ... ... ... ... ... ... ... ... 0 4 0
- Cheese, per lb. ... ... ... ... ... ... ... ... ... ... ... ... 0 3 0
- Shoes, per pair ... ... ... ... ... ... ... ... ... ... ... ... 1 5 0
- Duck cloth, per yd. ... ... ... ... ... ... ... ... ... ... ... ... 0 5 0
- Woollen cloth, per yd. ... ... ... ... ... ... ... ... ... ... ... ... 0 2 0
- Irish linen, per yd. ... ... ... ... ... ... ... ... ... ... ... ... 0 5 0
- Calico, per yd. ... ... ... ... ... ... ... ... ... ... ... ... 0 4 0
- Silk handkerchiefs, each ... ... ... ... ... ... ... ... ... ... ... ... 0 10 0
- Linen and cotton checks, per yd. ... ... ... ... ... ... ... ... ... ... ... ... 0 6 0
- Hats, each ... ... ... ... ... ... ... ... ... ... ... ... 0 2 0

Flannel, blankets, and all sorts of beddings much wanted and none for sale.

N.B.—All other European goods equally dear, tho’ not mentioned in the above list.

James Malee.           Joseph Wright.

Memorandum.—The above charges are to be considered as the Sydney price to the settlers, who vend it again at the Hawkesbury from 50 to 100 per cent. advance.
HISTORICAL RECORDS OF AUSTRALIA.

Price of Provisions.

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<th>Item</th>
<th>£</th>
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<tr>
<td>Wheat, per bushell</td>
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<td>Barley, per bushell</td>
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<td>Maize, per bushell</td>
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<tr>
<td>Sheep mutton, per lb.</td>
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<td>Goat mutton, per lb.</td>
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<td>Fresh pork, per lb.</td>
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<tr>
<td>Salt pork, per lb.</td>
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Potatoes, from 16s. to 20s. per 100 lb., and all other kind of vegetables proportionally dear.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 51, per East India packet Swallow, via China.)

Sydney, New South Wales, 15 January, 1800.

My Lord Duke,

On the 11th instant the Minerva, transport, with convicts from Ireland arriv'd in this port, all in the most perfect health, having lost by death only three during the voyage.

This ship being early for prosecuting her voyage to Bengal, and as I look daily for the arrival of the other ships from Ireland with convicts, I had an intention of sending her to Norfolk Island, but the expence appearing so considerable I shall wait until it may be possible to forward thither such number of convicts as may be required. It is much to be wish'd that in chartering ships for the sending convicts to this country that the Transport Board cou'd make their agreement in such way as to have them landed by the same ship either here or at Norfolk Island as the public service in this country might require; for after landing them here it is impossible to conceive the difficulties in afterwards collecting them for that island, and we have not at all times a ship to send thither.

On the same day arrived a small snow† from Bengal, which it appears had been charter'd by the officers of the colony, civil and military, thro' the means of an agent whom they had sent from hence, and without having signified their design to me. Altho' this vessel's cargo consists of many things much wanted here, yet she has brought fifty legars of spirits, which the gentlemen say is for the benefit of their respective farms, and that when divided amongst their number will not appear so large a proportion as to be attended with inconvenience. How far this importation, and the manner in which it has been manag'd, may confirm any part of the observations made in the anonimous letter, your Grace will judge. To oppose its being landed, my Lord, will be vain on my part, for the want of proper officers to execute such Orders as I might see occasion to give. The officers have written to me, and

* Note 99. † Note 175. ‡ Note 162.
I enclose a copy of their letter. The Minerva, having touch’d at Rio Janeiro, has brought many articles for sale as well from thence as from England, many of which are greatly wanted by the people here; but, my Lord, the prices in general, altho’ not so much in this ship, are such as drain the colony of every farthing the people can gather together, and serves to keep them in a continual state of beggary. It is not possible, my Lord, that we should prosper under such circumstances.

This ship has also brought some spirits. Petitions have been made to me by certain descriptions of free people and settlers, of which I enclose a copy. They are desirous of procuring spirit at a moderate rate, which they say is intended to be applied to the advantage of their farms in hiring labour. This spirit they are offered out of the ship. If the officers receive permission to land what they want, and the others are refus’d, then we shall be accus’d of encouraging monopoly in the hands of the officers, and refuse those comforts which are wanted by others.

The introduction of spirits in any considerable quantity being contrary to my wishes, I cannot but feel very considerable difficulty what steps to pursue; because if not permitted, it will be landed and become a monopoly in the hands of some of the traders. Partiality to any particular class of people I have none; I am desirous of granting such indulgences as may be in my power to all alike while a proper use is made of them; but on the present occasion it is scarcely possible to know how we shou’d determine. Had not this vessel hir’d by the officers arrived here I cou’d with more consistency have refus’d them. I see it therefore necessary, in order to prevent those heavy impositions on the lowest classes and inferior officers, to permit their purchasing at a moderate rate whilst they can.

I am sufficiently experience’d here to know that whilst the article sought after is in this harbour, or indeed any other on this coast, it is impossible to counteract the designs of those who wish to have it.

Pardon me, my Lord, for begging to recur to my letter No. 14,* wherein I hinted a duty upon all spirits imported here; it wou’d very much relieve the expences of the colony, and wou’d not be felt by the consumer of the article. Other foreign articles might also pay a duty which wou’d scarcely be known by any but the merchants’ whose profits are so immense.

I see it necessary to put your Grace in mind that we have now no more salt provisions in the colony than five months. If none has been order’d by us it will be an unfortunate circumstance for the colony, for shou’d we be driven thro’ necessity and want with

*Note 176.
an increas’d and continually increasing number of people, many of whom are useless, to fall upon our valuable and thriving stock of live cattle—a circumstance which, I assure your Grace, shall not be whilst I can by any means prevent it—the colony would be thrown back farther than it was some years ago from that prospect of independence which I have been so anxiously looking forward to, and its expenses become exceedingly increased instead of being reduc’d to that state of moderation which I have been laboring to bring about, altho’ it is certainly a most mortifying consideration to me to observe that it appears not to be understood at home, nor do I expect it will to that extent I so earnestly wish, until some well-qualified persons in whose report the Government can place sufficient confidence are sent out to investigate its progressive advancement from the day of its establishment up to the present period. This would be a most gratifying circumstance to me were the nation at sufficient leisure to attend to it. There being about sixty-four casks of salt-meat in the Minerva for sale, I shall order the Commissary to purchase it as low as possible.

I have, &c.,

JNO. HUNTER.

[Enclosure No. 1.]

OFFICERS TO GOVERNOR HUNTER.

Sir, Sydney, 13th January, 1800.

We have the honor to acquaint you that a small snow of one hundred and forty tons, having on board a small supply of clothing, spirits, tea, sugar, and other necessaries on account of the officers, civil and military, has arrived from Bengal.

The successful termination of this undertaking, we have the pleasure to say, has opened to the officers of the settlement a means of supplying themselves at a moderate price, and will in future do away the necessity of their making large purchases from adventurers, which, as it will leave the lower description of inhabitants without any competitors in the purchase of any cargoes that may be brought for sale, will effectually prevent a repetition of the unfounded charges that have been made against the officers of monopolizing.

We have now to request that your Excellency will be pleased to indulge us with a permit for the landing this cargo, for the purpose of dividing it amongst the different proprietors, amongst whom are included almost every officer in this settlement and at Norfolk Island.

We have, &c.,

JOHN McARTHUR.
WM. BALMAIN.
JAMES WILLIAMSON.
PETITION TO PURCHASE.

We whose names are hereunto subscribed most respectfully beg leave to inform your Excellency that having heretofore laboured upon the hardship of purchasing the necessary articles for the use of ourselves and families, as well as for the cultivating our farms, and carrying on other useful vocations, at second hand, and now have an opportunity of purchasing the following articles out of the ship Minerva, and at the low prices annexed; we, therefore, most respectfully beg your Excellency's permission to land the same, viz., 13 pipes of rum, at 7s. per gallon; 1 ton of sugar, at 1s. per lb.; 19 firkins of butter, at 1s. per lb.; 10 casks of beef and pork, at 1s. per lb.; 4 cases of glass; Irish linnen, at 1s. 3d. per yard; 72 doz. pair of shoes, at 10s. per pair; a cask of port wine, at 7s. 6d. per gallon.

ROBT. SIDAWAY. JOHN BOSTON.  
J. BLOODWORTH. A. GOLDIE.  
N. DIVINE. R. SCOTT.  
JOHN SPARROW. WM. SMITH.  
THOMS. ABBOTT. JAMES RICKEY.  
RICH. x CHEERS. ROWD. HASSALL.  
WM. EGLETON. FRANCIS OAKES.  
OWEN CAVENOR. WILLIAM BROUGHTON.  
S. LORD. JAMES ELLIS.

Governor Hunter to Secretary Nepean.

(Per H.M.S. Reliance.)

Sir,

Sydney, New South Wales, 28th Jan., 1800.

The very weak and infirm state of His Majesty's ship the Reliance having render'd her unfit to continue longer upon the service of this colony, I have judged it proper to order her to England whilst she may be capable of performing the voyage. Of this I have to request you will be pleas'd to inform their Lordships.

In my letter of the 10th of August, 1799,* I mention'd that I had seen it necessary, for the advancement of His Majesty's service in the concerns of this colony, to direct the officers and crew of the Supply, which had been condemn'd, to be remov'd into the Buffalo. That ship is now upon service at the Cape of Good Hope, or upon her return hither. I have to hope that the steps I have pursued relative to the naval department in this part of the world will meet their Lordships' approbation.

I doubt not, sir, their Lordships will readily pardon the liberty I take in expressing an earnest hope that Capt. Waterhouse,

* Note 177.
Lieuts. Wm. Kent, Jno. Shortland, and the officers in general of the Reliance and Supply, may be consider'd not undeserving the favor of their Lordships. Their services for so long a time in this remote region, where nothing cou'd possibly fall to their share but the immediate and fatiguing duties of their profession; the readiness with which they have individually exerted their utmost endeavours for forwarding the King's service here, demands everything I can say in their commendation, and I am well convinc'd they cannot apply any interest which will have more weight with their Lordships than a recommendation upon such grounds.

I have, &c.,

JNO. HUNTER.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 52,* per H.M.S. Reliance.)

Sydney, New South Wales,

1st February, 1800.

My Lord Duke,

The inclosed petition, addressed to your Grace, and two letters to me, I am the more readily dispos'd to forward, as it gives the better description of our settlers in this country an opportunity of speaking for themselves, and making a fair and candid representation of those grievances which have long since been mention'd by me in my official letters to your Grace on the concerns of this colony; and I earnestly hope that this may arrive when your Grace's time may be less engaged in matters of so much more importance as to prevent its being taken into consideration, an advantage my observations upon the same subject were less fortunate in.

After having in former letters written your Grace my full sentiments and complaints upon the destructive system of traffic carried on here, it will not be necessary I shou'd again trespass on your time; it will be sufficient for me to add that I cannot cease, after the attempts made upon your Grace's judgement and opinion to my injury, to solicit either an impartial investigation of those trading interests and disgraceful concerns, or to learn from authority that no part of those infamous callumnys, as far as they concern me, have in any degree been credited by government; but I must confess, my Lord, that an investigation, which cou'd not leave the shadow of doubt, wou'd be far more to my satisfaction than any other way of removing the odium which has been so treacherously attempted to be cast upon my character.

It is a source of much sorrow to me to learn that my principal friend and patron, the Earl Howe, is no more; to that great and good man I was, as an officer, well known, and to him, on the receipt of your Grace's last despatches, I had written on the sub-

* Note 99.
ject of the infamous attack which had been so vilely made upon my reputation.

I will here also trouble your Grace with another petition addressed to me, and which I have just received from a different class of settlers from those already mention'd. This description of people, and the district in which they reside (the banks of the Hawkesbury River), I have formerly had occasion to notice to your Grace.

Those various complaints and grievances, and the earnest endeavours I have exerted for removing them, as may be seen in Public Orders and regulations, may serve to give your Grace some idea of the comforts of my situation under the present existing circumstances of this settlement. Whatever may be the opinions form'd at home upon the subject, I have felt it a necessary part of my duty to give your Grace the most unreserved information.

My reply to the petition of the Hawkesbury settlers is also enclos'd.

I have, &c,

Jno. Hunter.

[Enclosure No. 1.]

SETTLERS TO GOVERNOR HUNTER.

Hon'd Sir, Parramatta, 25th January, 1800.

We, the settlers in Parramatta and the adjacent districts, having in a former letter to your Excellency intimated that it was our joint intention to memorialise His Grace the Duke of Portland for a redress of our heavy grievances, have unanimously agreed to the enclosed petition, and with all due respect now take the liberty to lay the same before your Excellency, not doubting but our petition will meet your Excellency's approbation and support, being no more than a just and candid statement of well known facts. We further pray your Excellency to transmit our memorial to His Majesty's Minister, with such observations and remarks as your Excellency may judge proper.

[Enclosure No. 2.]

SETTLERS' APPEAL TO SECRETARY OF STATE.

To His Grace the Duke of Portland, His Majesty's Principal Secretary of State for the Home Department.

The humble petition of the settlers in Parramatta, and the adjacent districts of the county of Cumberland, in New South Wales,—

Most humbly sheweth:

That your petitioners, having long laboured under grievances and intolerable burdens, which have not only cut off all hope of their independence, but reduced them and their families
to a state of beggary and want, and incapacitated them from prosecuting the culture of their lands with vigour; and unless some speedy relief is afforded them, utter ruin as to their temporal concerns must inevitably ensue, the prospect of which has obliged some to relinquish their farms, brought others into a state of carelessness and unconcern, and driven many to desperation.

The immediate cause of all these distresses they have from time to time made known to His Excellency Gov'r Hunter, who has ever shewn a readiness to render them comfortable in their circumstances and redress their grievances; but from his peculiar situation, his efforts have not produced the desired effect. They therefore humbly presume to lay before your Grace a candid statement of the grievances they labour under, and which have been the cause of all their distresses.

Here it may be necessary to premise that the tillage of land in this country is conducted in a different manner from what it is in Europe—the latter, with the assistance of horses or oxen, the former wholly by men who, to keep pace with the growing extortion of monopolists and dealers, rise the price of their labour in proportion to the price of imported commodities; and the price of grain being fixt, the poor settlers have no means of avoiding the impositions of the dealer and labourer, but are crushed under the heavy weight of expences attending agriculture, which frequently exceed the amount of their crops, so that in fact the whole of the very exorbitant profits of trade are extorted from them rather than the consumers of any other description who, in general, are indifferent what price they give for any article as the burden of expences falls on the land holder.

That your Grace may be able to form some conception of the mystery of iniquity and extortion to which the settlers are subject, they beg leave to observe that when ships arrive at Port Jackson, the cargoes are bought up by a few individuals who, in order to engross the whole, will give an extravagant price, which ultimately tends to their advantage; for they seldom, if ever, dispose of the same at less than 100 per cent. on the purchase money, whatever that may be, and frequently at 200 per cent., without the trouble of taking the goods out of the ship, as will appear from the following statement of prices for which goods have been bought out of the ships that have arrived in the colony within the last eighteen months, and sold for again.

Out of the Hunter, from Bengal:—Rum bought at 8s. p'r gallon, afterwards sold from 20s. to 30s., 40s., and 60s. p'r gallon; tea bought at 10s. p'r lb., afterwards sold from 30s., 50s., 60s., 80s., and as high as £8 sterling p'r lb.; sugar bought at 8d. per lb,
afterwards sold from 16d. to 3s. p'r lb.; callicoes, gurra shirts, muslins, handkerchiefs, and all other articles of wearing apparel in proportion to the above.

The cargo of the Rebecca from Bengal amounted to near £20,000 st'g, and consisted of a similar assortment of goods, which were bought and sold at nearly the same prices.*

The cargo of the Argo, an American vessel, consisted chiefly of rum and gin. The rum bought at 9s. p'r gallon, afterwards sold from 20s. to 80s. p'r gallon; the gin, in cases of 9½ gallons, bought for £5, afterwards sold from £15 to £20 st'g p'r case.

Porter bought on board the Walker, from London, at £8 and £10 p'r cask, was sold immediately from £15 to £20, £25, £30, and £36 st'g p'r cask.

All the above articles were sold by the retailers to settlers and others with an advance of from £50 st'g to £80 st'g p'r cent. on the above-mentioned prices.

In addition to the above, men's shoes are from 25s. to 40s. p'r pair; soap from 5s. to 10s. p'r lb.; common hats, 20s. each, value, 2s. and 2s. 6d. in England; duck frocks, 20s. each; printed cottons from 6s. to 18s. p'r y'd; reap hooks, 5s. each; an axe, 5s.; a spade from 12s. 6d. to 15s.; an hoe from 3s. to 5s.; and tobacco from 8s. to 12s. p'r lb.

By the above statement it appears that the settlers are oblig'd to pay from 500 to 1,000 per cent. on the aforesaid articles; and if they continue to groan under this load of oppression, agriculture must soon be at a stand, the colony in want of grain, and consequently the expences of government increased, as many families will have no other means of support than the public store.

Thus circumstanc'd, they submit their case to the humane consideration of your Grace; and it is with pleasing (may they not add sanguine) expectations that they look up to your Grace as the only instrument in the hand of Providence who can effectually redress their grievances in this distant part of His Majesty's dominions; and they trust your wisdom will devise such means as may be productive of this salutary end.

They, however, beg leave to remark, from their local knowledge of the colony and its nefarious practices, that the only means likely to prove efficient and afford them permanent relief, would be for Government to open a public warehouse,* from which the settlers might be supplied with every necessary article at such a rate as would not only enable them to meet the wishes of His Excellency Gov'r Hunter in his intended reduction of the price of grain, but also considerably diminish the expences of Government by enabling the landholder to support his family, who, from mere indigence, are now dependent on the public store.

* Note 148.
This means they have only taken the liberty to suggest by way of information, trusting their distressed case will have its due weight with your Grace, and that proper means will be chosen to mitigate their burdens.

And your petitioners, as in duty bound, will ever pray, &c.

Parramatta, 9th January, 1800.

[Signed by fourteen deputies, representing 181 settlers.*]

[Enclosure No. 3.]

ADDRESS FROM SETTLERS TO GOVERNOR HUNTER.

Parramatta, 9th January, 1800.

To His Excellency John Hunter, Esq., Captain-General, and Governor, &c., &c., &c., in and over His Majesty's territory of New South Wales.

The underwritten settlers in Parramatta and the adjacent districts—

Take this method of expressing their grateful acknowledgments to your Excellency for your kind attention to their interests in continuing the price of wheat for this season as the last; but as your Excellency has given information in a Public Order dated Dec'r, 1799, that the present price will be continued for this year only, they beg leave to observe that unless Government adopt some means to redress their grievances so as to enable them to raise their crops at a cheaper rate, nothing but poverty and ruin to themselves and families must ensue and the prosperity of the colony greatly retarded. They also beg leave to inform your Excellency that it is their intention to lay before His Grace the Duke of Portland a candid statement of their grievances and to request that a public store might be established in this colony as the only means of relief, from which they may be supplied with every necessary article of life at such a rate as may enable them to meet your Excellency's wishes in curtailing the expenses of Government, by reducing the price of grain. And they humbly request that your Excellency will not only be pleased to forward such petition but to give it all the support in your power from your local knowledge of their circumstances, which they flatter themselves that they shall have from the readiness your Excellency has ever shown to render the situation of the settlers comfortable and redress their grievances tho' your efforts have proved ineffectual by reason of the whole trade of the colony being engrossed by a few individuals and consequently the settlers obliged to pay whatever price they please to extort on every imported article. This grievance they have long complained of,

* Note 148.
and groaned under, and are sensible that nothing but the means pointed out above can afford them any relief. Confiding in your Excellency's support to their petition they remain

Your Excellency's greatly obliged and very humble servants,

For the settlers in the Field of Mars.

- Isaac X Archer.
- Matthew Everingham.
- Thomas Arnold.
- Rowland Hassall.

Northern Boundaries

- Thomas Tilley.
- John Ramsay.
- James Sheppard.

The Ponds

- his

Kissing Point

- James X Bradley.

[Enclosure No. 4.]

Petition of Hawkesbury Settlers to Governor Hunter.

We the undersigned freeholders and settlers of this settlement request your Excellency's attention to the following statement, and respectfully petition for a redress of the grievances therein enumerated, fully convinced the powers entrusted to your Excellency are adequate to the extinction of any abuse, and that it is the intention of Government you should exert them:

Firstly.—Your petitioners pray your Excellency's attention to the high price Government is obliged to give for wheat, being nearly double what it ought to be.

Secondly.—That notwithstanding the enormous price thus given, the settler's profit is inadequate to his labor and expence, and is in fact insufficient to procure him the common comforts of life: for

Thirdly.—Your petitioners complain that when the stores are open for the reception of wheat or pork, preference is given to the officers, to the great detriment and sometimes total exclusion of the settler.

Fourthly.—That when the settler has turned either wheat or pork into the store he is forced to wait three months before he is paid. This delay proves highly inconvenient to him, without being any way advantageous to Government, since payment is made not in money but in bill.

Fifthly.—Your petitioners complain that they have not a due allowance of men to till their land, while officers and other favourites have men allowed them out of number.
Sixthly.—That your petitioners are not allowed to draw from the stores, at prime cost, agricultural and other necessaries.

Seventhly.—That the Government cows and sheep have not been distributed amongst settlers, but that the advantage arising from their milk, fleeces, dung, &c., are engrossed by a very few individuals; that in consequence of this the civil and military officers are become the sole graziers, and butchers are enabled by it to, and actually do, keep up the price of meat.

Eighthly.—That when ships arrive, the officers, civil and military, are exclusively admitted on board; that they there forestall the whole of the cargo, and then retail it to the colony at the most extortionate rates, as we are ready to prove if your Excellency requires it.

