DARLING TO MURRAY.


(A No. 28/702.)

Sir,

Colonial Secretary’s Office, 16 December, 1828.

I have the honor to inform you that His Excellency the Governor, having had under consideration the report of the Commissioners for apportioning the territory on the first paragraph of the instructions contained in the Right Honorable the Secretary of State’s despatch, dated the 26th August, 1826, No. 61, relative to the disposal of land near the Coast or navigable rivers, has been pleased to order that no land fit for Cultivation or Agriculture is to be granted or sold for the purpose of grazing, which is situated within four miles of the Coast or the Banks of the rivers navigable for boats or vessels of larger dimensions; and I have to request therefore that you will be pleased to inform yourself particularly, when reporting on applications for land coming within the meaning of these instructions.

I have, &c.,

ALEXR. MCLEAY.

[22] Colonial Secretary Macleay to Surveyor-General Mitchell.

(No. 30/1165.)

Sir,

Colonial Secretary’s Office, 5th October, 1830.

With reference to my letter of the 16th December, 1828, No. 28/702, fixing four miles from the Sea Coast and navigable rivers as the distance at which purchases of Lands, which are fit for cultivation or agricultural purposes should be allowed, I have now the honor to inform you, by the direction of His Excellency the Governor, that, having submitted the subject to the Executive Council, it has been decided that approved applicants are to be permitted to become purchasers of land on the sea coast, and on the banks of navigable rivers, to the same extent as grants are made in those situations.

I have, &c.,

ALEX. MCLEAY.

[Enclosure No. 4.]

SURVEYOR-GENERAL MITCHELL TO SIR GEORGE MURRAY.

Sir,

Sydney, New South Wales, 7th February, 1831.

Having had the honor to address a communication to you, on the 15th December last, respecting the affairs of the Roads and Bridges, I now beg leave to submit, for your further information on the subject of that letter, the copy of a Government Order* and of some correspondence which has taken place since, and to subjoin, in order that these documents may be the more readily understood, the following statement:—

About the commencement of the year which has just passed, I was called on by The Governor to make an arrangement for carrying on the duties of the Road Department, then abolished by Your orders, and His Excellency then made some observations to me by which he seemed to dissent from “Sir George Murray’s opinion that an officer with a salary of £200 a year could perform that duty as well as one with £600 a year.”

* Note 72.
As I understood from The Governor that Assistant Surveyor Nicholson was intended by you to succeed Major Lockyer, I placed him in the office which had been occupied by that officer, and made such other arrangements as† seemed to me best calculated to combine the service of the Surveying Department with the construction of the roads and Bridges, according to Your arrangement, which seemed to give much satisfaction to all except the individuals, the expense of whose services were thereby saved to the public. It was my wish to convince The Governor of the advantage of Your arrangement, to show that things might even be much better conducted than they had hitherto been. Mr. Nicholson was rather better off than other Assistant Surveyors, having a house and therefore more comfortably situated than Officers employed in the field who have no fixed residence; he was consequently quite satisfied, respectful and obedient; while by enabling him to communicate, in my name, with officers of higher rank or longer standing‡ in the Department, it was in my power to employ in this branch of service any officer I thought proper; any officer who, from knowledge of the localities by previous survey of any particular district, was best qualified for such a charge. Of these arrangements, The Governor approved, but, almost before they could subside into system, I had to encounter difficulties, which, as I have submitted, could only have arisen from a want of cordial support on the part of the Government, until my whole arrangement was at length interfered with in such a manner as to compel me to address my letter dated 15th December to You. I consider it unnecessary to advert to those difficulties, more particularly here, as the copy of certain Official Correspondence, I then had the honor to submit, will be, I trust, sufficiently explanatory; I conceive that it only remains for me now to state the effects of the interference of which I complain to the present time.

Assistant Surveyor Nicholson was instructed by the Government, in a letter dated the 10th December, to state where he proposed that the Assistant Surveyors should be stationed, and a letter was subsequently addressed to me, ordering me to station these officers of my Department as suggested by§ "the Surveyor

* Marginal note by Governor Darling.—I never could have given him to understand any such thing.
† Marginal note by Governor Darling.—Letter dated Jan. 2, 1830, No. 30/7