Of all these grievances we, your petitioners, pray immediate redress that will enable us, by a large abatement in the price of wheat and pork, to somewhat lighten the heavy burthen this colony has so long proved to our now much distressed mother country; and sensible that your Excellency’s mildness has been imposed upon, your authority thwarted, your good intentions defeated, by a set of men who have enriched themselves by plundering the colony, we here beg leave to profer our services in whatever manner your Excellency’s wisdom may judge proper in support of your Excellency’s authority and Government, and for enforcing the laws of our country.

Hawkesbury, February 1st, 1800.

[Signed by 173 deputies.*]

[Enclosure No. 5.]

GOVERNOR HUNTER’S REPLY TO THE HAWKESBURY PETITION.

Government House, Sydney, 8th February, 1800.

The Governor having received a petition from the settlers of the Hawkesbury River has thought proper to make a few observations upon it for their information, and—

First.—He thinks it necessary to remind them that every time an intention for reducing the high price of grain has been made known they have uniformly been amongst the first to petition against it, on the plea of some unfortunate accident, which had been unavoidable. This may in part be true, but the chief cause of those distresses of which they had complained has originated from that settlement being at so great a distance from headquarters, and in the disgraceful excesses which has so long been but in too much practise there, of which the

* Note 178.
wretched buildings on their farms is alone a sufficient proof. The Governor feels a pleasure, notwithstanding, in saying that there are a number of very industrious settlers in that part of the country.

Second.—He admits that the high price of labor runs away with the greatest part of the farmer’s advantages from the culture of his land; but the settler should recollect the trouble and pains the Governor took some years past (the 10th of March, 1797) to establish a general rate of wages, and this he did at the express wish of the settlers throughout the colony, but as soon as it suited their own convenience or particular purpose they broke through those salutary regulations, the consequence of which they now feel and complain of, though a subsequent Order was issued on the 15th of April following to prevent the exactions of the imposing labourer, and bringing all such characters to public justice.

Third.—That a monopoly is made of the public store in receiving grain. If this be true, is in direct opposition to Public Orders on that subject, particularly the 23rd of April, 1798, as the settlers must know, and that if disobedience to those Orders is in practise it is the business of those who suffer from it to come forward and give immediate and substantial information of such grievance and abuse, in order that it may be instantly checked.

Fourth.—The settlers complain of being kept three months out of their money after they have put value into the store. This is certainly a most unfounded complaint, because although it was intended that the Government bills should be only issued quarterly, that intention was never generally put in force; and had it taken place and been found inconvenient to the settlers, they had themselves alone to blame, through their declining to come forward, once in the quarter, to sign the Commissary’s vouchers for the money they had received; and they can entertain no doubt that had proper reasons been assigned to the Governor of the distress it had occasioned, that their application would have met with proper regard and notice.

Fifth.—The settlers complain that they have not a sufficient allowance of men to till their ground, while officers and others have men out of number. When the settlers can afford to pay to Government £20 per annum for every man the Governor may allow them, they will then be supplied when Government have them to spare with
as many as they can employ. The officers either pay that sum for the extra men, or take them entirely off the store; at least such is the Governor’s intention. If it is otherwise let the fact be proved and he will see that the abuse is remedied.

Sixth.—The settlers are allowed to receive tools from the store, when the supply is sufficient to admit it, and they are charged the price which Government have affixed; but it is necessary to observe that many of the settlers have considered it meritorious to evade the payment of their just debts to Government, and for this dishonest intention they have been known to put their grain into the store in another person’s name to prevent a stoppage of payment. It is therefore requisite that the Commissary should be particular who he entrusts with the Government property, because he is responsible for it.

Seventh.—The settlers can have no right to imagine that Government was stocking this country with horses, cows, and sheep, at so great an expense, to be given to them, and disposed of as they please. Deserving characters are very frequently favoured with a female sheep or goat, as the increase of the public stock will allow. This is a custom that has been uniformly attended to for the last four years. Some have made a good use of the donation; but let the settlers look back upon the abuse made of that indulgence some years past. They were then either sold or destroyed, and the practice was therefore set aside until the time above mentioned. It is presumed they mean not to dispute the Governor’s discretionary authority to issue a mare or a cow from the public stock to such officers whose services may have given them a claim to either. If they mean that, he feels it his duty to decline giving them any satisfaction on that head; but the settlers should recollect that there is a wide difference in the situation of the colony from the years 1791 and ’92 to 1800. At the former period there was no commerce, and but little farming. Governor Phillip (whose name they mention as an example, it is supposed)* gave every encouragement to agriculture in his power. The number of farmers was few, and the little stock that was brought into the country in 1788, after an interval of four years, enabled him to issue the increase to such people his goodness led him to consider as deserving. Whether they were does not admit of a doubt. It is notorious

* Note 179.
they (almost to a man) approved themselves undeserving of this indulgence. The Governor, therefore, wishes to contrast that time with the present. At Governor Phillip's departure in 1792 there were not above sixty settlers throughout the whole territory, Port Jackson and Norfolk Island. Of these, a few received sheep, some goats; but several had neither the one nor the other. Now there are upwards of a thousand settlers, and he asks, Where is there stock equal to meet the wishes of the settlers? Not in this colony. But if there were, has he not reason to suspect that an improper use would be made of them? He has more than suspicion. From the idle and dissolute characters he can look for nothing else, and he is sorry to observe they greatly exceed the industrious and careful. It is hard the good should suffer for the bad. Who but the executive authority can discriminate? This he has endeavoured to do with as much discrimination as possible, and he will continue to act on the principle as fast as the live stock increases; but with respect to the horses and oxen he must receive instructions from His Majesty's Ministers before he can make a general issue, and such instructions have never yet been received by him or his predecessors in this Government.

Eighth.—The settlers say that on the arrival of ships in this port the officers are exclusively allowed to go on board; that they forestal the whole cargo, and that they retail at a most extortionate rate, which they are ready to prove, if required. It is not true that the officers are exclusively permitted to go on board ships. All who have business are permitted at a proper time to go on board, but ships are not allowed to be crowded with strangers the moment she arrives. A recent and melancholy instance of this improper eagerness has been seen. This charge of a very shameful monopoly is too general to be noticed. It is therefore necessary that the settlers should upon this subject be more circumstantial and particular, and not only in this, but in the abuse they complain of at the store.

After having taken notice, at some length, of the various grievances of which the Hawkesbury settlers complain, the Governor thinks it necessary to observe, not only to them, but to all the settlers in the colony, that there are many amongst them (it may be said nine-tenths) who, had they been more careful of and attentive to the land in their possession, and the stock they
may have had upon it, and indulged less in those ruinous gratifications which have so often reduced themselves and their families to beggary and a prison; had they more seriously considered the advantages of a good farm, and the comforts which may be derived from a due attention to its cultivation, instead of flying from the labor of that farm to some whimsical speculation in traffic, they might at this time have been men possessed of a little independence sufficient for the wants of themselves and families. Had they paid proper regard to the various Public Orders and Regulations which have been given out in the colony for their benefit, particularly that of the 14th January, 1797,* for the establishing quarterly meetings in each district, the complaints they now make would not have been necessary, because the grievances they have enumerated could not have existed.

The Hawkesbury settlers preface their petitions and observations to the Governor by observing that “he has certain powers given him by Government, and that it is intended he should exert them.” What those powers are, or how far he does or does not exert them, he will not allow them to be judges; it will be at all times sufficient for them to make their grievances known and respectfully solicit the Governor’s interference to put a stop to them. Those concerned in drawing up their petition seem to have lost sight of their proper situation and duty; notwithstanding which he is willing and desirous of entering into the real meaning and design of their paper, and examine such parts as may appear to require attention.

The Governor having received another paper from the settlers since he saw them he has, in reply to that, only to desire that whatever grievance they may, upon any of the occasions they have stated, have cause to lay before him, that the statement of such grievance be made, so as to give time to correct the abuse as soon as possible, but let it appear to be a real, not an imaginary grievance. He has no doubt of the readiness which the settlers express they will ever shew to render themselves useful, and he in his turn assures them that any grievance shall meet an early redress as far as lay in his power, as his chief duty and pleasure ever will be the happiness of the people over whom he has command.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(My Lord Duke,

Sydney, New South Wales,

2nd February, 1800.

The inclos’d letter I have receiv’d from Lieut.-Col. Paterson, in consequence of my intention to reduce the ration of salt.

* Note 180. † Note 93.)
meat, there being at the present time only of that article a quantity for five months in the colony. I have complied with the colonel’s wishes, and have given out in Public Orders: “That the military ration lately established by authority could not, on account of the scarcity of salt provisions, be permanently fix’d in this settlement at present. That no deduction, until it cou’d, would be made from the pay of the soldiers on that account; that they wou’d be victual’d as the civil department were, and of course be subject to the same changes in the ration as the state of the settlement might occasionally require.”

Our public gaol,* which is now erecting and will be a complete work of its kind, is far advanced; but the expence being as great as the work is indispensible, and the poverty of the people being so extreme, that we cannot venture to assess them farther than we have already done for defraying this expence.

I enclose a letter which I have received from those gentlemen who were appointed at a meeting of the officers to superintend and expedite the erection of this building. You will discover from this letter, my Lord, what a sum is still wanting, and without which it is not possible to finish this highly necessary building.

Although, my Lord, I am thoroughly sensible that such money must be rais’d, and that it cannot be borrow’d but from Government, yet it is not intended that this work shou’d be at Government expence, because I hope to be able to raise it upon an article which we cannot keep out of the colony (spirits, wines, and other strong drink). I do not mean this, my Lord, as a duty on its importation—that must be settled by Government at home; but as an assessment or condition upon which the persons applying will be permitted to land it; and whenever a regular duty shall be determin’d upon from authority, this assessment to cease. In the meantime it may raise a sum for these public purposes which will never be felt by the consumer. I wish it were in my power, my Lord, to devise any means for the lessening of public expences here which might meet your Grace’s approbation. Had this idea which I now submit for consideration been adopted a year ago, we should, altho’ by a very small rate, have rais’d a sum which wou’d have defrayed the expence of not only a gaol at Sydney, but one at Parramatta and Hawkesbury, where they are equally requisite.

I must here take an opportunity of observing that our powder magazine, which is, in our present circumstances, a bad and ill contriv’d building, stands in a most dangerous and insecure situation, and is in want of much repair, and this must be immediatly erected where it will be more secure. I have mark’d out

* Note 181.
its foundations, but I am obliged to hire capable workmen to raise
the building, which shall be done at as easy a rate as I possibly
can.

With such description of persons as we have lately receiv'd
from Ireland,* I trust your Grace will be of opinion that our
magazine of powder cannot be too well secur'd. The present
might with little trouble be readily destroy'd, a circumstance
which wou'd dreadfully reduce our power over so numerous a
body of that turbulent description as we have now in this colony.

I have, &c.
JNO. HUNTER.

[Enclosure No. 1.]
LIEUT.-COLONEL PATerson TO GOVERNOR HUNTER.

'Dear Sir,
Sydney, 1st February, 1800.

Since I had an opportunity of conversing with you respect­
ing the ration now about to be reduced, the stores not being
sufficient to admit a full one to the troops, the following has
occur'd to me, which I beg leave to submit to your Excell'y's con­
sideration: whether it would not be better to put them on the
same allowance as the rest of the colony, and not to make any
deduction from their pay, untill you have further instructions
from Government.

I have no doubt but this plan would be approved of at home,
particularly if the high price of every kind of provision was
pointed out, and that the few half-pence remitted as short allow­
ance money was by no means equivalent to the full ration. A
representation on this subject would show the necessity of sup­
plying the colony more regularly.

As it is also possible another reduction may be requisite before
an arrival takes place, I hope your Excellency will see no im­
propriety in adopting this measure.

I am, &c.
W. PATerson.

[Enclosure No. 2.]
GAOL COMMITTEE TO GOVERNOR HUNTER.

Sir,
Sydney, 1st February, 1800.

As members of the committee appointed to superintend and
conduct the erection of the public gaol, we feel ourselves comp­
pelled to state to your Excellency that the sums arising from the
assessment on lands and servants are by no means adequate to
defraying the expence of this most necessary building.

Many of the inhabitants (partly from inability, and partly from
want of good will) have not yet come forward with their propor­
tions of money, although the resolutions have passed at a meeting
of the gentlemen, and requisitions have been made upwards of

* Note 182.
five months since, and we are doubtful that numbers will never be able to pay at all. But supposing the whole assessment to be collected, the sum arising from this source will only amount to nine hundred and fifty pounds, and of this charge some of the gentlemen have paid from thirty to forty guineas individually.

Major Foveaux and myself have advanced the one five hundred pounds and the last two hundred and fourteen pounds thirteen shillings, and this we have done purely from a desire to serve the public, and to obviate as much as possible any difficulty in forwarding the work, being thoroughly convinced that nothing is so essentially requisite to the preservation of good order, and the punishment of offenders in this settlement, as a proper and secure prison, which the present one is intended to be.

We are sorry to assure your Excellency that the building is nearly at a stand for the want of means to carry it on, and at present we have not any immediate prospect of being able to raise funds to compleat the work.

We have, therefore, to beg that your Excellency will lend the sum of one thousand pounds on account of Government, for the purpose of enabling us to finish without loss of time a building which you are well aware is at all times necessary here, but now become doubly so from the increase of inhabitants, and the influx of prisoners, who have avowed their determination of diffusing the spirit of sedition throughout the settlement, and of eventually subverting the Government.

Every proper measure that we can devise shall be adopted for raising money to discharge those debts, and we also request to be favoured with your Excellency's advice on this subject, it being our earnest wish to refund what we borrow as speedily as possible.

We have, &c,

W. BALMAIN.
J. FOVEAUX.
[Enclosure No. 1.]

An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales and its Dependencies by His Excellency Governor Hunter from the 1st August, 1796, to the 1st January, 1800, both days inclusive.

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<td>1 August, 1796</td>
<td>Dennis Connor</td>
<td>Convict</td>
<td>30</td>
<td>York Place</td>
<td>Lieut.-Col. Paterson.</td>
</tr>
<tr>
<td></td>
<td>Ann Sherwin</td>
<td>Free woman, wife to a sergeant in the N.S.W. Corps.</td>
<td>30, lease</td>
<td>Township of Sydney.</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>17 September, ''</td>
<td>William Skinner</td>
<td>Convict</td>
<td>30</td>
<td>Toongabbie</td>
<td>do do do do</td>
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<tr>
<td>1 October, ''</td>
<td>Mr. John Braby</td>
<td>Ensign in the N.S.W. Corps</td>
<td>20, lease</td>
<td>Norfolk Island</td>
<td>do do do do</td>
</tr>
<tr>
<td>1</td>
<td>James Bryan Cullen</td>
<td>Convict</td>
<td>20</td>
<td>do</td>
<td>Governor Philip.</td>
</tr>
<tr>
<td>30 December, ''</td>
<td>Thomas Scully</td>
<td>Marine</td>
<td>10</td>
<td>do</td>
<td>do do do do</td>
</tr>
<tr>
<td>30</td>
<td>William Sherbird</td>
<td>Convict</td>
<td>20</td>
<td>do</td>
<td>do do do do</td>
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<tr>
<td>30</td>
<td>Noah Mortimer</td>
<td>do</td>
<td>20</td>
<td>do</td>
<td>do do do do</td>
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<tr>
<td>30</td>
<td>James Garth</td>
<td>Convict's child</td>
<td>40</td>
<td>do</td>
<td>do do do do</td>
</tr>
<tr>
<td>30</td>
<td>Edward Garth, Jr.</td>
<td>Convict's child</td>
<td>40</td>
<td>do</td>
<td>Governor Philip.</td>
</tr>
<tr>
<td>30</td>
<td>James Redman</td>
<td>Late a marine, now private in N.S.W. Corps.</td>
<td>40</td>
<td>do</td>
<td>do do do do</td>
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<tr>
<td>30</td>
<td>George Wittmack</td>
<td>Convict</td>
<td>10</td>
<td>do</td>
<td>Lieut.-Govr. King.</td>
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<tr>
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<td>James Dodding</td>
<td>do</td>
<td>10</td>
<td>do</td>
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<tr>
<td>30</td>
<td>William Thompson</td>
<td>do</td>
<td>22</td>
<td>do</td>
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<tr>
<td>30</td>
<td>James Morrisby</td>
<td>do</td>
<td>22</td>
<td>do</td>
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<td>William Cross</td>
<td>do</td>
<td>20, grant</td>
<td>do</td>
<td>do do do do</td>
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<td>James Bryan Cullen</td>
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<td>Thomas Dixon</td>
<td>do</td>
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<td>Time when granted</td>
<td>Name</td>
<td>Quality</td>
<td>No. of Acres</td>
<td>District where situate</td>
<td>By whom given</td>
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<td>Norfolk Island</td>
<td>Lieut.-Gov'r, King.</td>
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<td>John Anderson</td>
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<td>George Guest</td>
<td>do</td>
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<td>Edward Kimberley</td>
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<td>John Rice</td>
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<td>Joseph Trimby</td>
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<td>William Mortimer</td>
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<td>William Cross</td>
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<td>Thomas Addington</td>
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<td>William Bunt</td>
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<td>12, lease</td>
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<td>Jacob Rihet</td>
<td>do</td>
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<td>William Blackall</td>
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<td>John Usher</td>
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<td>Ann Harper</td>
<td>do</td>
<td>30, grant</td>
<td>do</td>
<td>do</td>
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<td>Aaron Davis</td>
<td>do</td>
<td>14, lease</td>
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<td></td>
<td>James Hughes</td>
<td>do</td>
<td>30, grant</td>
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<td>William Watkins</td>
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<td></td>
<td>Paul Randall</td>
<td>do</td>
<td>30, grant</td>
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<td></td>
<td>James Kenny</td>
<td>do</td>
<td>30, grant</td>
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<td>do</td>
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<tr>
<td>1 May, 1797</td>
<td>John Boney</td>
<td>do</td>
<td>30, grant</td>
<td>do</td>
<td>do</td>
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<tr>
<td></td>
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<td>8</td>
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<tr>
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<td>25</td>
<td>Liberty Plains</td>
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<tr>
<td></td>
<td>James McManus</td>
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<td>do</td>
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<td></td>
<td>William Mitchell</td>
<td>Mariner</td>
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<tr>
<td></td>
<td>Michael Nowland</td>
<td>Convict</td>
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<td>Lieut.-Gov'r, King.</td>
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<tr>
<td></td>
<td>Robert Watson</td>
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<tr>
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<td>Peter Hibbs</td>
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<td>do</td>
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AN ACCOUNT of Lands Granted or Leased in His Majesty's Territory of New South Wales.—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate</th>
<th>By whom given</th>
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<tbody>
<tr>
<td>1 May, 1797</td>
<td>Joseph Lewis</td>
<td>Formerly a marine, now a private in N.S.W. Corps</td>
<td>60, grant</td>
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</tr>
<tr>
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<td>Charles Kerstidge</td>
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<td>Do</td>
<td>Do</td>
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<tr>
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<td>Do</td>
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<tr>
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<td>Do</td>
<td>Do</td>
</tr>
<tr>
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<td>Do</td>
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<td>Do</td>
<td>Do</td>
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<td>Do</td>
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<tr>
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<td>Edward Reynolds</td>
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<td>Toongabbie</td>
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<td>John Pye</td>
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<td>Toongabbie</td>
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<tr>
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<td>William Goodall</td>
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<td>Do</td>
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<td>Toongabbie</td>
<td>Do</td>
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<td>Do</td>
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*Note 183.*
An Account of Lands Granted or Leased in His Majesty’s Territory of New South Wales.—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate</th>
<th>By whom given</th>
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<td>Thomas Bates</td>
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<td>Toomgabbie, do</td>
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<td>John Wilkins</td>
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<td>do</td>
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<td>Simon Taylor</td>
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<td>do</td>
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<td>Robert Jenkins</td>
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<td>do</td>
<td>Lieut.-Col. Paterson, do</td>
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<td>do</td>
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<td>and Francis Wilkinson</td>
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<td>do</td>
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</table>
An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales.—continued.

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<td>Governor Hunter</td>
<td>Prospect Hill</td>
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<tr>
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<td>Prospect Hill</td>
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<tr>
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<td>William Smith</td>
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<td>90, grant</td>
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<tr>
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<td>Governor Hunter</td>
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<td>do</td>
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<tr>
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<tr>
<td>1 June</td>
<td>Thomas Ether</td>
<td>do</td>
<td>30, grant</td>
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<td>do do</td>
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<tr>
<td>1 June</td>
<td>Joseph Smallwood</td>
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<tr>
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<td>do</td>
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<td>Governor Hunter</td>
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<tr>
<td>1 June</td>
<td>James Smith</td>
<td>do</td>
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<td>Governor Hunter</td>
<td>Governor Hunter</td>
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<tr>
<td>1 June</td>
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<td>do</td>
<td>30, grant</td>
<td>Governor Hunter</td>
<td>Governor Hunter</td>
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<tr>
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<td>William Varley</td>
<td>do</td>
<td>30, grant</td>
<td>Governor Hunter</td>
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<td>Thomas Edbury</td>
<td>Convict</td>
<td>30, grant</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 June</td>
<td>James Mole</td>
<td>do</td>
<td>30, grant</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 June</td>
<td>James Pulpit</td>
<td>do</td>
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<td>do</td>
<td>do do</td>
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<tr>
<td>3 August</td>
<td>Mr. William Burn</td>
<td>Ensign in the N.S.W. Corps</td>
<td>- lease</td>
<td>do</td>
<td>do do</td>
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<td>3 August</td>
<td>Thomas Lucas</td>
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<td>Sydney, Port Jackson</td>
<td>do do</td>
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<tr>
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<td>William Jamieson</td>
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<td>Norfolk Island</td>
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<tr>
<td>3 September</td>
<td>William Kent, Esq.</td>
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<td>Sydney, Port Jackson</td>
<td>do do</td>
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<tr>
<td>29 September</td>
<td>Mr. Thomas Laycock</td>
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<td>Eastern Farms</td>
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<td>Sydney, Port Jackson</td>
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<td>23 November</td>
<td>Henry Waterhouse, Esq.</td>
<td>do</td>
<td>- lease</td>
<td>Parramatta</td>
<td>do do</td>
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### An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate</th>
<th>By whom given</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 December, 1797</td>
<td>Nathaniel Franklin</td>
<td>Free man</td>
<td>— lease</td>
<td>Sydney, Port Jackson</td>
<td>Governor Hunter</td>
</tr>
<tr>
<td>20</td>
<td>Isaac Nichols</td>
<td>Convict</td>
<td>50, grant</td>
<td>Concord</td>
<td>do</td>
</tr>
<tr>
<td>20</td>
<td>William Harrison</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1798</td>
<td>John Harris</td>
<td>Convict</td>
<td>64, lease</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>1</td>
<td>Mr. William Broughton</td>
<td>Storekeeper at Parramatta</td>
<td>24</td>
<td>Parramatta</td>
<td>do</td>
</tr>
<tr>
<td>6</td>
<td>Alexander McDonald</td>
<td>Convict</td>
<td>11</td>
<td>Sydney, Port Jackson</td>
<td>do</td>
</tr>
<tr>
<td>Hughes, and John</td>
<td>Mr. George Bass</td>
<td>Surgeon of H.M.S. Reliance</td>
<td>100, grant</td>
<td>Banks Town</td>
<td>do</td>
</tr>
<tr>
<td>Robertson.</td>
<td>Charles Whalan, Henry</td>
<td>Privates in the N.S.W. Crops</td>
<td>75</td>
<td>Mulgrave Place</td>
<td>Lieut.-Col. Paterson</td>
</tr>
<tr>
<td></td>
<td>Mary Carroll Having</td>
<td>Convict</td>
<td>30</td>
<td>do</td>
<td>Governor Hunter</td>
</tr>
<tr>
<td>4</td>
<td>Thomas Jones</td>
<td>do</td>
<td>30</td>
<td>Parramatta</td>
<td>do</td>
</tr>
<tr>
<td>4</td>
<td>Rev. Samuel Marsden</td>
<td>Chaplain to the Colony</td>
<td>30</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>5</td>
<td>Thomas Martin</td>
<td>Convict</td>
<td>50, grant</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>6</td>
<td>Edward Johnson</td>
<td>Lieutenant in the N.S.W. Corps</td>
<td>100</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>9</td>
<td>Mr. Thomas Davies</td>
<td>Convict</td>
<td>30</td>
<td>Governor Hunter</td>
<td>do</td>
</tr>
<tr>
<td>14</td>
<td>William Waring</td>
<td>Convict</td>
<td>30</td>
<td>Governor Hunter</td>
<td>do</td>
</tr>
<tr>
<td>14</td>
<td>Sarah Fielder</td>
<td>Free woman, b of a convict</td>
<td>60</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>15</td>
<td>Lauchan Ross</td>
<td>Convict</td>
<td>25</td>
<td>Governor Hunter</td>
<td>do</td>
</tr>
<tr>
<td>15</td>
<td>David Brown</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>19</td>
<td>Richard Atkins, Esq.</td>
<td>Acting Judge Advocate</td>
<td>145</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>20</td>
<td>William Waring</td>
<td>Convict</td>
<td>25</td>
<td>Governor Hunter</td>
<td>do</td>
</tr>
<tr>
<td>20</td>
<td>John Powell</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>Governor Hunter</td>
<td>do</td>
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<tr>
<td>6 April, 1798</td>
<td>George Johnston, Esq.</td>
<td>Captain in the N.S.W. Corps</td>
<td>172</td>
<td>Governor Hunter</td>
<td>do</td>
</tr>
<tr>
<td>6</td>
<td>James Bealy</td>
<td>Late a marine</td>
<td>100</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>6</td>
<td>Michael Murphy</td>
<td>do</td>
<td>60</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>6</td>
<td>John Winsted</td>
<td>do</td>
<td>260</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>Abraham Payne</td>
<td>Convict</td>
<td>50</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>Henry Lamb</td>
<td>Convict</td>
<td>9</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>Richard Porter</td>
<td>Convict</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>George Pattfield</td>
<td>do</td>
<td>60</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>George Needham</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>Michæl Connor</td>
<td>do</td>
<td>80</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10</td>
<td>Thomas Jones</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
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</tbody>
</table>

*Note 182.*
### An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate</th>
<th>By whom given</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 April, 1798</td>
<td>Charles King</td>
<td>Convict</td>
<td>30, grant</td>
<td>Mulgrave Place</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>10 June</td>
<td>Patrick Hynes</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10 June</td>
<td>Stephen Burr</td>
<td>Private in the N.S.W. Corps</td>
<td>30</td>
<td>Liberty Plains</td>
<td>do do</td>
</tr>
<tr>
<td>10 May</td>
<td>Thomas Winston</td>
<td>Convict</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10 May</td>
<td>James Everard</td>
<td>do</td>
<td>20</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>10 May</td>
<td>Thomas Rose</td>
<td>Free settler</td>
<td>70</td>
<td>Liberty Plains</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>10 July</td>
<td>George Tiley</td>
<td>Private in the N.S.W. Corps</td>
<td>105</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>27 July</td>
<td>Rev. Richard Johnson</td>
<td>Chaplain to the Colony</td>
<td>1, lease</td>
<td>Lieut.-Govt. Gros.</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>14 August</td>
<td>James Williamson, Esq.</td>
<td>Acting Comm'n'</td>
<td>40, grant</td>
<td>Banks Town</td>
<td>Do do</td>
</tr>
<tr>
<td>15 January, 1798</td>
<td>Thomas Bowley, Esq.</td>
<td>Captain in the N.S.W. Corps</td>
<td>25</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>27 March</td>
<td>Mr. John Black</td>
<td>Late Purser of the Lady Shore transport</td>
<td>lease</td>
<td>Sydney, Port Jackson</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>8 April</td>
<td>Richard Dore, Esq.</td>
<td>Judge Advocate</td>
<td>100, grant</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>8 April</td>
<td>John Bowman</td>
<td>Free settler</td>
<td>100</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>16</td>
<td>Mr. Thomas Arndell</td>
<td>Late Assistant Surgeon, now Justice of the Peace.</td>
<td>100</td>
<td>Dundas District</td>
<td>do do</td>
</tr>
<tr>
<td>16</td>
<td>Rev. Samuel Marsden</td>
<td>Chaplain to the Colony</td>
<td>100</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>16</td>
<td>Francis Oakes</td>
<td>Missionary from Oatseke</td>
<td>100</td>
<td>Banks Town</td>
<td>do do</td>
</tr>
<tr>
<td>20</td>
<td>Rowland Hassall</td>
<td>do</td>
<td>100</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>22</td>
<td>James Cover</td>
<td>do</td>
<td>100</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>26</td>
<td>Mr. John Jameson</td>
<td>Storekeeper at Toongabbie</td>
<td>100</td>
<td>Toongabbie</td>
<td>do do</td>
</tr>
<tr>
<td>27</td>
<td>Samuel Allan</td>
<td>Convict</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 May</td>
<td>John Kennedy</td>
<td>do</td>
<td>160</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>3</td>
<td>Mr. James Milham</td>
<td>Assistant Surgeon</td>
<td>100</td>
<td>Prospect Hill</td>
<td>do do</td>
</tr>
<tr>
<td>17</td>
<td>Mr. Thomas Laycock</td>
<td>Deputy Commissary</td>
<td>100</td>
<td>Dundas District</td>
<td>do do</td>
</tr>
<tr>
<td>21</td>
<td>Edward Main</td>
<td>Missionary from Oatseke</td>
<td>100</td>
<td>Liberty Plains</td>
<td>do do</td>
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<tr>
<td>27</td>
<td>William Faithful</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>28</td>
<td>William Barker</td>
<td>Late a mariner</td>
<td>80</td>
<td>Petersham Hill</td>
<td>Lt.-Col. Paterson.</td>
</tr>
<tr>
<td>29</td>
<td>James Anglee</td>
<td>do</td>
<td>140</td>
<td>Banks Town</td>
<td>Governor Hunter.</td>
</tr>
</tbody>
</table>

*Note 188.*
An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales.—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate</th>
<th>By whom given</th>
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</thead>
<tbody>
<tr>
<td>31 May, 1799</td>
<td>Thomas Bramwell</td>
<td>Late a marine</td>
<td>150, grant</td>
<td>Banks Town</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>1 June, 1799</td>
<td>Mr. Thomas Smyth</td>
<td>Formerly of the marines, now Provost-Marshal</td>
<td>190</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 June, 1799</td>
<td>Henry Waterhouse, Esq.</td>
<td>Commander of H.M.S. Reliance</td>
<td>— lease</td>
<td>Sydney, Port Jackson</td>
<td>do do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>John Fenton</td>
<td>Convict</td>
<td>30, grant</td>
<td>Banks Town</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Michael Nowland</td>
<td>do</td>
<td>70</td>
<td>Prospect Hill</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Lazarus Graves</td>
<td>do</td>
<td>20</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Margaret Stewart</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Henry Buck</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Patrick Shannon</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Edward Merrick</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>William Rose</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Samuel Harding</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>William Kentwell</td>
<td>do</td>
<td>60</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>John O'Hara</td>
<td>do</td>
<td>60</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>1 August, 1799</td>
<td>Robert Wilson</td>
<td>do</td>
<td>do</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>3 September, 1799</td>
<td>William Kent, Esq.</td>
<td>Lieut. Comm'mg H.M.S. Buffalo</td>
<td>160</td>
<td>Eastern Farms</td>
<td>do do</td>
</tr>
<tr>
<td>3 September, 1799</td>
<td>William Balmain, Esq.</td>
<td>Principal Surgeon</td>
<td>220</td>
<td>Field of Mars</td>
<td>do do</td>
</tr>
<tr>
<td>3 September, 1799</td>
<td>Thomas Rowley, Esq.</td>
<td>Captains in the N.S.W. Corps</td>
<td>260</td>
<td>Liberty Plains</td>
<td>do do</td>
</tr>
<tr>
<td>1 October, 1799</td>
<td>Andrew Thomson</td>
<td>Convict</td>
<td>1, lease</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>3 October, 1799</td>
<td>Thomas Luat</td>
<td>do</td>
<td>30, grant</td>
<td>Lt.-Gov'r Grose</td>
<td>do do</td>
</tr>
<tr>
<td>3 October, 1799</td>
<td>Joseph Moreaux, Esq.</td>
<td>Major in the N.S.W. Corps</td>
<td>980</td>
<td>Toongabbie</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>3 October, 1799</td>
<td>Rev. Richard Johnson</td>
<td>Chaplain to the Colony</td>
<td>220</td>
<td>Petersham Hill</td>
<td>do do</td>
</tr>
<tr>
<td>3 October, 1799</td>
<td>Ann Gilbert</td>
<td>do</td>
<td>110</td>
<td>Banks Town</td>
<td>do do</td>
</tr>
<tr>
<td>3 October, 1799</td>
<td>Mr. Thomas Moore</td>
<td>Master boat-builder</td>
<td>470</td>
<td>Bulanaming</td>
<td>By different Governors, but renewed in one grant by Governor Hunter.</td>
</tr>
<tr>
<td>1800. 6 Feb.</td>
<td>Thomas Bowden, Esq.</td>
<td>Late a marine</td>
<td>150</td>
<td>Mulgrave Place</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>1800. 6 Feb.</td>
<td>George Johnston</td>
<td>Captain in the N.S.W. Corps, formerly Capt.-Lieut. of Marines</td>
<td>290</td>
<td>Governor Hunter.</td>
<td>do do</td>
</tr>
<tr>
<td>1800. 6 Feb.</td>
<td>Mr. Thomas Smyth</td>
<td>Provost-Marshal</td>
<td>470</td>
<td>Bulanaming</td>
<td>By different Governors, but renewed in one grant by Governor Hunter.</td>
</tr>
</tbody>
</table>
An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales.—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate.</th>
<th>By whom given.</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 October, 1799</td>
<td>Mr. Nicholas Bayly</td>
<td>Ensign in the N.S.W. Corps</td>
<td>116, grant</td>
<td>Eastern Farms</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>8 &quot;</td>
<td>Mr. Nicholas Divine</td>
<td>Superintendant</td>
<td>90 &quot;</td>
<td>Bulanaming</td>
<td>do do</td>
</tr>
<tr>
<td>8 &quot;</td>
<td>Susannah Fowkes</td>
<td>Convict</td>
<td>30 &quot;</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>8 &quot;</td>
<td>Francis Fowkes</td>
<td>do</td>
<td>85 &quot;</td>
<td>Toongabbie</td>
<td>do do</td>
</tr>
<tr>
<td>8 &quot;</td>
<td>Mr. Nicholas Bayly</td>
<td>Ensign</td>
<td>65 &quot;</td>
<td>Mulgrave Place</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Mr. William Goodall</td>
<td>Non-com. officer in N.S.W. Corps</td>
<td>90 &quot;</td>
<td>Banks Town</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Richard Richardson</td>
<td>do</td>
<td>270 &quot;</td>
<td>Toongabbie</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Richard Atkins, Esq.</td>
<td>Convict</td>
<td>160 &quot;</td>
<td>sydney, Port Jackson</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Mr. Anthony Penn Kemp</td>
<td>Lieutenant in the N.S.W. Corps</td>
<td>20 &quot;</td>
<td>Parramatta</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>James Williamson, Esq.</td>
<td>Acting Commissary</td>
<td>4, lease</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Charles Smith</td>
<td>Registrar of the Vice-Admiralty Court, and Justice of the Peace</td>
<td>4a. 96r., lease</td>
<td>sydney, Port Jackson</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Mr. Thomas Arndell</td>
<td>Late Assistant Surgeon, now Justice of ye Peace</td>
<td>1, lease</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Thomas Bradley</td>
<td>Free settler</td>
<td>1 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Rowland Hassall</td>
<td>Missionary from Otaheite, and free settler</td>
<td>1 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Andrew McDougall</td>
<td>Free settler</td>
<td>1 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>John Smith</td>
<td>do</td>
<td>1 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Mr. D'Arcy Wentworth</td>
<td>Assistant Surgeon</td>
<td>6a. 20r., lease</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Samuel Woodham</td>
<td>Convict</td>
<td>30, grant</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>James Stokes</td>
<td>do</td>
<td>30 &quot;</td>
<td>York Place</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Anthony Bryan</td>
<td>do</td>
<td>30 &quot;</td>
<td>Eastern Farms</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Thomas Bray</td>
<td>do</td>
<td>50 &quot;</td>
<td>Prospect Hill</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>John Kelly</td>
<td>do</td>
<td>30 &quot;</td>
<td>Mulgrave Place</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>James Kirby</td>
<td>Late a mariner</td>
<td>200 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>James Matthews</td>
<td>do</td>
<td>175 &quot;</td>
<td>Sydney, Port Jackson</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>George Mahon</td>
<td>Mariner</td>
<td>30 &quot;</td>
<td>Parramatta</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Benjamin Casley</td>
<td>Late a mariner</td>
<td>200 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>Dennis McCarty</td>
<td>Convict</td>
<td>30 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
<tr>
<td>18 &quot;</td>
<td>John Roberts</td>
<td>do</td>
<td>22 &quot;</td>
<td>Lieut.-Col. Paterson.</td>
<td>do do</td>
</tr>
<tr>
<td>24 &quot;</td>
<td>Charles Robinson</td>
<td>do</td>
<td>4, lease</td>
<td>Parramatta</td>
<td>do do</td>
</tr>
<tr>
<td>24 &quot;</td>
<td>William Salaman, Esq.</td>
<td>Principal Surgeon</td>
<td>54 &quot;</td>
<td>do</td>
<td>do do</td>
</tr>
</tbody>
</table>
An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales.—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situate</th>
<th>By whom given</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 October 1799</td>
<td>Mr. John Piper</td>
<td>Lieutenant in the N.S.W. Corps</td>
<td>30, grant</td>
<td>Parramatta</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>24 November,</td>
<td>Thomas Jones</td>
<td>Convict</td>
<td></td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William Skinner</td>
<td>do</td>
<td>30, grant</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Charles Guthrie</td>
<td>Free settler</td>
<td>100</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William Smith</td>
<td>Missionary from Otaghette</td>
<td>100</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William Jamieson</td>
<td>Sergeant Major in the N.S.W. Corps</td>
<td>100</td>
<td>York Place</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Obadiah King</td>
<td>Non-commissioned officer in the N.S.W. Corps.</td>
<td>60</td>
<td>Banks Town</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Michael Nowland</td>
<td>Convict</td>
<td>150</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Mr. William Raven</td>
<td>Commander of H.M.S. Buffalo to N.S.W.</td>
<td>355</td>
<td>Eastern Farms</td>
<td>Lieut.-Col. Paterson.</td>
</tr>
<tr>
<td>12</td>
<td>Mr. William Raven</td>
<td>do</td>
<td></td>
<td>Sydney, Fort Jackson</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William Heath</td>
<td>Convict</td>
<td>100, grant</td>
<td>Banks Town</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>12</td>
<td>William Johnson</td>
<td>Convict</td>
<td>75</td>
<td>Muirgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>John Esham</td>
<td>do</td>
<td>30</td>
<td>Eastern Farm</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Richard Shrimpton</td>
<td>do</td>
<td>50</td>
<td>Sulamaing</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William King</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>Eastern Farms</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Sarah Hodgkinson</td>
<td>Convict</td>
<td>60</td>
<td>Petersham Hill</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>12</td>
<td>William Parr</td>
<td>do</td>
<td>30</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>John Hogerson</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Francis Hillman</td>
<td>do</td>
<td>30</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Charles Smith</td>
<td>do</td>
<td>40</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Edward Kelly</td>
<td>do</td>
<td></td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William Mitchell</td>
<td>Late a marine</td>
<td>50</td>
<td>Banks Town</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Sarah Cooley</td>
<td>Convict</td>
<td>25</td>
<td>Muirgrave Place</td>
<td>Lieut.-Col. Paterson.</td>
</tr>
<tr>
<td>12</td>
<td>James Harris</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>Toongabbie</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>12</td>
<td>Christopher Dodd</td>
<td>Convict</td>
<td>80</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>John Anson</td>
<td>Free settler</td>
<td>100</td>
<td>Prospect Hill</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Mr. William Cummings</td>
<td>Lieutenant in the N.S.W. Corps</td>
<td>75</td>
<td>Field of Mars</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>James Bean</td>
<td>Free settler</td>
<td>100</td>
<td>Eastern Farms</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>John Anson</td>
<td>Late a marine</td>
<td>100</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Thomas Tatey</td>
<td>Convict</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Daniel Mosely</td>
<td>do</td>
<td>30</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>Mr. D'Arcy Wentworth</td>
<td>Assistant surgeon</td>
<td>40</td>
<td>Parramatta</td>
<td>do</td>
</tr>
<tr>
<td>12</td>
<td>William Browning</td>
<td>Late a marine</td>
<td>160</td>
<td>Toongabbie</td>
<td>do</td>
</tr>
</tbody>
</table>
### An Account of Lands Granted or Leased in His Majesty's Territory of New South Wales—continued.

<table>
<thead>
<tr>
<th>Time when granted</th>
<th>Name</th>
<th>Quality</th>
<th>No. of Acres</th>
<th>District where situated</th>
<th>By whom given</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 November, 1799</td>
<td>William Balmain, Esq.</td>
<td>Principal surgeon</td>
<td>270, grant</td>
<td>Mulgrave Place</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td></td>
<td>Thomas Bradley</td>
<td>Free settler</td>
<td>100</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td></td>
<td>Andrew McDougall</td>
<td>do</td>
<td>150</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>12 November, 1799</td>
<td>John Smith</td>
<td>do</td>
<td>150</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td></td>
<td>William Nash</td>
<td>Late a marine</td>
<td>150</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>James Lowry</td>
<td>Convict</td>
<td>30</td>
<td>Toongabbie</td>
<td>Governor Hunter.</td>
</tr>
<tr>
<td>13 December</td>
<td>Bryan Reilly</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Michael Simpson</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Edward Abbott, Esq.</td>
<td>Captain in the N.S.W. Corps</td>
<td>320</td>
<td>Parramatta</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Richard Burns</td>
<td>Convict</td>
<td>5</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Mr. Thomas Hobbs</td>
<td>Lieut in the N.S.W. Corps</td>
<td>100, grant</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Mr. Robert Bradshaw</td>
<td>Convict</td>
<td>30</td>
<td>Eastern Farms</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Jacob Russell</td>
<td>Major in do</td>
<td>30</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>William Tyrell</td>
<td>Non-com'd officer of do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>William Birch</td>
<td>Private in the N.S.W. Corps</td>
<td>25</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Peter Farrell</td>
<td>Non-com'd officer of do</td>
<td>25</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Joseph Foveaux, Esq.</td>
<td>Major in do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>Patrick Brennan</td>
<td>Convict</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>George Stambury</td>
<td>do</td>
<td>20</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>13 December</td>
<td>William Slaughter</td>
<td>do</td>
<td>40</td>
<td>Prospect Hill</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>John Fleming</td>
<td>Non-commissioned officer N.S.W. Corps</td>
<td>40 grant</td>
<td>Sydney, Port Jackson</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>Jonas Archer</td>
<td>Convict</td>
<td>25</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>Mary Bray</td>
<td>Free woman</td>
<td>30</td>
<td>Concord</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>James McGill</td>
<td>Convict</td>
<td>30</td>
<td>Mulgrave Place</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>John Benn</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>John Holmes</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>John Dunlap</td>
<td>do</td>
<td>30</td>
<td>Eastern Farms</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>John Courant</td>
<td>do</td>
<td>30</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>Mr. Nicholas Bayly</td>
<td>Ensign in the N.S.W. Corps</td>
<td>450</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>Mr. John Shorthand</td>
<td>Lieutenant of H.M.S. Reliance</td>
<td>300</td>
<td>Banks Town</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>Mr. Matthew Flinders</td>
<td>do</td>
<td>300</td>
<td>do</td>
<td>do</td>
</tr>
<tr>
<td>1 January, 1800</td>
<td>John Best</td>
<td>Convict</td>
<td>12</td>
<td>Norfolk Island</td>
<td>do</td>
</tr>
</tbody>
</table>

---

Jno. Hunter.
HUNTER TO PORTLAND.

[Enclosure No. 2.]

Names of Superintendents and Storekeepers employed in His Majesty's territory of New South Wales and its dependencies.

Nicholas Divine, superintends the town labor at Sydney.
William Brodie, master blacksmith at Sydney.
James Bloodworth, master bricklayer at Sydney.
John Livingston, master carpenter at Parramatta.
George Barrington, superintends the duty of the constables, and takes care that they duly attend to the orders of the Civil Police.
John Gowan (vice Wm. Stephenson, deceased), storekeeper at Sydney.
William Broughton, storekeeper at Parramatta.
William Baker, storekeeper at the Hawkesbury.
John Jamieson, has the care of receiving and issuing the grain at Parramatta and Toongabbe, under the immediate direction of the Commissary.
Richard Fitzgerald, superintendant of agriculture at Toongabbe.
Andrew Hume, employed in the care of Government live stock.

At Norfolk Island.

William Neate Chapman, storekeeper and acting as Deputy Commissary.
Martin Timms, superintendent of agriculture.
Nathaniel Lucas, master carpenter.
John Drummond, attendant beach master.

JNO. HUNTER.

Governor Hunter to the Duke of Portland.

(Despatch No. 54, per H.M.S. Reliance.)

Sydney, New South Wales, 10th February, 1800.

My Lord Duke,

I inclose for your Grace's perusal a letter which I have just receiv'd from the Principal Surgeon on the subject of hospital stores and necessary for the sick, all of which are exceedingly wanted. I also send a state of the sick and hurt within the settlement.

I will take this opportunity of inclosing for your Grace's information a return of superintendents and storekeepers in this colony and at Norfolk Island, with the particular manner in which they are respectively employ'd. I have, &c.,

JNO. HUNTER.

* Note 99.
GENERAL State of Sick, Hurt, &c., in New South Wales, from the 31st July, 1799, to the 31st January, 1800.

<table>
<thead>
<tr>
<th>Month</th>
<th>Civil and Free People</th>
<th>Convicts in Hospital and Quarters</th>
<th>Births</th>
<th>Deaths</th>
</tr>
</thead>
<tbody>
<tr>
<td>August, 1799</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>September,</td>
<td>6</td>
<td>4</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>October,</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>November,</td>
<td>6</td>
<td>3</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>December,</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>January, 1800</td>
<td>5</td>
<td>1</td>
<td>4</td>
<td>6</td>
</tr>
</tbody>
</table>

General Hospital at Sydney, 10th Feb., 1800.

W. BALMAIN, Surgeon to the Territory.
SURGEON BALMAIN TO GOVERNOR HUNTER.

Sir,
Sydney General Hospital, 10th February, 1800.

I have the honor of enclosing your Excellency a report of the sick, from the 31st of July, 1799, to the 31st of January, inclusive.

And I have to request you will be pleased to represent the extreme distress of the hospital for the want of medicines, necessaries, bedding, stationery, and all kinds of utensils, demands for all of which, setting forth the particular articles, have been pressingly made by me upwards of two years since, and none of them having as yet been answered.

I have, &c.,

W. BALMAIN.

[Enclosure No. 3.]

[The Return of Superintendents is similar to Enclosure No. 2 of the despatch from Governor Hunter to the Duke of Portland, dated 6th February, 1800.]

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 55, per H.M.S. Reliance.)

My Lord Duke,
Sydney, 15th February, 1800.

I have the honor to enclose for your Grace's information a general state of the colony to the 1st of January, which I hope may be satisfactory to your Grace.

I also enclose a return of live stock up to the present date, and likewise the quantity of wheat reap'd this last harvest; but I am sorry to add that much of it has been damag'd by a very wet season. From these accounts, and the number of people in the settlement (many of whom are, from age and infirmitys from infancy and want of parents capable of providing for them, an exceeding burthen to Government), will serve to show the truth of what I have so often endeavoured to point out,—that the live stock in this colony ought not, in my judgement (except hogs), to be applied to the feeding the people for a few years to come, when it may, if taken care of, be increas'd to a number which will admit of it. I earnestly wish it were the will of Government to afford respectable and proper persons to take the care and management of the live stock and of the agricultural concerns, if it is the design to farm largely on the public account; for the Governor of this country, were he even in point of judgement of such concerns well qualified for such duties, has too much business in the present state of this colony to afford him time to superintend as often as might be requisite those important and valuable concerns.

I have, &c.,

JNO. HUNTER.

* Note 99.
State of the Settlements at Sydney, Parramatta, &c., in New South Wales, 31st December, 1799.

<table>
<thead>
<tr>
<th>Settlement</th>
<th>Number in the Settlement</th>
<th>Number on the Different Rations</th>
<th>Whole Number of Full Rations</th>
<th>Visited from the Public Store</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>152</td>
<td>3,324</td>
<td>2,546</td>
<td>1,532</td>
</tr>
</tbody>
</table>
| Parramatta and 
  Toongabbie    | 32                       | 648                              | 546                         | 236                          |
| Hawkesbury       | 131                      | 492                              | 388                         | 186                          |
| Totals           |                          | 2,384                            | 1,986                       | 1,088                        |

1800. 15 Feb.
Return of inhabitants.

[Enclosure No. 1]

Jno. Hunter
James Wilkinson, Acting Commissary.
HUNTER TO PORTLAND.

[Enclosure No. 2.]

AN ACCOUNT of Live Stock, and an estimate of Wheat in His Majesty's Settlement in New South Wales, February, 1800.

<table>
<thead>
<tr>
<th>Department</th>
<th>Cattle</th>
<th>Sheep</th>
<th>Goats</th>
<th>Swine</th>
<th>Grain</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Males</td>
<td>Females</td>
<td>Males</td>
<td>Females</td>
<td>Males</td>
</tr>
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<td>387</td>
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</table>

JNO. HUNTER.

GOVERNOR HUNTER to THE DUKE OF PORTLAND.

(Despatch No. 56,* per H.M.S. Reliance.)

Sydney, New South Wales,

My Lord Duke, 26th February, 1800.

Before I close my dispatches, which the present concerns of the colony have increased to a bulk which gives me pain to have occasion to trouble your Grace with, I must add one letter more to point out not only the absolute necessity but the real advantage of having a respectable officer here, under the character or appointment of chief gunner and ordnance storekeeper. Your Grace can have no conception of the immense waste and loss of the ordnance stores for want of such an officer. A careful and diligent man would save four times the value of his salary, and the stores be kept fit at all times for actual service. Now they are, many of them, lost and spoiled for want of care. It is not possible, my Lord, that the Commissary can attend to the preservation of these expensive stores.

It was my wish and intention to have kept the gunner of His Majesty's ship the Reliance here in that situation when the ship was ordered home, but she was weak in officers, and he could not be left. The guns upon our batteries and their carriages require the constant inspection of such an officer to keep them in a state for immediate service.

I have, &c.,

JNO. HUNTER.

* Note 99.
15 March, 1800.

THE VICTUALLING BOARD TO GOVERNOR HUNTER.
(Per transport Royal Admiral.)


Referring to that part of our Letter of the 7th November last informing your Excellency of the quantities of Pork and Beef, which in obedience to the directions of the Right Hon. the Lords Commissioners of His Majesty's Treasury, we had caused to be shipped on board the Speedy Victualler George Quested Master, for the use of the Settlement at New South Wales; We beg to acquaint you, that in completion of their Lordships' Order above alluded to, we have laden the Royal Admiral Transport, William Wilson Master with Eighteen thousand, Eight hundred and sixteen pounds of Beef, and One thousand, Two hundred and Seventy two pounds of Pork and consigned the same to you.

On board of the same Vessel we have in Obedience to another Order from the Lordships communicated to us by Mr. Long's Letter of the 20th November last likewise shipped, the further quantities of Eighteen thousand One hundred and forty four pounds of Beef, and Thirty five thousand Nine hundred and thirty four Pounds of Pork, for the subsistence of Three hundred Male Convicts intended to be carried out in her to New South Wales, during the period of Nine Months after their arrival there; And which we have also consigned to your Excellency.

The Invoices of the said Provisions together with the Masters receipts for the same we herewith transmit to you, and have to request you will Order proper receipts to be granted to him for the several quantities he shall deliver.

We are, &c.,
JNO. MARSH.
JNO. EODNEY.
E. S. MOODY.

[Enclosures.]

[Copies of the invoices and receipts have not yet been found.]

UNDER SECRETARY KING TO THE GOVERNOR OF NEW SOUTH WALES.
(Per transport Royal Admiral; acknowledged by Acting-Governor King to the Duke of Portland, 10th March, 1801.)

Sir, Whitehall, 15 March, 1800.

I send you inclosed by the Duke of Portland's directions an Invoice of the stores shipped on board His Majesty's Armed Ship the Porpoise* for the use of the Colony in New South Wales by which you will observe that this Vessel carries out a part

* Note 184.
PORTLAND TO THE GOVERNOR.

only of the pork (vizt. 121 Tierces and 23 Barrels) which was shipped on board the former Vessel of that Name this is occasioned by the present Vessel not being so large as the other but you may depend upon the remainder of the pork being forwarded by the next vessel which sails from this Country for New South Wales.

I am, &c.,

J. KING.

[Enclosure.]

[A copy of the invoice has not yet been found.]

THE DUKE OF PORTLAND TO THE GOVERNOR OF NEW SOUTH WALES.

(Despatch per transport Royal Admiral; acknowledged by Acting-Governor King, 10th March, 1801.)

Sir,

Whitehall, 19th March, 1800.

I send you inclos'd an extract of a letter which has been written by my direction to the Secretary to the Treasury, and I desire that in future you will draw on the Agent for the Colony, instead of the Lords Commissioners of His Majesty's Treasury for the Amount of the Salaries—of such of the Civil Officers included in the Parliamentary Estimate of the Settlement as have not appointed Agents in this Country and do not themselves draw Bills on the Agent for the Colony for their Salaries transmitting with such Bills on the Agent the receipts of the several Persons together with your Certificate of their having been in the exercise of their duty during the period for which you pay them their respective salaries. And you will take care on no Account whatever to draw any Bill on the Lords Commissioners of His Majesty's Treasury for the payment of such Salaries, as are provided for in the Parliamentary Estimate for New South Wales.

I am, &c.,

PORTLAND.

[Enclosure.]

EXTRACT OF A LETTER FROM MR. KING TO MR. LONG,

DATED WHITEHALL, 20TH JAN., 1800.

It appears by a statement receiv'd from the Governor of New South Wales of the expences incurr'd in that Settlement for a certain period, that he has paid several of the Subordinate Civil Officers there the Salaries, which have been granted to them on the Estimate laid before Parliament and that he had drawn for such Amount on the Lords Commissioners of His Majesty's Treasury under a supposition that their Lordships wou'd be repaid such Amount by the Agent for the Colony.
His Grace therefore recommends it to their Lordships to direct the Auditors of the Public Accounts to make out and transmit to their Lordships a list of Superintendents Store Keepers and other Civil Officers included in the Estimate of New South Wales (Copies of which estimates from the Commencement of the Establishment of that Colony should be sent by their Lordships to the Auditors for that purpose) who have received their Salaries from the Governor or Lieut.-Governor or from the Commissary by their Orders specifying the period from and to which the said Salaries have been paid in order that their Lordships may call upon the Agent of the Colony to reimburse them the sums which they have so advance.

His Grace further recommends it to their Lordships to direct the Governor of New South Wales in future to draw on the Agent for that Colony for the Amount of such Salaries in all cases where the Persons aforesaid to whom they are due have not appointed their separate Attorney here to receive the same instead of drawing upon their Lordships, transmitting with such Bills on the Agent the receipt of these several Persons together with the Governor's Certificate of their having been in the execution of their duty during the periods for which he has paid to them their respective salaries by such Bills and in future on no account whatever to draw on their Lordships any Bill for the payment of such salaries as were provided for by the Parliamentary Estimate for New South Wales.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 57, * per transport Friendship, via India.)

Sydney, New South Wales.

20th March, 1800.

My Lord Duke,

By the Friendship, transport, bound from hence to Bengal, I take the opportunity of forwarding duplicates of some of the most material letters I had the honor of writing your Grace, by His Majesty's ship Reliance. That ship was so much worn out, that I was obliged to send her home whilst she was capable of returning—being an useless expense to the Crown, and no longer serviceable to this settlement.

Your Grace will be informed by my despatches in that ship that I am obliged to reduce the settlement to a short allowance of animal food, a misfortune which has too often attended this colony; and I will trust to your Grace's goodness for pardon when I take the liberty to say that I suspect those misfortunes have

* Note 99.
been but too frequently occasioned by officious and ill-founded opinions having been sometimes obtruded upon Government, and, I fear, have often been the cause of setting aside those observations which have been occasionally offer'd by the responsible officer upon the spot, whose local situation, it will be admitted, should qualify him to afford the most ample and correct information; and that it is his duty unreservedly to give it, will not be doubted. It is not everyone, my Lord, who may have visited this settlement since it has been established, and who may fancy they are acquainted with all its affairs and business, whose judgement can be relied on; it is those only who feel the change, and are oblig'd to attend to and direct the detail of its multiply'd concerns and interests who can judge accurately of the practicability of the various theoretical schemes and conjectures. Your Grace will allow the difficulty which must attend his utmost endeavours to promote the interest and prosperity of this territory, if his opinions are not allow'd at least equal weight, or equal consideration, with the officious judgement and probably interested ideas of those who cannot boast equal information and experience. Pardon me, my Lord, for these observations.

The master of the Friendship informs me that he had much room in the hold of his ship, and that he had offered to bring out two or three hundred tons of stores for this colony. It is much to be regretted, my Lord, that if provision was to be had when she was in Ireland, he had not brought us some salt meat.

The misfortunes which have lately attended the colony from various causes, but more particularly from those which no human wisdom or foresight cou'd have averted, have been such as have most thoroughly tried my endeavours in its service. I feel not, my Lord, for myself, for I thank God few are more capable of bearing their proportion of hardship or difficulty than I at present am or ar at any time more willing to share in them. It is not the distress which may assail me as an individual which disposes me to write your Grace so earnestly. I feel, my Lord, for what the public service may suffer, and I must be less than man if I did not feel for those who look up to me for all they want, and whose minds may not be sufficiently inform'd to enable them to bear with temporary inconvenience and disappointment without repining.

I have already mention'd (letter No. 50) that great part of our last unfortunate harvest, from which I had once the flattering prospect of at least two years' wheat in the colony, has been destroy'd by an uncommonly wett season, and the distresses and want of ability in the settlers to hire sufficient labor; and now, at
the time we are about to gather in our maize, it is likely to be ruin'd by a similar cause, for at this moment of writing the river Hawkesbury has again overflowed its banks, and has laid the whole crops under water—has swept away some of the savings of our last wheat harvest there, with a considerable number of hogs and poultry. Our present sufferings from these untoward circumstances I will not, my Lord, add more upon; I shall only say that, as they are such as may not again happen in many years, they ought not to create alarm.

The settlers are of such a description, particularly in that quarter, their various distresses for want of supplies (and which I fear your Grace is tired of hearing of) has brought about so great an indifference to the cultivation of their farms that little or no stress or dependence can be plac'd upon them. It is not my wish, be assured, my Lord, to represent circumstances worse than they really are; but as it has appeared that my opinions have not been understood, or if they have, have been consider'd exaggerated, I am desirous of attending merly to facts, and I trust your Grace will be pleas'd to excuse me if I am more simple and plain than may be thought necessary. Were it not for the expences attending the embarrassments I have occasion to mention, your Grace wou'd not be troubled with any particular statement; but having been blamed for expences which were wholly unavoidable on my part, it becomes necessary the cause shou'd be plainly and circumstantially stated.

I have already mention'd and sent returns of our live stock; I have represented its prosperous condition; I have endeavour'd to shew the bad policy—the evil consequences—of having too early recourse to that for food, and I have resolv'd as long as I can to prevent its being applied to that use until it shall have so far increas'd as to admit of it without danger of too great a reduction; and this, my Lord, I do, because I am convinc'd that upon mature consideration of this important concern your Grace wou'd immediat'ly discover that it wou'd not only throw the colony many years back, but create a repetition of great part of the expence already incur'd. Let it be consider'd, my Lord, that we are in this country alone near about 5,200 people, free and bond, exclusive of many natives who reside amongst us. That our whole stock of large horn'd cattle, both for breed and labor, are about 830; goats, male and female, about 3,090; hogs (much diminished thro' a scarcity of salt meat and other causes), 2,390; sheep, male and female, about 5,700; and that notwithstanding the increase of sheep mutton is rais'd in price by those who have it to sell to one-third more than it was four years ago. This is occasioned by the scarcity of salt provisions. You will discover,
my Lord, by an examination of this statement how extrem'ly improper it would be to depend on this handful of stock for the maintinance of such a number of people. My Lord, it would ruin all our hopes and prospects.

With respect to laborers, it becomes necessary to assure your Grace that, notwithstanding the number of people brought from Ireland by the last two ships, we have receiv'd no great accumu­lation of strength. Many of those prisoners have been either bred up in genteel life, or to professions unaccustom'd to hard labor. Those are a dead weight on the public store; and really, my Lord, notwithstanding we cannot fail to have the most determin'd abhorrence of the crimes which sent many of them here, yet we can scarcely divest ourselves of the common feelings of humanity so far as to send a physician, a formerly respectable sheriff of a county, a Roman Catholic priest, or a Protestant clergyman* and family to the grubbing hoe or timber carriage.

Amongst the lower classes there are many old men unfit for anything but what we call hutkeepers, who stay at home to prevent robbery whilst the rest of the inhabitants of the hutt are at labor. Those who do work complain of the insufficiency of their food, having nothing to give them but two-thirds allowance of salt meat and their proportion of wheat with a small quantity of sugar.

Their distresses for want of blankets and bedding I have also mention'd. They sleep in the cloathes they wear in the day, and it is but very lately they have had that advantage. This want has driven me to the necessity of purchasing a thousand bad rugs out of a Spanish prize.† All these things create an expence which must appear in my name, because paid for here. Cou'd we have receiv'd those things as formerly, I shou'd have felt myself fortunate, as such expences cou'd not have been plac'd to the account of my management, and this would certainly been a great relief to my mind.

I have, &c.,
JNO. HUNTER.
measure or question upon which I do not feel myself authoris'd finally to decide, and therefore submit it to the consideration of your Grace. Such a people, I have no doubt, might be usefully employ'd here, and wou'd probably be far more manageable than most of those we now have.

It appears that a correspondence upon this subject had taken place at Calcutta between the secretary to the Government there and a gentleman who had been sent from hence as a private agent to make some purchases for officers here, and this correspondence having been commenc'd at the instance of that Government has been communicated and refer'd to me. The gentleman charg'd with this communication has written to me upon public service, in order to his being able to give information to the Government in Bengal what my determination on the subject might be. I inclose a copy of his letter and of my reply to him for the information of that Government.

I have also received from that country a letter from three gentlemen there, a extract of which I inclose. They are desirous of embarking their property and becoming settlers in this country. Such settlers as those, my lord, cou'd not fail of being advantageous to this colony; but as to the conditions upon which they are desirous of coming hither are such as wou'd involve some expence, I am desirous of also submitting this to your Grace, and I enclose a copy of the conditions they have propos'd. I have written to them, and have given them every encourage­ment which I have conceiv'd myself authoris'd to afford them.

I have, &c.,

JNO. HUNTER.

[Enclosure No. 1.]

MR. A. BEYER TO GOVERNOR HUNTER.

Sir,

Port Jackson, the 31st of March, 1800.

I had the honor to lay before your Excellency a corres­pondence of the Government of Bengal relative to transporting convicts from India to this colony, and as I am directed by the Honorable the Vice-President-in-Council to transmit your Excellency's reply with the earliest opportunity, are the reason I request the favor to inform me if your Excellency approves of the plan proposed by me to the Government of Bengal, and to permit the Indian convicts to be received here in New South Wales by private individuals on their account, as there are several who express a wish to embrace this opportunity, and who will hold themselves responsible for the maintenance of them.

I have, &c.,

AUGUSTUS BEYER.
Governor Hunter to Mr. A. Beyer.

Sir,

Sydney, the 1st day of April, 1800.

I have received your letter of the 31st ult., addressed upon service, wherein you have mentioned the correspondence you had entered into with the Honorable the Vice-President-in-Council at Calcutta, when you was last there, upon the subject of the transportation of Indian convicts into this country. I have perused that correspondence, and I cannot disapprove of the conditions which your knowledge of this settlement had encouraged you to suggest, and, I believe, would not be improper should the general plan be acquiesced in.

As far as it becomes a public measure, I am not inclined to come to any determination upon it without a reference to the Secretary of State; but as it may relate to officers and respectable settlers who may be desirous of receiving upon their own estates here a description of people so easily fed and so readily managed, and upon the terms of their being landed here with two years provisions at the expense of the Government of Bengal, I shall observe that such numbers as officers who may incline to farm extensively will undertake to provide for, I shall have no objection to the admittance of into this territory, because I am of opinion a certain number of such people may be usefully employed here. You will, therefore, inform me who the individuals are who are desirous of receiving on their own account servants from Bengal, what number, and also what security they are willing to offer that such servants do not hereafter become a burden to the public. This information I am desirous of having, in order that I may be enabled to judge how far I can consistently admit of their being accommodated.

You will understand that as I propose to refer this to the consideration of His Majesty's Minister, I mean only to sanction, by way of experiment, the receiving into this settlement such numbers of those convicts only as perfect security may be offered for the maintenance of upon their arrival here, and an assurance given that they shall not become a public burthen.

Upon my referring the question generally to Government, I shall, no doubt, receive instructions from England upon the subject, which shall be communicated as early as possible to the Government in Bengal.

I am, &c.,

Jno. Hunter.
1800.  
20 March. 

Proposal of Anglo-Indians to become settlers.

I beg leave, sir, to state that there are many families here who, with some little variation of circumstances, find the result of their affairs in a similar state—two particularly, who, being in habits of friendship with me, have adopted the same views. To detail the particulars of their situation would be a mere recapitulation of my own. On their part and my own, therefore, I presume to state to your Excellency that, having from perusal of Captain Collins's account of Port Jackson, and from our ideas of the general principles of colonization, formed the opinion that the acquisition of respectable settlers in such a colony as yours would be an object worthy of your attention, we respectfully hope you will excuse our suggesting the means that would enable us to become settlers under you. I have before stated that the expence of conveyance is the only obstacle. Your Excellency cannot be unacquainted with the excessive rate charged by Indian traders for passages and freight; the latter particularly would be scarcely procurable, such is the jealousy of trading adventurers of interference in their trade to a place where they expect such enormous profits. These expences would sink our little property, and leave us to struggle with difficulty and distress; and, of course, instead of being beneficial to the colony, we should become a burden to it. Were this obstacle removed, we could each of us carry sufficient to form comfortable establishments without farther aid than what is usually afforded by the liberality of your Government. We therefore, with all due deference, submit to your Excellency the practicability of our being provided with passages at the expence of Government. We know this encouragement was afforded by Government at home to the private settlers who went out from England. It is true that the intercourse between India and Port Jackson, being less frequent, would render this less practicable; but we trust that as you have had sometimes occasion to require supplies from hence, the additional motive of procuring settlers would be sufficient to induce you to do so again in preference to sending to other Indian ports; in which event, if a public or private freighted ship should be employed, we might be provided with a passage at little or no expence to Government. I have hitherto confined the subject to myself and friends; but in the event of the proposal being thought by you worthy of attention, I am confident there are numbers who would gladly embrace the same opportunity, if acquainted with it in time.

* Note 187.
Memorandum of what we deem necessary to enable us to become settlers at Port Jackson.

First.—To be conveyed to Port Jackson at the expense of Government in any manner your Excellency may think advisable, and to be allowed proper accommodations on shipboard for ourselves and families, with the usual allowance of ship’s provisions during the passage.

Second.—Deeming the importation of cattle, whether by individual settlers or otherwise, to be a public benefit to the colony, we hope to be allowed to carry with us a limited number of cattle, with their provender, freight free. We particularly hope for indulgence in this, as it will prevent Government incurring the expense of supplying us with breeding stock, as we observe has been done for other settlers.

Third.—As our little property will be invested in necessaries for ourselves and families, we hope to be allowed tonnage, not exceeding ten tons each, freight free.

Fourth.—To be allowed, on our arrival at Port Jackson, accommodation for the temporary residence of ourselves and families, free of charge, until houses may be erected wherever we may settle.

Fifth.—To be allowed grants of land in such situation as we may chuse, not already granted to others or required for public uses, and on the same terms allowed to settlers from the marine corps or any other settlers.

Sixth.—To be allowed two hundred acres for each man, one hundred for each woman, and fifty for each child, with an engagement that more will be granted whenever we can stock or cultivate a larger quantity.

Seventh.—To be allowed such assistance from Government with respect to the building of houses, labor of convicts, implements of husbandry, seed, and rations from the stores, as have been allowed to the military officers or private settlers.

Eighth.—That we may be allowed to import a quantity of Bengal rum, under such restrictions as your Excellency may prescribe, not doubting but that, as we pledge ourselves under penalty of forfeiting your favor not to dispose of a drop clandestinely, you will make us a liberal allowance of an article which we can never again procure an opportunity of being supplied with on the same terms.

We have been thus particular through real anxiety lest any point misunderstood might disappoint our wishes, and not
through an idea of heightening our own importance with you. Should any of the above, however, be deemed inadmissible in their present form, we respectfully hope to be informed under what modification your Excellency may deem yourself authorized to grant them, making no doubt but that you will afford us every assistance and indulgence in your power.

W. H. MARSHALL.
G. M. LOWDER.
A. C. SEYMOUR.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch* marked "Supplement to No. 57," per transport Friendship, vid India.)

Sydney, New South Wales,
30th March, 1800.

My Lord Duke,

After referring your Grace to my letter, No. 57, which will be receiv'd herewith, I must express how painfull it is to feel myself constrain'd to add by way of supplement to that letter, the very unfortunate circumstances which have attended our utmost endeavours to remove even a possibility of any other distresses than those with which your Grace has already been troubled. In the above letter I have mentioned our deficiency in salt meat. I have also pointed out the danger attending our crops of maize on which for lengthening out our allowance of bread I had plac'd so much dependence.

The stormy weather which had unfortunately set in at such a time, has continued now with unremitted violence for three weeks. The river Hawkesbury, as well as the creeks on George's River, have so completely overflown their banks from the torrents of rain which fell as to have laid the whole of the adjacent low country, with the crops upon it, some time past under water, and has spread desolation over the cultivated grounds in those quarters, and, altho' fewer than might have been expected, some lives have been lost.

Our present unavoidable misfortunes wou'd not (had the colony been at this time better provided with supplys) have given me much concern, because I consider it an effect of Providence which we have no reason to believe we may be so very frequently liable to as we have of late.

It will, however, have the advantage of putting us more upon our guard in future, and shew the necessity of a more rigid attention to the public regulations so often given out for the general good.

* Note 99.
J. KING TO THE GOVERNOR.

This settlement, my Lord, is yet too young to be able to withstand such a succession of ill-fortune without its being felt in some degree an inconvenience and an expence to the mother country; and whilst we do our best to avert them, I trust no reflections can be cast upon our endeavours. Had our settlers been of a more industrious cast, we shou'd not have been so ill prepared for such accidents; but it can answer no other end at present to mention that than to shew the difficulty which must attend those who have the chief direction.

It is much to be lamented that in establishing this settlement on the Hawkesbury the people who fix'd there had not consider'd the signs of those floods which had appear'd to the first discoverers, and to have erected their dwellings, &c., on the higher grounds, or that the inundations which have lately happen'd had not taken place at an earlyer period when there were but few settlers. Those overflows which have lately happen'd none formerly had any idea of; they exceed in horror and destruction all we cou'd possibly have conceiv'd.*

I will no longer trespass on your Grace's time, but beg to assure you, my Lord, that every exertion within my power shall be made to recover what we may have lost by such misfortune. I have come to the determination to break up all our artificer gangs, and let every other work, however necessary, stand still for a time, until I can prepare all the ground we can to be sown with wheat on the public account. This misfortune makes a sad reverse to the prospect I had last October.

JNO. HUNTER.

1 April.

UNDER SECRETARY KING TO THE GOVERNOR OF NEW SOUTH WALES.

(Per H.M.S. Porpoise; acknowledged by Acting-Governor King to the Duke of Portland, 10th March, 1801.)

Sir,

Whitehall, 1st April, 1800.

The House of Commons having voted the sum of Six Thousand three Hundred and Nine pounds Sixteen shillings and Eightpence for the Civil Establishment of New South Wales from the tenth of October 1799 to the tenth of October 1800 I send you by the Duke of Portland's directions a Copy of the Estimate upon which the grant is founded for your direction in the application thereof.

I am, &c.,

J. KING.

1800.

30 March.

Effects of the flood.

Want of foresight shown by Hawkesbury settlers.

1 April.

Parliamentary vote for year 1799-1800.

Note 188.
ESTIMATE of the charge of defraying the Civil Establishment of New South Wales from the 10th of October 1799 to the 10th of October 1800.

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Norfolk Island.

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<td>250</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Additional Salary to be reduc'd to 100 when Lieut.-Gov. King shall be promoted in the line of his profession</td>
<td>200</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Clergyman</td>
<td>96</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Surgeon</td>
<td>130</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Deputy Commissary of Stores</td>
<td>91</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>One Store Keeper</td>
<td>50</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Deputy Surveyor of Lands</td>
<td>91</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>Three Superintendants of Convicts at £50 per Ann. ea.</td>
<td>150</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>One Master Carpenter</td>
<td>40</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>One Beach Master and Pilot</td>
<td>50</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Dep. Judge-Advocate at 8s. per diem</td>
<td>146</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Provost Marshal</td>
<td>70</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
THE TRANSPORT BOARD TO HUNTER.

Estimate of the charge of defraying the Civil Establishment of New South Wales, &c.—continued.

1800.
1 April.

Financial estimate for 1799-1800.

For a Commission under the Great Seal constituting a Court of Civil Judicature in Norfolk Island .......... 186 15 6

Allowance to Gov. Phillip in consideration of his Meritorious Services ............. 500 0 0

Allowance to Mr. White late Surgeon ........................... 91 5 0

Upon Account for Fees on Receipt and Audit .......... 200 0 0

Agent .............................. 150 0 0

Total £6,309 16 8

The Governor is not to draw on the Lords of the Treasury for any of the Sums voted in the Estimate.*

THE TRANSPORT COMMISSIONERS TO GOVERNOR HUNTER.

(Per transport Royal Admiral; acknowledged by Acting-Governor King, 10th March, 1801.)

Sir, Transport Office, 1st April, 1800.

We take leave to enclose to you for your Information and Guidance, the following Papers, vizt.:

1. Invoice and Bill of Lading of Ten Pipes of Port Wine provided by order of the Right Honorable the Lords Commissioners of His Majesty's Treasury (for the purposes set forth in a Letter from Mr. King the under Secretary of State, Copy of which is enclosed) and Shipped on board the Royal Admiral, Consigned to your Address.

2. Copy of a Letter which we have caused to be Written to Mr. Turner, Surgeon of the Royal Admiral, and Invoice of Medicines entrusted to his Care for the Use of the Convicts the residue of which (if any) upon the Ship's arrival at New South Wales is to be delivered to your Order.

3. Invoice of Clothing put on board the Royal Admiral for the use of the Convicts during the Voyage.

4. Copy of the Charter party of the Royal Admiral.

5. The Articles of Agreement signed by the Crew of the Lady Nelson (a small Vessel originally Built for the service of this Department in the River Thames, and now fitted out, under the Command of Lieutenant Grant, in Consequence of Directions from His Grace the Duke of Portland, for the purpose of exploring the Coasts of New South Wales) with an Account of the Rate of Wages at which the Seamen etc. have been hired, and the Money that has been paid to each Man, previous to the Vessels leaving England.

* Note 189.
HISTORICAL RECORDS OF AUSTRALIA.

1800.
1 April.

Copies of the Tradesmen's Bills for the Lady Nelson's outfit, and for Sundry Articles of Stores etc. provided by this Department for the Vessel's use after her Arrival at New South Wales.

We have, &c.,

Rupert George.
Ambrose Serle.
Wm. A. Otway.

[Enclosures.]

[Copies of these papers have not yet been found.]
DESPATCHES

TO AND FROM ENGLAND

APRIL 15TH TO SEPTEMBER 27TH, 1800.

Lieutenant-Governor King arrived in Port Jackson on the 15th of April, 1800, on board the transport Speedy. Subsequent to that date, Governor Hunter and Commander King each wrote despatches and reports direct to the authorities in England with reference to the administration of the colony, until the 28th of September, when King assumed charge as Acting-Governor (see note 190).
DESPATCHES.

APRIL, 1800, TO SEPTEMBER, 1800.

GOVERNOR HUNTER TO THE DUKE OF PORTLAND.

(Despatch No. 59,* per transport Friendship, *via* India.)

Sydney, New South Wales, 20th April, 1800.

My Lord Duke,

By the arrival of the ship Speedy, 15th instant, I had the honor of receiving your Grace's dispatches of the 5th November last by the hands of Lt.-Gov'r King. I will not take the liberty of trespassing on your Grace's time by a recapitulation of any part of such of my letters as your Grace has made observations upon.

As it has been His Majesty's pleasure to command my return to England, I beg to inform your Grace that I will not fail to embrace the very first safe and expeditious opportunity which may come within my power for shewing my obedience to His Majesty's command. I will do my utmost to furnish Gov'r King with every paper necessary for his guidance here before I depart, and whatever I may be deficient in I have no doubt his judgement will supply. I shall endeavour to point out to him the steps which I have long pursued with unremitted labour (altho' not always successfully) for getting the better of many of those evils which have stood so much in the way of the King's service. Had I, my Lord, been less an enemy to the wretched and disgracefull traffic carried on here, so much to the injury of this colony, and upon which so much has already been said, your Grace, I am well persuaded, wou'd not have been troubled with so many of those despicable attempts and insinuations to my prejudice which appear to have been so very industriously press'd upon your mind. But your Grace will permit me to assure you that a most thorough consciousness of the strict justice and inflexible integrity with which I have, to the best of my judgement, administer'd the government of this territory, under the most arduous and difficult circumstances, cannot fail to relieve my mind in a very considerable degree from that pain and concern which your Grace's last letter wou'd have otherwise occasion'd me.

* Note 99.
I hope to report to your Grace the arrival of the Buffalo from the Cape of Good Hope, with eighty-five cows and eight breeding mares, on the public account, for which the officer commanding that ship, and whom I had charg'd with the execution of the service, drew bills on the Lords of His Majesty’s Treasury to the amount of £2,174 19s. 6d., in support of which bills he left to be forwarded from the Cape by different conveyances original vouchers and duplicates. The integrity, diligence, and general conduct of this officer (Lt. Wm. Kent) upon the service of this colony has been so highly meritorious that I again presume, as a justice due to his exertions, to mention him to your Grace.

I have, &c.,
JNO. HUNTER.

GOVERNOR HUNTER TO SECRETARY NEPEAN.

(Per transport Friendship, vid India.)

Sydney, New South Wales, 20th April, 1800.

Sir,

I have to request you will be pleas'd to inform their Lordships that before the departure of His Majesty’s ship Reliance, under my command from this colony (the cause of which their Lordships will have learnt by her arrival in England, before this letter can possibly reach the Admiralty), I gave an order to Capt. Waterhouse, her second commander, to bear me check’d upon her books untill his arrival at St. Helena, and then to discharge me, by which time I expected the return of the Buffalo, when I shou’d enter myself upon her books.*

Their Lordships will see by the manner of wording the inclos’d appointment of myself to the chief command of that ship, that I consider’d it essentially requisite, in order to my continuing my authority as the senior officer of His Majesty’s ships upon this service.

I hope and trust, sir, that upon their Lordships having well consider’d the necessity of my continuing to hold that command, agreeable to the King’s intention, they will be of opinion that this necessity will justify the measure I have pursued, not only with respect to myself, but in the appointment I have ventur’d to give to the next officer in seniority on this service to myself (Lieut. William Kent), whose merits on this duty, and whose long servitude in the Navy (thirty years), I hope will incline their Lordships to confirm him.

I have, &c.,
JNO. HUNTER.

* Note 191
GOVERNOR HUNTER'S APPOINTMENT TO H.M.S. BUFFALO.

By His Excellency John Hunter, Esquire, Captain-General, and Governor-in-Chief in and over His Majesty's territory of New South Wales and its Dependencies, and First Commander of His Majesty's ship Reliance, &c., &c., &c.

WHEREAS the weak and infirm state of His Majesty's ship Reliance has obliged me to order her to return to England, being no longer capable of rendering service to this colony; and whereas the intention of His Majesty in continuing the Government of this colony in the hands of an officer of the Royal Navy was evidently designed that he should continue also to command the King's ships employed in its service:

For the good of His Majesty's service, therefore, I, John Hunter, Esqr., Principal Commander of His Majesty's ship Reliance, deem it necessary, before I am discharged from the books of the said ship, to appoint myself to the chief command of His Majesty's ship Buffalo, and to put that ship upon the establishment of the Reliance.

I do, therefore, by virtue of the authority I possess as the senior officer of His Majesty's naval service employed in this part of the world, appoint myself, John Hunter, Esquire, Principal Commander of His Majesty's ship Buffalo—willing and requiring all the company and officers subordinate to me to pay due respect and obedience unto me, their said Principal Commander, and that I, myself, should obey all such orders and directions as I may receive from any senior officer for the benefit of His Majesty's service; and for which this shall be my authority for taking upon me this command.

Given under my hand, at Sydney, in Port Jackson, New South Wales, this 15th day of April, 1800.

JNO. HUNTER.

LIEUTENANT KENT'S APPOINTMENT TO H.M.S. BUFFALO.

By His Excellency John Hunter, Esquire, Captain-General and Governor-in-Chief in and over His Majesty's territory of New South Wales and its Dependencies, and First Commander of His Majesty's ship Buffalo, &c., &c., &c.

WHEREAS I have seen it necessary, from the very infirm state of His Majesty's ship Reliance, to order her to return to England, and as the public service requires that the Buffalo should now be put on the same establishment as the Reliance, I have appointed myself to the same situation on board the Buffalo which I held as Principal Commander in the Reliance.
By virtue, therefore, of the authority which I possess as senior naval officer in this part of the world, I do hereby appoint you, Lieutenant William Kent, to act as Second Commander of His Majesty's ship Buffalo—willing and requiring you to take upon you the charge and command as Second Commander in her accordingly, strictly charging and directing all the officers and company of the said ship to behave themselves jointly and severally in their respective employments with all due respect and obedience to you, their said Commander; and you are likewise to observe and execute the general printed instructions, and all such orders and directions as you shall from time to time receive from me, or from any other your superior officer, for His Majesty's service, for which this shall be your authority.

Given under my hand, on board His Majesty's ship Buffalo, in Port Jackson, New South Wales, this 15th day of April, 1800. JNO. HUNTER.

GOVERNOR HUNTER TO UNDER-SECRETARY KING.

(Per transport Friendship, via India.)

Sydney, New South Wales, 20th April, 1800.

SIR,

I had the honour of receiving your letter of the 14th November last, inclosing one to you from Mr. Oldham, with a printed paragraph from a newspaper.

Had the author of that paragraph been as full in his information as he might have been, there wou'd not have appear'd the smallest cause for any alarm or uneasiness on the part of Mr. Oldham.

It becomes highly necessary, sir, that the Duke of Portland, shou'd be undeceiv'd in a variety of respects relative to my general conduct in the management of the concerns of this colony. I know too well the humane design of His Majesty in deligating to the person administ'ring the government of his foreign possessions the power of granting pardon in His Majesty's name for offences committed against the laws, to be capable of applying it in any improper manner; and, sir, I will venture to say that no man in this colony can produce an instance in which it has been employ'd without the strongest proof (as far as recommendations from respectable persons can be consider'd proof) of its being well merited.

I knew nothing of the nature of this man's crime, and we con­tinue ignorant of those of every other convict sent to this country,* because the particular crime is never inserted in the list sent with them. We, therefore, can not so well judge of the

* Note 192.
character as we ought. They are all alike convicts, and we cannot, for want of this information, know who are the most atrocious until our own experience on the spot shall point it out.

With respect to this Michl. Robinson,* I have, sir, to observe that the Judge-Advocate, who came out in the same ship, being extrem’ly infirm in his health on his arrival, and is at all times in a very feeble state, applied to me respecting this man, and said he would be so very useful to him that he could scarcely do without him, or some other equally qualified in the business of his office; but that, as he should not feel himself easy to sit upon his duty at the same table with this man under his present degrading circumstances, he hop’d I would, for his accommodation, indulge him with an emancipation, which would place him above the general condition of other convicts. At Mr. Dore’s earnest and repeated solicitation, therefore, I gave him a conditional emancipation, a copy of which I enclose for the information of His Grace and the ease of Mr. Oldham’s mind. By this kind of pardon you will discover that he is as completely exiled from his native country as he ever was, and therefore it cannot in any degree whatever counteract the intention of the law in sending him hither, but is an incitement to good actions in this country, and has in a great variety of instances, as well as by me as by my predecessors, been applied in this country for the encouragement of industrious individuals.

I have, &c.,

JNO. HUNTER.

P.S.—During the very moment I was employ’d in writing this, a letter, of which the enclos’d is a copy, was brought to me, and to which you will discover a very short reply was made. I leave you to make your own comments upon this artful attempt. Mr. Dore ought to have known better, when he recollects the reluctance with which I granted the conditional emancipation, and the knowledge he must have had of the crime which convicted him.

[Enclosure No. 1.]

**Conditional Emancipation to Michael Robinson.**

Whereas His Majesty, by a Commission under the Great Seal of Great Britain, by his Royal Sign Manual bearing date the eighth day of November, in the thirty-first year of His Majesty’s reign, hath been graciously pleased to give and grant full power and authority to the Governor (or in case of his death or absence, the Lieutenant-Governor) for the time being, of His Majesty’s territory of the eastern coast of New South Wales, and the islands thereunto adjacent, by an instrument or instruments in writing under the seal of the Government of the said territory, or as he

* Note 193.
or they respectively shall think fit and convenient for His Majesty's service, to remit either absolutely or conditionally the whole, or any part, of the term or time for which persons convicted of felony, misdemeanours, or other offences amenable to the laws of Great Britain shall have been, or shall hereafter be, respectively conveyed and transported to New South Wales and to the islands thereunto adjacent.

By virtue of such power and authority so vested as aforesaid, I, John Hunter, Esq., Captain-General and Governor-in-Chief in and over the said territory of New South Wales and its dependencies, taking into consideration sundry favorable circumstances in the conduct and demeanour of Michael Robinson, or Michael Massey Robinson, as represented to me by Richard Dore, Esq., Judge-Advocate, who, confiding in the abilities and integrity of the said Michael Robinson, or Michael Massey Robinson, has appointed him to be his clerk, and which said appointment I have, at the intercession of the said Richard Dore, Esq., confirmed and approved.* I do hereby conditionally remit the remainder of the time or term which is yet to come and unexpired of the original sentence of transportation passed on the said Michael Robinson, or Michael Massey Robinson, provided always and upon condition that he, the said Michael Robinson, or Michael Massey Robinson, continues to reside within the limits of this Government for and during the term of his said original sentence, or until I shall be disposed or induced to manifest and show further favor unto him by a satisfactory and faithful report of his continuing from time to time to discharge his official duty with diligence and integrity; otherwise the said Michael Robinson, or Michael Massey Robinson, shall be subject to all the pains and penalties of re-appearing in Great Britain or Ireland during the time or term of his original sentence, and as if this permission had never been granted.

Given under my hand and the seal of the territory, at Sydney, in New South Wales, this eighth day of June, in the year of our Lord one thousand seven hundred and ninety-eight.

Jno. Hunter.

[Enclosure No. 2.]

Judge-Advocate Dore to Governor Hunter.

Sir,

Sydney, 20th of April, 1800.

Your Excellency will permit me now, by offering my testimony of the faithful services of Mr. Michael Robinson, my clerk, during a period of almost two years that he has been in my office,

* Marginal Note by Governor Hunter.—"This appointment is merely nominal, but without any salary whatever."
to recommend him to your Excellency's gracious favour, pursuant to that part of his conditional emancipation dated the 8th of June, 1798, besides the ready suffrage I make of his unremitting attention to the public duty. I can with equal confidence say his character in this colony stands unimpeachable for integrity, and I believe no person under similar circumstances has acquitted himself better during the time he has been here, which is a source of pleasing reflection to me, inasmuch as your Excellency may be satisfied he has justified the good opinion I had of him, and which induced me first to recommend him to your clemency.

I am inclined the more to ask this favor of your Excellency, having understood that you are about to extend some marks of your benevolence to others, and from a persuasion that you derive the highest gratification from the well-timed exercise of mercy. I shall with pleasure receive your Excellency's permission to prepare the proper and usual instrument, and enclose for your completion.

I am, &c.,

RICHARD DORE.

THE DUKE OF PORTLAND TO THE GOVERNOR OF NEW SOUTH WALES.

(Despatch per transport Royal Admiral; acknowledged by Acting-Governor King, 10th March, 1801.)

Sir, Whitehall, 22nd April, 1800.

As it appears that the soil and climate of New South Wales are favourable to the culture of the grape, there will go out by the Royal Admiral two Frenchmen, who were prisoners of war here, and who appear to have a perfect knowledge of the cultivation of a vineyard and the whole process of making wine, as you will observe by the within documents received from them on this subject.

No other agreement has been made with them, except what is contained in the inclosed extract of a letter from Captain Schanck to Mr. King. One of the men is also a cooper, a circumstance which will render him very useful to the colony.

I trust the employment of these men will enable you in a very short period to cultivate a vineyard for the Crown of such an extent as to allow of your producing, on the spot, whatever wine may be wanted on the public account; and this circumstance will, of course, be the means of promoting, on the part of individuals, the cultivation of the vine and the making of wine throughout the settlement at large.

I am, &c.,

PORTLAND.

* Note 194.
Method of Preparing a Piece of Land for the purpose of forming a Vineyard.

The Ground is to be turned up, cleared of weeds, and trenched out to the depth of eighteen inches, or should it not be encumbered with stumps or roots of Trees, underwood or Brambles, the cuttings of Vines may be immediately planted without that precaution.

The mode of planting on hills or mountains is performed by a pointed Iron Bar or Borer, but care must be taken to fill up the extra space in the hole round the Stalk of the Vine, with Ashes or fine mould to prevent the rain forming a slime therein, which on drying chokes the Vine, and prevents it shooting fibres at the Root.

For the purpose of planting the young Vines already rooted, holes are to be made with a strong hoe or Broad Pick axe, at a discretionary distance of about 2 and ½ or 3 feet open from each Vine, and some mould or old Turf must be laid round the foot of each.

For planting Vines in Espalier the Ground must be open in a line, at the distance of between five and seven feet, and the Trench is left open, which may be performed by a plough, being the most cheap and expeditious way and equally beneficial.

In order to retrieve a barren Vine and render it Fruitful the same year, holes must be dug near the main Root, and Sufficiently Broad, that the Shoots from the Same Vine may be laid in, to replace the old ones, which are after to be removed, to prevent the Roots and Fibres entangling and choking each other.

The Method of dressing the Vines, after the Vineyard being formed, is principally to prime them well, and to attend to a minute Knowledge of their Nature, also what influence the change of Climate may have operated on them. Some will not produce without being propped others best without; and the Situation of the Land, and temperature of climate will determine, if the Branches are to be carried more or less in height, and consequently how to be Supported; they may be cut off either in a flat or sloped manner, but care must be taken to clear away all dead or defective parts.

The Layers should be made from the most vigorous healthy shoots, but as seldom as possible from the old wood of the former year.

The pruning is to be performed in the months of January and February, after having Selected the Layers and bearing branches, yet, the Vine may be increased from Shoots laid underground, and led to spring up, where any deficiency may happen.
At the Commencement of the Spring, the ground should be opened with a Pick Axe (one end of which must be sharp and broad) and for Stoney Ground one with two Prongs, or a strong Hoe, and care must be taken in digging, to remove the young shoots round the foot of the Vine, as they diminish the Vigor of the Main Trunk.

The other Modes of opening the Ground of a Vineyard are, with a Spade or Implement, which only differ from the former ones by being thinner and broader.

The Vines should be carefully pruned or thinned about thrice during the Season, by clearing away all the exuberant Shoots from the Body, which deprive those retained for production, of their Vigor.

On the approach of the Vintage, Should the Season prove rainy, and cause apprehensions of the Grapes decaying before brought to maturity; the Vines should be thinned of leaves towards the west, but not on the other Sides, lest change of weather might dry up the Grapes.

The following process is necessary for making Red and White Wines.

To prepare wine presses, Butts, large Tubs and Barrels:

For Red Wine.

Whenever the clusters of red Grapes are perfect ripe, (but not rotten) as great attention must be paid to exclude every Grape, either rotten or dried, Some of which will always be met with in the bunches, as the decayed ones give a musty flavor to the wine, and the unripe cause it to be Sour.

The Grapes being gathered are to be put into the wine Press and Squeezed, but should they not be so ripe as wished for, the bunches or stalks should be raked out, which will prevent the wine being so tart as it otherwise would have been, but if the Grapes are perfectly ripe, you may put the whole together into the Butts or Vats, where it is to be stirred up four or five times during the first twenty four hours, that the wine may acquire a deeper color, it must then be left to ferment and Settle, and when cold and clear, drawn into Casks, previously rinced out with wine, the Bungs to be left out for some time, and care taken to Keep the Casks filled up; When the frost is over the wine must be cleared off from the dregs.

For White Wines different modes are necessary though the like may be used as with the Red, which gives it a Stronger body, but generally a tart flavour, and causes it to ferment in a
greater degree, and consequently more proper for Brandy; but to give the White Wines a proper and agreeable flavour the Grapes (contrary to the Red) are to be left until rotten, and constantly gathered as they become so, which causes them to produce the greater quantity of wine, the whole mass dissolving the better, they are to be put into the wine press, and all the Pulp and liquid particles squeezed out, and poured into the Tubs without the Lees. It must be constantly watched for the fermentation beginning, which is Governed by the weather, but it is generally affected within 48 hours; should it be drawn off too late, it will turn, which is perceived by its becoming dark or muddy, and when drawn off too soon, it ferments in the Butts and is greatly injured thereby.

To make Brandy.

A Copper must be erected over a furnace, the cover to be hermetically Screwed on, So that the Steam may be forced to pass through a Pipe fixed near the Cover, and joined to a Spiral worm, which passes through a vessel of cold water, and the liquid drawn from a brass cock at the extremity thereof. The copper being charged with the wine, the vessel through which the worm passes must be kept continually Supplied with cold water, as otherwise the worm being heated would instead of producing a liquid, fly off in Smoke. A constant regular Fire should be kept up with Billets of wood, as should it be too brisk, the worm would drop wine instead of Brandy. The first Liquid produced immediately after the Still being set to work, not being perfect Brandy, is generally returned into the Copper, whenever it may be replenished with fresh wine, for further distillation, as finally every particle of the wine is distilled into Brandy, and nothing but pure water left, which can be ascertained by a proper Hydrometer, which, with Pails and close Casks to prevent Evaporation, are also necessary.

I have entered into the foregoing most common explanations, having been so requested.

J. B. LADEAU.

The following are figures of Implements* necessary for the cultivation of a Vineyard.

A Hoe with long handle.
Iron Bar for planting in hilly or stoney Ground.
Shovel for planting in light or rich Soil.
Swallow tailed Hoe for Stoney Ground.
Spade to dig up the Ground and cleanse the roots of the Vines.
Rake for the Vines.
Bill Hook to cut the Branches.
Hoe with short handle.

* In the original there are sketches of the type of implement.
PORTLAND TO THE GOVERNOR.

No. 1 List of Implements* for cultivating the Ground.

Vizt.

Garden Shovel.
Pitcher.
Spade.
Dung fork.
Pick axe.
A Pike or Pricker.
Prong.
A pointed Iron Bar or Borer.
Bill Hook for pruning the Vines.
Pruning Knife.
Large Bill Hook for cutting wood.
Small Hatchet.
Small Hand Saw.
Scythe for cutting Grass.
Reap hook for cutting the corn.
Pick axe (one side with double arm, the other broad and sharp).
Rake.
Also a complete set of Tools for cask and wine Cooper.
A Still to make Brandy.
A Proverte to ascertain the Strength.

Sir,

The foregoing is a List of the Coopers Tools and also of the Implements necessary for the Cultivation of the Ground and dressing the Vines, and we engage that with such, we can fertilize such tract of Ground as may be given to us to cultivate, but it is necessary we should be present to select the Instruments to prevent delay.

With respect to the Wine, we are competent to the making of it, according to the nature of the Grape, as we have been brought up to the business from our infancy—and you may depend on our punctuality in the execution of our duty.

We are, &c., &c.
ANTE LANDRIEN.
FRANCOIS DE RIVEAU.

[Enclosure No. 2.]

EXTRACT of a Letter from Capt. Schank to Mr. King, dated Transport Office, 8th April, 1800.

If you approve of the suggestions I have the honor to communicate to you, I beg you will lay them before His Grace the Duke of Portland. In letters to me, and Mr. Serle, and to several other persons, from New South Wales, it is generally reported that a considerable quantity of wine has been made, and much yearly increase is expected; but the want of persons to make it is a great drawback to their expectations of the improvement of its quality. I have procured, for that reason, three Frenchmen, prisoners of war, in every respect qualified, whom I have had

* In the original there are sketches of the type of implement.
examined, and who have given the enclosed satisfaction to prove their knowledge of the cultivation and whole process of planting and making it. If His Grace approves of these men being sent and so employed, I have agreed on these terms—namely, that they are to remain for three years to work themselves, and instruct others in the method of planting and making wine; that they are to be paid as other foremen of the different public works or farmers are by Government; and at the end of three years to be found a passage to England, as they are out, free of all expense. Their pay to commence on their arrival, and cease at three years' end; but if they are inclined to become settlers, to have grants of land in the same proportion as the English settlers to their pay and situation.

THE DUKE OF PORTLAND TO THE GOVERNOR OF NEW SOUTH WALES.

(Despatch per transport Royal Admiral; acknowledged by Acting-Governor King, 10th March, 1801.)

Sir,

Whitehall, 22nd April, 1800.

I send you inclosed the copy of a letter which I have written to you, and delivered open to the commander of the Lady Nelson, a vessel which has been sent to New South Wales for the purpose of making discoveries under your directions on the coast of that settlement. Since the departure of the vessel I have received information that a strait has been discovered between New South Wales and Van Dieman's Land, and which has been passed through by a lieutenant of the Reliance, who afterwards returned to Port Jackson round the South Cape. I have in consequence forwarded a letter to Lieutenant Grant at the Cape of Good Hope (a copy of which is inclosed) directing him to proceed through that strait in his way to New South Wales.

I am, &c.,

PORTLAND.

[Enclosure No. 1.]

THE DUKE OF PORTLAND TO THE GOVERNOR OF THE SETTLEMENT OF NEW SOUTH WALES.

(Acknowledged by Acting-Governor King in his separate despatch, dated 10th March, 1801.)

Sir,

Whitehall, 26th February, 1800.

You will receive this by the sloop, the Lady Nelson, which has been constructed and fitted out for the purpose of prosecuting the discovery and survey of the unknown parts of the coast of New Holland, and of ascertaining, as far as is practicable, the hydrography of that part of the globe.
PORTLAND TO THE GOVERNOR.

The Lady Nelson is provided with a complete set of instruments and every other article necessary for the attainment of that object, which are consigned to you, and are conformable to the inclosed list.

You are to take care to furnish the officer employed under you in this service with the necessary instructions, wherein you will particularly take care, that he may be directed to examine with diligence, and to survey and plan with as much accuracy as circumstances will permit, all such coasts, and you will order him to take and to lay down upon his chart all such soundings as he shall think likely to prove useful for the guidance of those who may navigate along those shores in future; to pay especial regard to the examination and accurate delineation of all such harbours as he shall discover and judge to be commodious for the reception of shipping, and also of such shoals and other dangers as he may from time to time meet with; to fix in all cases when in his power the positions both in latitude and longitude of remarkable headlands, bays, and harbours by astronomical observations, also to observe the variation of the needle and the right direction and course of the tides and currents, and to record all such observations in his journal with the most minute exactness.

The survey of the southern or south-western coast of the country appears to be of the most immediate importance. The probable benefits of the whale fishery, and the shortening the passage through the straits which are discovered to exist between the main and the groupe of islands known at present by the name of Van Dieman's Land, would be of high importance. The groupe of islands themselves affording (as one of them is known to do) an excellent harbour, is worthy a particular attention. When any considerable river is discovered you are to order him to navigate up the same as far as the Lady Nelson can proceed with safety, carefully planning the course and the banks of it, and noting the soundings as he proceeds, and to land as often as he sees reason to suppose that any considerable variation has taken place, either in the productions of the soil or the customs of the inhabitants, and to examine the country as far inland as he shall think it prudent to venture with the small number of persons who can be spared from the charge of the vessel, whenever there appears to him a probability of discovering anything useful to the commerce or manufactories of Great Britain. He will note in his journal in all places where he shall land, either on the sea coast or the banks of a river, his opinion of the comparative fertility of the soil, which may best be judged of by the size of
Possession to be taken of new countries.

The study of natural history.

Seeds to be planted and native seeds collected.

1800.
22 April.

the trees and the degree of vigour with which trees, shrubs, and plants appear to him to grow, as also such articles of the produce of the soil and the manners of the inhabitants as he shall deem worthy of notice, and in all places which appear to him of importance to Great Britain, either on account of the convenience of the shelter for shipping or the probable utility of the produce of the soil, he will take possession in His Majesty's name, with the consent of the inhabitants, if any, under a discharge of musquetry and artillery, and to record the whole proceedings at length both in his logbook and his journal, and, if uninhabited, to set up some proper description as first discoverer and possessor. He is to plant such seeds of fruit trees and useful vegetables as he shall be supplied with, near to such landing places as he may discover, in which a safe and commodious anchorage and easy landing render it likely that ships may hereafter frequent, and where the soil appears most fertile and productive, and to collect in all places such seeds of trees, plants, shrubs, and grasses as he shall find in a state of maturity and judge to be worthy of notice, either for their beauty, their particularity, or their possible utility, and to collect such specimens of vegetables, animals, and minerals as he shall think likely to prove interesting to naturalists at home. In case of any person being sent with him to assist him as a collector of natural history, he will confine himself in some degree to the more immediate business of the Naval Department, and at all times when he can be usefully employed in the business of surveying, he is to leave the collecting and preparing of seeds and specimens to the care of the collector.

He is to assist the collector as much as the nature of the service will permit by sending him in boats to such places as appear likely to be productive of curiosities, and by sparing men, both to assist him in carrying such heavy articles as he may have occasion for on shore, or as he may think proper to bring on board, as also to accompany him for his defence against the natives, and to facilitate as much as possible all such researches as tend to procure a knowledge of the natural history of the country, the customs of the inhabitants, and the advantages of the produce to the trade and manufactures of Great Britain. He is, however, to deliver to you on his return the original journals in which his proceedings of all kinds have been minuted, and the plans, charts, drawings, and sketches he has made tending to illustrate the hydrography, geography, or natural history of the country, and also all such seeds of plants, trees, shrubs, and specimens of animals, vegetables, or minerals, and such articles of the dresses and arms of the
natives as you shall think worthy the attention of His Majesty's Ministers or of the Royal Society, to be transmitted by you to His Majesty's Secretary of State for the Home Department.

I am, &c.,
PORTLAND.

[Enclosure No. 2.]

THE DUKE OF PORTLAND TO LIEUTENANT GRANT.

Sir,
Whitehall, 8th April, 1800.

Having received information from Port Jackson, in New South Wales, that a navigable strait has been discovered between that country and Van Dieman's Land, in latitude 38°, which has been lately passed through by a lieutenant of the Reliance, who afterwards returned round the South Cape, it is His Majesty's pleasure that you should sail through the said strait in your way to Port Jackson, by which means you will not only shorten your voyage, but will have an opportunity of more minutely surveying the said strait, and of applying your instructions, as far as circumstances will admit of it, to this part of your route.

I am, &c,
PORTLAND.

LIEUTENANT-GOVERNOR KING TO THE DUKE OF PORTLAND.

(Despatch No. 1, per transport Friendship, vid India; acknowledged by the Duke of Portland, 19th June, 1801.)

Sydney, New South Wales,

My Lord, 29th April, 1800.

I have the honor to inform your Grace of my arrival here on the 16th inst., when I delivered your despatch to Gov'r Hunter, and a letter, of which the enclosure is a copy, with Gov'r Hunter's answer thereto.

I deliver this to Governor Hunter for his inspection, and forwarding by the Friendship, extra Indiaman, which brought the Irish convicts, and proceeds from hence (to Bengal to load for Europe) the 3rd or 4th next month. Agreeable to your Grace's direction, I have to inform you that the Friendship is the first safe conveyance that has offered since my arrival; but the time appearing too short to Governor Hunter to arrange his business, he informs me that it is his intention to take his passage in the Buffalo, colonial ship, and to sail about August. Perhaps, no other safe conveyance may occur before that period; but should His Majesty's commands for Governor Hunter's return by the first safe conveyance not be attended to (which I have no reason to suppose can or will be the case), I shall not fail to follow my instructions,* and in the meantime I shall require that information which will enable me to execute His Majesty's commands.

* Note 195
I am concerned that Capt. Townson,* who I left in the command at Norfolk Island, quitted it before my return, which he had stipulated not to do. A captain of the Corps now commands there during his tour of duty. As the interest of His Majesty's service must very materially suffer by the administration of that Government, constantly changing with the captain whose tour it is to command the detachment serving there, I therefore beg leave to state to your Grace that the proper person for that command is certainly a naval officer; but, unfortunately, there is no other in the colony equal to that charge but Lieut. Kent, who Governor Hunter has appointed second commander of the Buffalo, and who wishes to avail himself of the opportunity that offers of his returning to England in the ship he commands to attend his family concerns and to solicit a confirmation of his rank as commander, which I hope his active services in this colony, and his long service in the Navy, will procure him. Having no other naval officer to whom that command can be confided, and as Major Joseph Foveaux, of the New South Wales Corps, has offered to remain in the administration of that Government until His Majesty's pleasure is known, I have proposed that officer going there, to which Governor Hunter has agreed; and I shall take care to furnish him with the most ample instructions for his conduct, a copy of which will be forwarded to your Grace by the next conveyance.

The short time I have been here, and having been much indisposed in health, prevents my entering into any detail respecting the state of the colony. I have the honor to be, &c.

PHILIP GIDLEY KING.

[Enclosure No. 1.]

LIEUTENANT-GOVERNOR KING TO GOVERNOR HUNTER.

Sir,

Speedy Transport, Sydney, 18th April, 1800.

Having arrived here the 16th instant in the Speedy transport with my family and deliver'd the dispatches with which I was charged by His Majesty's P.S. of State for the Home Department to your Excellency, I beg leave to acquaint you that I have it in command from His Grace the Duke of Portland to inform you that as His Grace has by these dispatches signified to you the King's pleasure to return to England by the first safe conveyance which offers itself after my arrival, and to leave the government of the territory with me on your departure from it. Agreeable to the commission I have the honor to hold, it is His Grace's directions that you will be pleased to furnish me with copies of His Majesty's commission to you, the Royal instructions you received in England, and such orders as have since been

* Not: 44.
received relative to the King’s service in this territory and its
dependencies, together with such rules and regulations as are
established for the maintenance of the police and regulating the
duties of the different officers in the civil departments; and that
the whole of the stores, provisions, and money (if any) belonging
to the Crown be regularly surveyed previous to your departure,
taking with you a copy thereof and leaving another for my
information. In having thus communicated the information with
which I am charged, I beg to assure your Excellency of the
esteem, &c.,

PHILIP GIDLEY KING.

[Enclosure No. 2.]

GOVERNOR HUNTER TO LIEUTENANT-GOVERNOR KING.

Sir,
Sydney, 19th April, 1800.

I have had the honor of receiving your letter communica­
ting to me a message with which you had been charged by His
Grace the Duke of Portland, one of His Majesty’s Principal Sec­
retary’s of State, viz., that after your arrival here I should avail
myself of the first safe opportunity of returning to England and
leave the government of the colony in your hands, and that
I should furnish you with a copy of His Majesty’s commission to
me, together with a copy of the Royal instructions delivered
to me before I left England, with various other papers which
relate to the concerns of this settlement—to all which due atten­
tion shall be paid.

I have the honor, &c.,
JNO. HUNTER.

GOVERNOR HUNTER TO UNDER SECRETARY KING.

(Per transport Friendship, vid India.)

Sir,
Sydney, N. S. Wales, 30th April, 1800.

The inclos’d letter I have lately receiv’d, but do not con­
sider myself authoris’d to comply with its contents. I have,
therefore, inclos’d it for the inspection of His Grace the Duke of
Portland.

I am, &c.,
JNO. HUNTER.

[Enclosure.]

REVD. JAMES HAROLD* TO GOVERNOR HUNTER.

Sydney, 23rd April, 1800.

May it please your Excellency, notwithstanding your Excellency has been graciously pleas’d to grant me every benefit that cou’d be expected, I am sorry to assure your Excellency my present situation is, and likely to be, of the most distressful kind. I am afflicted with a

* Note 196.
variety of disorders that would require something considerable to render my state of health even tolerable; yet my allowance is insufficient to support a man in the prime of life and vigour of health. I did, indeed, expect some assistance from individuals and from the people; but I am sadly disappointed. The people are so devoted to the gratification of their passions that they do not allow themselves a single moment's rational consideration. Another intolerable grievance is that, from a disorder in my head of thirty years' duration, I cannot read or study, even for the space of an hour. Hence the want of society, to which I was always accustomed, and which would be amply supplied by books, could I attend to them, renders my condition almost insupportable. Those with whom I should think proper to associate find it their duty to keep me at a distance, while a few others begin, especially of late, consider it unsafe to hold communication with me. Thus am I obliged either to spend my time in places of riot and intoxication, or commit myself to the dreary walls of a solitary hutt, how or with what accommodation I shall not mention.

Under these melancholy circumstances I hope your Excellency's generosity and unbounded goodness will pardon the liberty I take of begging a favour, which alone can possibly relieve me—leave to pass into Rio de Janeiro under the most solemn engagements never to return to Europe without permission. Far from me to ask a favour that would in the least degree tend to defeat the designs of Government in consigning me to banishment; but I humbly presume the peace and tranquility of His Majesty's dominions will be as secure by my residence in Rio de Janeiro as in New South Wales; and it cannot be supposed I would attempt to return under a full conviction of suffering death for my rashness. I should rather continue to suffer than obtain a benefit that would subject your Excellency to reproach or embarrassment, but I trust the grounds of my request would be an apology for the indulgence to a Government that does not by any means desire the punishment of its subjects, but the happiness of the Empire.

It may be said that on the return of peace some of us may be restored; but under my present circumstances 'tis impossible I could live to see the accomplishment of so desirable an object. But whatever my condition may be, I earnestly pray the God of all mercy to grant your Excellency prosperity and length of days and a happy eternity.

With those sentiments I remain eternally your Excellency's &c.,

JAMES HAROLD.
Dear Sir,

Sydney, 3rd May, 1800.

On my arrival here I lost no time in learning Gov'r Hunter's arrangements, which are to leave the colony in August, before which time it seems the Buffalo, colonial ship, cannot be got ready, as he means to take that ship home. I shall be sorry to see the colony deprived of her; but if I except the Friendship that brought the Irish convicts to this colony, and which sails to-morrow for the Mollucca and Bengal, no other opportunity may offer. The short time I have been here, and the negative state I am in (as Gov'r Hunter does not resign any part of the command until his departure*), does not give me any conclusive ideas respecting the colony.

I have been here three weeks, and have not a place to put my head into, except depriving Coll. Paterson of a part of his quarters. However, I hope to get under some shelter in a day or two. My arrival here and remaining in the command seems to be generally well liked, and anxiously looked for; but I believe this transient satisfaction will soon end with many. Vice, dissipation, and a strange relaxation seems to pervade every class and order of people. One shipload of spirits is not more than half sold. Cellars, from the better sort of people in the colony to the blackest character among the convicts, are full of that fiery poison.

The children are abandoned to misery, prostitution, and every vice of their parents, and, in short, nothing less than a total change in the system of administration must take place immediately I am left to myself. But it must be done by degrees; violent and sudden measures will not do. I will persevere, and trust you will consider when calculating on my success the sets of villains I have to contend with. Discontent will be general when the present course begins to be changed. Where can I look to for support but to myself, for it can hardly be expected that those will promote plans of industry, when the success must prove the infamy of their own conduct. Believe me, sir, my task will be laborious and highly discouraging, as I shall have to begin everything anew, and have to contend with the interested and to root up long-established iniquities.

My circumstances and means did not allow my bringing out a confidential person of any description, and as my conduct and regulations must be directed to getting things into a proper channel, I must count on having for decided enemies those from whom I ought to have support. Do not suppose that I am

* Note 197.
at all intimidated from my task and professions. No, sir; I will
do all that an honest man ought to do. I shall have no private
concerns whatever to warp my intentions or divert my views from
the great object I hope to attain for the public benefit for the five
years you were so good to say should be the term of my residence
here; and however a set of villains may afterwards pistolize me
(as they have done my successor on Norfolk Island), yet I hope
to see you again with the same conscious sense of honour and
integrity as when I last saw you. For the rest, I must trust to
the generosity of that publick whose steward I am.

You will be astonished when I tell you that the prices of the
common necessaries of life are far, very far, beyond my reach.
Mutton, 2/6 a lb., and everything else in proportion. Depend
upon it, sir, it will be more to the advantage of the Crown to send
supplies of salt meat here than to begin purchasing and killing
the private and publick stock, at least for three years. The price
paid by Govt. here is 1s. p. lb. Govt. can land salt pork here for
7½. In the three years arrangements may be made for Govt.
having fresh meat at less than that price. However, I shall write
more particularly about that by the Buffalo.

I am told by those who I think are correct that there are up-
wards of 1,500 people here unnecessarily victualled from the
public store, i.e., who do no kind of labour or work for the public
benefit. This, and much more, I have to rectify. In short, every
disagreeable thing is left for me to do. Coll. Paterson has just
now put a captain of the N.S.W. Corps under arrest, and who
is Gov. Hunter's aid-du-camp,* for selling spirits to a serjeant
of his company, as a part of his subsistence, at 24s. p'r gallon,
the price from the ship being only 10s. p'r gallon. As a Court-
martial is in agitation on this business, I hope an example will
be made where it ought to tell. Respecting Government stock,
which is now very considerable (but a return of which I have not
seen), I hear there will be as much difficulty in getting them
together as to collect the wild ones. I am told they ought to
amount to upwards of 600 heads, which are under no one's
particular charge. A villain, who has been tried for his life, and
who still commits the most nefarious acts, has the charge of a
great number, and makes just what returns he thinks proper.
The Gov.'s aid-du-camp has charge of a greater number, which he
kindly suffers to run on his private farm—and the same person
has an unknown quantity of calves belonging to the Crown, which
he generously allows to run on another farm a great distance
off, and so have also several others. Therefore, you will easily
conceive that we must in some measure trust to the honor of the
partys to give up all that they so kindly take care of. This will

* Note 198.
be my first occupation to withdraw the stock from the hands of individuals, and to place them under the care of one responsible person; and I hope my health will allow me to inspect them very frequently. I might go on with pages in stating what is doing, and what must be done; but as my time here has been so short, and the negative state I am in, will apologize for my not doing what might be expected. I have been appealed to by the officers, civil and military, to take the command; but to that I could not listen on any account. But you will observe that I have taken upon me to mention this subject with some force in my publick letter No. 1* to His Grace, but that in a manner not strictly warrantable, but as I was compelled to do it, to bring Gov'r Hunter to a determination about going, I hope it will be excused.

I hope the Buffalo will be returned to this colony again, and that arrangements will be made with the Admiralty for my having the command of the King's ships here, the same as Gov'r's Phillip and Hunter, which will be absolutely necessary on every account. Respecting this, I will write more fully by that ship, as I do not doubt but you will receive my letter by the Buffalo long before you can receive this. With my most sincere wishes for your health, and that of your family, I am very respectfully, dear sir,

Yours, &c.,

PHILIP GIDLEY KING.

The ship by which I send this not being yet gone, I resume my pen to say that the longer I stay, and the more I hear, tends to bewilder and perplex my future plans. You will be surprized when I inform you that no investigation whatever has taken place by Gov'r Hunter respecting the letter sent by Col. Paterson.† The latter informed you, before he put a captain of the Corps, who is H.'s aid-du-camp, under an arrest. Hunter positively declines granting his warrant to try the offender by a Court-Martial. Government stock is bad—very bad, and much scattered. I must perforce occupy myself about that material concern immediately, as a general scramble for it is taking place.

LIEUTENANT-GOVERNOR KING TO UNDER SECRETARY KING.

(Per transport Friendship, via India.)

Sir,

Sydney, N. S. Wales, 9th May, 1800.

It is necessary to inform you that in consequence of the explanation you required of me by Mr. Moss's letter of Novr. 9th 1799 enclosing three letters from Col. Calvert, Messrs. Cox and Greenwood and Brigr. Genl. Grose; respecting Lieut. Cummings of the New So. Wales Corps, not having given in his

* Note 199.  † Note 200
Resignation*;—I beg to inform you, that three Resignations were given in by Lieut. Cummins (when liberated from his arrest in Febry 1795); Vizt. one to go out on half pay; one to have leave to exchange; and a third unconditional to resign entirely—That Officer with his Family and Servants allowed him, has been maintained at the publick expence since the above period, and exempted from all duty waiting the result of his resignation being accepted.

I have, &c,

PHILIP GIDLEY KING.

THE TRANSPORT COMMISSIONERS TO GOVERNOR HUNTER.

(Per transport Royal Admiral; acknowledged by Acting-Governor King, 10th March, 1801.)

Sir,

In addition to the several papers which we had occasion to transmit to you, in our Letter of the 1st Ultimo, we have now further to enclose to you for your information, an Invoice and Bill of Lading of sundry Stores, shipped in pursuance of directions from the Right Honourable the Lords Commissioners of His Majesty's Treasury on board the Royal Admiral, for the use of the Colony of New South Wales and Consigned to your address.

We have, &c,

R. GEORGE.

AMBROSE SERLE.

JNO. SCHANK.

[Enclosures.]

[Copies of these invoices have not yet been found.]

LIEUTENANT-GOVERNOR KING TO THE SECRETARIES OF THE TREASURY.

(Per H.M.S. Buffalo.)

Gentlemen,

Sydney, 26th June, 1800.

The purchase of Foveaux's cattle.

I have this day drawn a set of Conditional Bills, at ninety days sight, on the Right Honble. the Lords Commissioners of His Majesty's Treasury, in favour of Major Joseph Foveaux of the New South Wales Corps (appointed by me to administer to Government of Norfolk Island, until His Majesty's Pleasure is known) for the sum of £1,147 Sterling; being the amount of his Stock of Horned Cattle, at the rate of thirty seven Pounds Sterling a head; (the last price paid for Cattle imported hither for Government) subject to the Approbation or Rejection of His Majesty's Principal Secretary of State, for the Home Department; to whom, I now transmit my reasons for proposing this expence, as well as by my official Letter to you, and Duplicates of the Vouchers by the Buffalo as I beg the favor of being informed

* Note 201.
as soon as possible, whether this Bill is liquidated, or not; that I may charge myself therewith, or restore the Stock to the Proprietor's Credit agreeable to the Conditions, in which they were received.

I have, &c.,

PHILIP GIDLEY KING.

LIEUTENANT-GOVERNOR KING TO THE SECRETARIES OF THE TREASURY.

26th June, 1800.

[Two similar letters were written notifying the drawing of two series of bills for the purchase of eleven head of cattle each from Governor Hunter and Captain Kent at the price of £87 per head.]

LIEUTENANT-GOVERNOR KING TO THE DUKE OF PORTLAND.

(Despatch marked "Separate A," per H.M.S. Buffalo; acknowledged by the Duke of Portland, 19th June, 1801.)

My Lord, Sydney, New South Wales, 27th June, 1800.

Finding on my arrival here that the Government of Norfolk Island was administ'red by the Captain of the New South Wales Corps during his yearly tour of duty, and being well convinced that an officer so situated could not discharge that trust, either in a manner satisfactory to himself or to the concerns of the internal management of the island, equal to one who might be fixed there for some time; and as Major Joseph Foveaux, of the New South Wales Corps, made an offer of going thither and acting as Lieutenant-Governor thereof, until His Majesty's pleasure may be signified, and assuring me of his attending strictly to my instructions, deeming it essential to the interest of His Majesty's service that he should assume that command as soon as possible, I applied to Governor Hunter, who made an agreement with the commander of the Hunter, an East India trader, to land Major Foveaux, with a certain number of people and stores, at the island, on his way to the East Indies, for which she took her departure this day. I have the honor to enclose copies of the appointment and instructions I gave that officer, which I hope will be returned with your Grace's approbation.

I have, &c.,

PHILIP GIDLEY KING.

[Enclosure No. 1.]

LIEUTENANT-GOVERNOR KING TO MAJOR FOVEAUX (No. 1).

Sir, Sydney, 26th June, 1800.

With this you will receive my appointment to you to act as Lieutenant-Governor at Norfolk Island until His Majesty's
1800.
27 June.

General instructions to Foveaux.

Returns re commissariat and vital statistics.

Capitan Rowley's accounts and vouchers.

Importation of spirits.

pleasure is known, with instructions and its enclosures for your
guidance in administering the Government of that island,
together with His Majesty's letters patent for constituting a
Court of Civil Judicature* therein.

Agreeable to the directions and injunctions I have received, I
cannot too much press on your most serious attention the absolute
necessity of every part of your instructions being observed and
carried into their fullest effect, and that you will not hesitate to
bring forward any description or rank of persons under your
command who may, through self-interest or any other motive, be
induced to disobey or treat His Majesty's commands with neglect.

As soon after landing as possible you are to cause a strict and
carefull survey to be made of all stores, provisions, clothing,
stock, &c., in the Deputy Commissary's charge on the day of your
arrival, and to transmit me a copy thereof by the first conveyance,
together with a copy of the muster you take of the inhabitants, in
which you will specify the emancipated, pardoned, and convicts
whose terms are expired, also the employment of those still under
the sentence of the law, and all others supported at the public
expenсе.

I have also to request that you will direct the enclosed public
notice to be notified to the inhabitants at large, that no one here­
after may plead ignorance thereof; and you will be pleased to
inform the officer who now has charge of that island that it is
necessary he should call in all bills issued by himself or the
Deputy Commissary by his orders, for the public service, during
his command, and to cancel the same, informing him at the same
time, as well as the Deputy Commissary, of that part of your
instructions contained in the latter part of the 6th article, and its
relative enclosures, respecting the forwarding their respective
accounts current, and vouchers, &c., in support thereof, to the
Inspector-General of Public Accounts, in the manner and mode
therein directed; and you are to require from the above officer
and Deputy Commissary a list of all such persons as may be
indebted to the Crown and require payment thereof forthwith, or
as soon as their circumstances will admit.

You will take such measures for insuring an obedience to the
7th article of your instructions as the local situation of the island
may enable you to carry into execution with effect, by forming
such regulations as you may judge proper respecting commanders
of ships being restrained from landing any spirits without your
own permission, obtained in writing.

Ensign Bayly having requested that the two convicts allowed
him for his domestic purposes may be victualled at this place, for

* Note 202.
the purpose of working at his farm here during his tour of duty at Norfolk Island, you are to take notice thereof that he may not receive that indulgence on the island.

I have, &c.,

PHILIP GIDLEY KING.

[Sub-enclosure.]

Appointment of Major Foveaux by Captain Philip Gidley King, Lieutenant-Governor of Norfolk Island, in the Pacific Ocean, appointed by His Majesty to succeed His Excellency Governor Hunter, on his approaching departure, in the Government of His Majesty's Territory of New South Wales and its Dependencies.

WHEREAS it's necessary the Royal instructions to me, signified by His Majesty's Principle Secretary of State for the Home Department, should be carried into execution as soon as possible, and as it is absolutely necessary for the interest of His Majesty's service that the Government of Norfolk Island should be confided to an officer who can be permanently stationed there, you are therefore hereby required and directed to proceed to Norfolk Island, and there take the said island into your care and charge as Acting-Lieutenant-Governor thereof untill His Majesty's pleasure shall be signified. You are therefore carefully and diligently to discharge the duty of Acting Lieutenant-Governor thereof by doing and performing all and all manner of things thereunto belonging; and I do hereby strictly charge and require all His Majesty's officers and soldiers who shall hereafter be on the said island, and all others whom it may concern, to obey you as Acting Lieutenant-Governor thereof; and you are to observe and follow such orders and instructions from time to time as you may receive from me, or from the person administering the Government of His Majesty's territory of New South Wales and the islands adjacent for the time being, or any other your superior officer, according to the rules and discipline of war, as well as all such orders as you may receive under His Majesty's signet and sign manual, or by the Lords Commissioners of His Majesty's Treasury for the time being, or one of His Majesty's Principle Secretaries of State, in pursuance of the trust hereby reposed in you.

Given under my hand, at Sydney, New South Wales, this 26th day of June, 1800, and in the fortieth year of His Majesty's Reign.

PHILIP GIDLEY KING.
INSTRUCTIONS TO MAJOR FOVEAUX, ACTING LIEUTENANT-GOVERNOR AT NORFOLK ISLAND.

INSTRUCTIONS for Major Joseph Foveaux, of the New South Wales Corps, appointed to act as Lieutenant-Governor of His Majesty's settlements in Norfolk Island, in the Pacific Ocean, a dependency on His Majesty's territory of New South Wales.

1st. On your arrival you are to cause your appointment, as well as the patent for constituting a Court of Civil Judicature,* to be publicly read with all due solemnity, and after having informed yourself of the different descriptions of people under your command, you are to pursue the necessary measures for the peace and security of the island, and for the safety and preservation of the stock and public stores, and to fix such regulations as may appear to be best calculated for cultivating the public grounds, and such other objects as are hereafter directed, by distributing the convicts who now are, or may hereafter be, under the sentence of the law, in such manner as to feed, maintain, and cloath the inhabitants, at the least possible expense to the public.

2nd. The tools and utensils that have or may hereafter be provided for the use of the convicts and others who may compose the said settlements, are to be distributed with every proper degree of economy, and you will be careful that the Deputy Commissary transmits to me a regular account of the issues thereof, as well as of all stock, stores, provisions, and clothing, with the remains (as pointed out by the 11th article of these instructions), which will enable me to judge of the propriety and expediency of sending you farther supplies; and returns are to be made by the Deputy Commissary, approved by you, to His Majesty's Principal Secretary of State for the Home Department and the Secretaries of His Majesty's Treasury, of the indispensable wants of the island, when a vessel is leaving it for England without touching at this port. And you are by all such opportunities to inform His Majesty's Principal Secretary of State for the Home Department of your actual situation, and that of the settlements under your command, transmitting to me by the first conveyance copies of the same.

3rd. The increase of the stock depending upon the measures you may adopt for their preservation, you are not to permit any female cattle, sheep, hogs, or asses to be slaughtered or taken from the island unless in case of an officer wanting to take such part of his stock as can be conveniently received on board the ship that brings the relieved detachment to this place, in which

* Note 202.
KING TO PORTLAND.

5th. And in obedience to His Majesty's commands particularly enjoined to me by his Principal Secretary of State for the Home Department, "you are to take especial care that no officer, civil or military, settler, or other person whatever, be allowed to receive provisions or clothing from the public stores for more
than two convicts of any description whatever; and to cause all
of that description beyond that number which you may judge
proper to allot such officer or settlers to be cloathed and fed at the
expense of the individual permitted to employ them; but as the
situation of the Governor does not admit of that restriction, His
Majesty has been graciously pleased to signify (as above) that the
number of convicts which may be absolutely necessary for the
domestic purposes of the Governor of this territory be left to his
own discretion, on which authority you are not to employ a
greater number than is absolutely necessary for the above pur­
poses”; and as you may find it necessary to remunerate the extra
duty of a magistrate, performed by one of the most respectable
persons on the island, in addition to the Judge-Advocate, you are
at liberty to remuneration such services by allotting such a number
of convicts as you may judge proper, and not exceeding five, in
addition to the two allowed as an officer, to the person while act­
ing as a magistrate; and in such cases where you may find it
necessary to employ a free man as an artificer or overseer, you
are to repay their services by directing their families to be
viatualled from the public stores, and to have the labor of such a
number of convicts as you may judge adequate to their respective
services, in regulating which you are to consider the value of each
full ration to the public, and the loss sustained by the convict's
respective labor if employed for the public benefit. And in con­
tinuation of the Royal instructions on this head, “you are strictly
enjoined not to permit or suffer the labor of any convict, or other
person supported by the public, to be diverted to any private pur­
poses or advantage, under pain of an imprest on your personal
pay to the amount of the subsistence of such convicts, and of His
Majesty's highest displeasure; and whereas such persons as are,
or may become, settlers on the said island, and others, may be
desirous of availing themselves of the labor of part of the con­
victs as are, or may be sent there, His Majesty directs that in
case there should be a prospect of their employing any of the said
convicts to advantage, that you assign to each grantee, the ser­
tice of any number of them that you may judge necessary, on
condition of their maintaining, feeding, and cloathing such
convicts in such manner as shall appear satisfactory to you.”

6th. You are herewith furnished with a copy of my instruc­tions
to the Commissary at this place, a copy of which, signed by
you, is to be delivered to the Deputy Commissary at Norfolk
Island; and in recommending a particular attention on your part
to the objects contained therein, I am hopeful much public benefit
will arise therefrom, both to the interest of His Majesty's service
and the welfare of those under your command.
And in obedience to His Majesty's instructions, signified as before mentioned, "you are to attend most seriously to the absolute and imperious necessity for the most rigid economy being observed in every circumstance, that may be lead to, or cause the incurring any expences on behalf of the Crown, except on the most urgent occasions, and which can only arise from the want of provisions or necessary stores, the former of which it is expected will not occur if the convicts are employed in a proper manner for the public benefit; but when the ground cultivated for the public account do not yield a sufficiency of grain and animal food for the support of those necessarily maintained by the Crown, you are to fix the price at which such articles may be received into His Majesty's stores during the current year, in doing which you are to be guided by its scarcity or plenty, and the relative worth and price among the inhabitants." In all which transactions you are to observe His Majesty's Regulations on the object of this article, which accompanies these instructions, and conforming herein to the Commissary's instructions.

And in continuation of the Royal command on this head, "you are to be careful that the Deputy Commissary does not issue any article of provisions or stores to any individual whatever, except for the public use and advantage, unless you should judge proper to allow of any person under your command being supplied with any articles in the public stores for their domestic wants," in which case payment is to be made as pointed out by the Commissary's instructions under this head. And it being the intention of His Majesty's Ministers that this colony shall be supplied with articles of general use for public sale, to such of the inhabitants as you may judge deserving thereof, and for regulating the sale thereof, you are hereby furnished with separate instructions how such articles are to be disposed of, as well as all such as are now in charge of the Deputy Commissary, who you are to direct to receive payment thereof, in such articles of grain or animal food as the stores may need, or in money, which you are to apply to the above purpose, yourself and the Deputy Commissary accounting for the same with the Lord's Commissioners of His Majesty's Treasury, and His Majesty's Principal Secretary of State for the Home Department.

And as an attentive execution of these instructions during one year will enable you to form an opinion of what the contingent expences of the settlement you command may probably amount to for the next year, you are to transmit me an estimate of the probable expence, under distinct and separate heads; to enable me to report the same to His Majesty's Principal Secretary of State, in doing which you are strictly to comply with the pre-
ceeding part of this instruction, in addition to which you are herewith furnished with a printed abstract of an Act of Parliament respecting public accountants, which are to comply with, and to take especial care that your annual account current with the Right Hon'ble the Lord's Commissioners of His Majesty's Treasury, also that of the Deputy Commissary, with the necessary vouchers and papers in support thereof, and properly attested before the principal magistrate on the Island, be forwarded to me and open for my inspection and auditing, previous to my transmitting the same, with the public accounts of this colony, to the Inspector General of Public Accounts under cover to His Majesty's Principal Secretary of State, as soon after the 10th day of each October as an opportunity may offer, to which time all the annual public accounts of this colony are in future to be made up.

7th. And whereas it has been humbly represented to His Majesty "that the greatest evils have arisen from the unrestrained importation of spirituous liquors into this territory, as well as at Norfolk Island, from vessels touching there; and that several officers have entered into the most unwarrantable traffic with settlers and convicts for the sale thereof, whereby they have been induced to barter away their breeding stock, as well as mortgaging their growing crops, for the said spirits, to their particular detriment, and consequent misery of their families, as well as the injury occasioned thereby to His Majesty's service, and to the public interest at large in these colonies," you are therefore strictly commanded to order and direct that no spirits be landed from any vessel coming to Port Jackson or Norfolk Island without your consent, for the specific quantity to be landed being previously obtained for that purpose by a written permit; and in case you should judge it necessary to allow of that indulgence to the officers and deserving settlers, for their domestic purposes alone, you are to take care that this indulgence be so regulated by you as to preclude the possibility of its becoming an object of traffic, which orders you are to communicate to all captains and masters of ships immediately after their arrival, and to prohibit by the most effectual means any officer from disgracing His Majesty's service in future, by entering into the traffic, whereby that respect due His Majesty's Commission may be called into question, and you, as well as all officers in His Majesty's service under your command, are to take the most effectual measures that this Article of the Royal Instructions be strictly complied with, under pain of His Majesty's highest displeasure." And I have it further in command to signify that ten pipes of port wine will be sent out annually for the use of the officers, civil and military, to
be divided among them as the Governor may judge proper, at such an advance on the prime cost as will cover freight and the stage, a proportion of which will be sent you as soon after it is received as an opportunity may offer.

8th. Being directed by His Majesty’s Principal Secretary of State for the Home Department, that from the size and fertility of Norfolk Island, the utmost circumspection should be observed in allotting the lands to individuals, and that the quantity of ground so to be allotted should not exceed the following proportion, viz.:—To every male, 15 acres; if married, 5 acres in addition; for every child at the time of settling, 3 acres in addition. You are to be careful, in making these allotments, that this mark of His Majesty’s bounty is not bestowed on undeserving objects, but on such as are likely, from their characters and former conduct, to be industrious; and it having been humbly represented to His Majesty that this mark of his Royal favor has been bestowed on the most undeserving persons, whose only view has been to create a sufficient property to take them out of the colony, or to sell and barter it away immediately, to prevent which you are, as far as your knowledge of the applicant’s character will allow of, to inform me whether they are deserving of grants or leases for fourteen or seven years, when the respective instruments will be forwarded by the first conveyance after I receive the description and boundary thereof, on the conditions hereunto annexed; and in making out these allotments you are not to apply for a grant of any lot now held by lease, all such grounds being registered in the office of the Committee of Privy Council for all Affairs of Trade and Plantations, as reservations for the Crown.* And you are to be careful that in all future grants you apply for that regard be had to the profitable and unprofitable acres, that each grantee may have his proportion of each; and likewise that the breadth of each tract to be hereafter granted be one-third of the length of such tract, and that it does not extend along the banks of any rivulet or stream of fresh water, but into the land; that thereby each grantee may have a convenient share of what accommodation the said streams of fresh water may afford. And you are to cause a reservation of an equal quantity of land between every allotment to be granted for the benefit of His Majesty, his heirs and successors, which spaces so reserved are not to be granted away; but you are at liberty to recommend the same for a lease of any term not exceeding fourteen years, and on such terms and conditions as you shall judge advantageous to His Majesty’s service, subject to such orders as may be given to you on that behalf under His Majesty’s sign manual, or by one of the Principal Secretaries of State.

* Note 203
9th. You are also to retain the present reservations for the following purposes, as well as all others you may judge necessary in future, viz.:—For erecting fortifications and barracks, or for other military or naval purposes, a town hall, and such other public edifices as you may judge proper, and also for the growth of naval timber; and you are to cause a particular spot in or as near the town of Sydney as possible, to be set apart for building a church on; and in the plan of the settlements on Norfolk Island you will observe two allotments of ground numbered ——, adjoining to Sydney, which you are to consider as ground belonging to the clergyman, with the reservation of limestone being got from thence for public use; but as that quantity of ground falls far short of the quantity pointed out by the King’s instructions on that behalf, you are to direct one hundred acres in addition to be marked out for the above purpose when a clergyman arrives to do the duty of the Island, and in the mean time you are to appropriate the allotments as you may judge proper.

You are by all proper methods to enforce a due observance of religion and good order among the inhabitants and others under your command, and that you also take such steps for the celebration of public worship as circumstances will admit of.

10th. And whereas the terms on which the settlers on Norfolk Island, as well as all those who hold allotments by lease, specify the payment of a quit rent, you are, as soon after your arrival as possible on the Island, to direct all such quit rents to be collected up to the time of your arrival on the Island, and appropriate the same to His Majesty’s use by directing it to be appropriated for the maintenance of the Orphan School already established by me, and such other schools as you may judge necessary to establish, to which fund you are also to cause all fines and mulcts to be applied, unless where the law directs an informer to have a part thereof, in which case it must be left to the informer’s choice to receive the proportion or to leave it for the above charitable purpose; and I cannot too much recommend to your most serious attention a regard being had to the education and protection of the youth within your command, by causing some public building to be appropriated or erected for their maintenance, education, and being instructed in handicraft professions, under such regulations as you may think proper to obtain so desirable a purpose, and on which the future welfare of these colonies so much depends.

11th. And whereas it is His Majesty’s gracious intention that every sort of intercourse between this territory and its dependencies and the settlements of the East India Company, as well as the coasts of China and the islands, settlements in that part of
the world, should be prevented, you are not to build, or cause to be built, for the use of private individuals, any decked or open boat or vessel whose length of keel shall exceed twenty feet, nor is any vessel arriving from the above ports to have any intercourse with any of the inhabitants within your government without your especial permission for that purpose previously obtained.

12th. You are to omit no opportunity of informing me of your particular situation, and that of the Island under your command, together with the papers mentioned in the enclosure; and whenever an opportunity offers of a vessel leaving the Island to go to England or India, you are to give all such information to His Majesty's Principal Secretary of State for the Home Department, transmitting me copies of the same by the first conveyance.

Given under my hand at Sydney, this twenty-sixth day of June, 1800, in the fortieth year of His Majesty's reign.

PHILIP GIDLEY KING.

[Enclosure No. 3.]

REGULATIONS FOR GOVERNMENT STORE AT NORFOLK ISLAND.

Separate instructions for establishing, and regulations for conducting, a selling store for various articles necessary for the use of the inhabitants of His Majesty's colony in New South Wales and its dependancies.

1. That no inconvenience or disappointments may arise for want of these supplies, two returns or lists must be made out, and sent yearly, by the Deputy Commissary, and approved by you, to me, or to His Majesty's Principal Secretary of State for the Home Department, one of which lists must be for articles wanted for the use of the Crown, and the other of necessary articles wanted for the inhabitants; to be disposed of to individuals in return of grain, live stock, or for money; and the utmost attention must be paid, that no more of any species be demanded than may be wanted by the Crown, or inhabitants, in the course of the year.

2. The articles sent out, will be consigned to you, to be given in charge to the Deputy Commissary, who is to lodge these articles in a store, entirely separate from any other, and placed under the management of the storekeeper.

3. An invoice of the prime cost will be sent you, and if the articles should arrive in a general good condition, the advance must not exceed 30 per cent. on perishable, and 15 per cent. on unperishable articles; but if a great part be damaged, such further advance must be laid by you to indemnify the Crown for goods damaged, exclusive of freight advance, which is for freight,
expenses, and losses by issuing in small quantities; and as soon as convenient after the arrival of such goods, publick notice must be given of the price at which these articles will be disposed of.

4. The store for the exchange and sale of these articles must not be opened but at the stated periods, previous to which the Deputy Commissary must deliver you a list of articles wanted, for whom, and the proposed mode of payment, and receive your directions, which he is strictly to comply with.

5. The Deputy Commissary must deliver you a return of the articles disposed of, and for what consideration, after an issue is made; also an annual account thereof, conformable to the seventh article of your instructions to the Deputy Commissary. In these annual accounts the persons supplied are to sign their names as vouchers for the expenditure.

6. No article must be delivered unless the purchaser has lodged an equivalent in the publick store, or made payment in money (excepting in such cases where you may judge necessary to grant that indulgence to any family that may be distressed until their crops are ripe, or stock is in a marketable state).

7. Officers (civil and military) and soldiers may be supplied with such articles as they may want for their personal use only, on making payment as above, or by bills on the Colonial regimental agents; but especial care must be taken not to issue to any individual such a quantity of any article as will allow of its being retailed again; and you are to issue a standing ordinance, disabling any individual offending in this particular from purchasing any article in future from the publick store. And it is fully to be understood by every officer or other person subject to military discipline, they are to declare that the articles required are for their personal and domestick uses only, and without any intention of disposing of the same.

8. If any person should abuse this indulgence in procuring by means of agents, or in any other the most indirect manner, any greater quantity of those articles than comes to the share of an individual or family, for the purpose of retailing it out again, every person so offending must be deprived of every future supply and otherwise dealt with as the offence may deserve, and the local state of the colony may require.

9. As circumstances may occur wherein it may be necessary to use articles sent out for sale for the publick service of the colony, in such cases the Commissary must not make that deviation without a written order from you for that purpose.

Given under my hand, at Sydney, New South Wales, this 26th day of June, 1800.

PHILIP GIDLEY KING.
CONDITIONS OF LAND GRANTS.

26th June, 1800.

Conditions on which grants in future are to be allotted to any convicts who, from their good conduct and a disposition to industry, may be deserving thereof, viz.:

To every male shall be granted 15 acres—if married, 5 in addition; and for every child at the time of settling 3 acres—free of all fees, taxes, quit rents, or other acknowledgements whatsoever, for the space of ten years: Provided that the person to whom such land shall have been granted, shall reside within the space, and proceed to cultivation and improvement thereof, during the term of five years from the date of the grant, provided the grantee shall so long live; and any sale or conveyance of the said lands before the expiration of the said term of five years shall be void, and the said land shall revert to His Majesty, his heirs and successors, except it shall be certified under the hand and seal of the Governor, or in his absence the Lieutenant-Governor of His Majesty's colony of New South Wales for the time being, that the same was made with his consent. This restriction must include all leases made to emancipated convicts, or to those whose terms of transportation are expired, which must not be assignable except with the consent in writing of the Governor, or Lieutenant-Governor, for the time being—a reservation to be made for the Crown of such timber as may be growing, or to grow hereafter, upon the land so granted, which may be fit for naval purposes, and an annual quit rent of sixpence for every thirty acres after the expiration of the term before mentioned. The grantee and his family are to be subsisted with the rations usually issued from the stores for the term of eighteen months from the time of his taking possession of the ground, and no longer; nor is any convict who the Lieutenant-Governor may think necessary to allow such settler to be victualed from the stores longer than eighteen months; such settlers to be provided with an assortment of tools and utensils, and such a proportion of seed, grain, and stock, &c., as may be proper and can be spared from the general stock of the settlement; and should the grantees be desirous of availing themselves of the labour of part of the convicts as are, or may be, sent there, if there should be a prospect of their employing any of the said convicts to advantage, the Lieutenant-Governor is to assign to each grantee the service of any number of them that he may judge sufficient to
answer their purposes, on condition of their maintaining, feeding, and cloathing such convicts in such manner as may appear satisfactory to him.

Given under my hand, at Sydney, in New South Wales, this 26th day of June, 1800. PHILIP GIDLEY KING.

[Enclosure No. 5.]

[A copy of the list of papers to be sent to the Governor-in-Chief has not yet been found.]

[Enclosure No. 6.]

LIEUTENANT-GOVERNOR KING TO MAJOR FOVEAUX (No. 2).

Sir, Sydney, 26th June, 1800.

Since closing my letter No. 1 to you, Governor Hunter has communicated such recent information as he has received from the officer now commanding on Norfolk Island, by which communication I observe, with great pleasure, that the raising and supply of fresh meat issued to the inhabitants, in lieu of salt provisions sent from England, has continued uninterrupted since my departure from thence, exclusive of the very great quantities of salted pork brought hither for sale by individuals; and as it appears the salt provisions in the stores are spoiling from the length of time they have been kept, if any should remain on your arrival, you will be pleased to direct the Deputy-Commissary to send it to the Commissary at this place by return of the Francis or Porpoise, when either are sent to you. When the Porpoise arrives you will receive a proportion of the agricultural stores, &c., that is on board that ship, and you will not fail to observe that the conduct of Capt'n Rowley in destroying the stills which has occasioned much illhealth among the inhabitants, caused by the poison they furnished, merits my warmest approbation; and I hope, if the indirect threat that has been made by Hambley and Ransom can be substantiated, that they will be punished to the full extent of the law. As Captain Rowley complains of illhealth, that officer is to be permitted to return to this place, if an opportunity should offer, before the relief takes place, which will be as soon after the Porpoise's arrival as she can be refitted.

Returns to be among the few returns that Governor Hunter has received from Norfolk Island, I am called on by my duty to remark that no general return of the state of the settlement, employment of the people, or other necessary papers, appears to have been sent here since Capt'n Townson's departure; nor can I doubt that officer's leaving his successor my directions and the list of papers similar to that which accompanies my present instructions to you, in which it would have been discovered that those documents were calculated to possess the Governor-in-Chief of the actual
P. G. KING TO J. KING.

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state of that settlement, for want of which I am at a loss how to account for the numbers now on that island, their employment, &c. You will therefore request Capt'n Rowley to furnish himself with all these necessary documents, to deliver to me on his arrival here, made up to the day before he gives up the command to you, which must not prevent you from sending your's, also made up to the time that any opportunity offers of communicating with me.

Among the returns made by Capt'n Townson to Governor Hunter, I observe a number of artificers, labourers, &c., have been employed for public works at ten, five, and three shillings a day, which sum appears to have been paid by the Deputy Commissary, and approved of by Capt'n Townson, the necessity of which I cannot account for, as I observe by Capt'n Townson's last return of the state of the settlement that there were sixty-eight free men, or those whose times are expired, and ninety male convicts, making together one hundred and fifty-eight men, victualled by Government; but what part of that number has been employed for the public benefit I cannot judge, for want of the necessary return of the employment of those victualled from the stores, &c. This transaction I am certain will be highly disapproved of by His Majesty's Government; and, as I have already guarded you against employing free men when convicts can be found to do the labour, by the 5th article of your instructions, I shall only add on this head that a quantity of spirits and wine are sent by the Commissary, which is to be at your disposal, in payment for such free people as you may judge necessary to employ, distributing it with the utmost economy and discretion. I have directed the Commissary here to inform the Deputy Commissary the price at which spirits have been paid away from the stores here to people of this description.

I have, &c.,

PHILIP GIDLEY KING.

[Sub-enclosure.]

[A copy of the instructions to the Deputy Commissary at Norfolk Island has not yet been found.]

LIEUTENANT-GOVERNOR KING TO UNDER SECRETARY KING.

(Per Indian bark Hunter.)

Sir, Sydney, New South Wales, 27th June, 1800.*

I wrote officially by the Friendship, which sailed from hence May last. Those letters you will receive before you can this. I have now been here eleven weeks. The Buffalo is still and will in all appearance remain some weeks longer in fitting.

* Note 204.
so that I do not expect to have the government given up to me before September; and as the Buffalo will certainly sail during this month, I think it is more than probable that you will get my official letters by that ship much sooner than you can by this conveyance. My only reason for writing this is just to say that I am here enduring the cold indifference of one, and the approaching hatred of all; but neither of these shall deter me from doing what I assume to be my duty, in which I shall need much support at Home, for here I can expect little or none.

I am, &c,

PHILIP GIDLEY KING.

LIEUTENANT-GOVERNOR KING TO SECRETARIES OF THE TREASURY.

(Despatch No. 1, per H.M.S. Buffalo.)

Sydney, New South Wales,
7th July, 1800.

Gentlemen,

Governor Hunter having received His Majesty's commands to return to England, and to leave the government of this territory with me, Captain Kent, commander of His Majesty's ship Buffalo, in which ship the Governor takes his passage, and Major Joseph Foveaux, of the New South Wales Corps (whom I have appointed to act as Lieut.-Governor of Norfolk Island until His Majesty's pleasure is signified thereon), having applied to me to purchase their private stocks of cattle for Government prior to their departure, I consented to direct them to be received and taken care of among Government herds on the enclosed conditions, to which they severally consented, and payment has been made by conditional bills on their Lordships, subject to approbation or rejection, as expressed in the bills and letters of advice, and I have to request you will be pleased to offer these my respectful reasons for this transaction, which are:—

1st. To prevent the colony being deprived of such a proportion of breeding stock, as those gentlemen would have been obliged to kill them for sale, by which they would have got upwards of £80 a head, whereas Government receives them at £37, the price their Lordships agreed to pay the last importer, Mr. Hogan.*

2nd. The necessity there appears of drawing some subsistence from the Government stock of cattle for those necessarily maintained by the Crown, as the great and valuable stock that Government now possesses (exclusive of that part that are wild) as appears by the enclosed return, induces me to hope we shall soon

* Note 205.
commence issuing a proportion of fresh beef, although that must be done with much circumspection for some years to come, a great part of the males being necessary for labouring oxen.

3rd. The great advantage gained by purchasing these cattle on the spot to sending for them to the Cape, as those brought from thence have always been in bad condition exclusive of the numbers lost after they have been landed by dying in such quantity as they have done after the voyage.

From the number of cattle we now possess, I do not think it advisable to send for any more from the Cape of Good Hope, but to attend to breeding from the great stock we now possess, which I have more particularly explained to His Majesty's Principal Secretary of State, but have at the same time requested a breed of large cattle and horses from England.

Finding the greater part of the children in this colony so much abandoned to every kind of wretchedness and vice, I perceived the absolute necessity of something being attempted to withdraw them from the vicious examples of their abandoned parents.

The necessary buildings for the preservation of the grain requiring an immediate exertion, no artificers can be spared from that necessary work. I have it in contemplation to raise such a fund from the entries and clearances of ships, and a duty on landing articles for sale, together with the application of all fines and charitable donations, to erect a large building for the reception and education of those children; but as these means required a length of time to bring it to a beginning, I reluctantly deferred it until some more favourable opportunity. Captain Kent, of His Majesty's ship Buffalo, having lately built a spacious brick dwelling-house* and offices on a grant of land at this place, has made an offer of it for the above purpose, at a proper valuation. As I conceived the possession of this house for this humane and necessary purpose might excuse any impropriety in my making a conditional agreement with Captain Kent for his expense in building it and property therein, I have therefore taken it upon me to give a conditional bill for the estimated value thereof, provided the utility of the purchase should be approved of by their Lordships and His Majesty's Principal Secretary of State.

My motives for proposing these conditional expenses I trust will be thought an admissible reason for these transactions, without a previous authority for that purpose.

I have the honor to enclose vouchers for those expenses, and beg leave to request being informed as soon as possible whether

* Note 206.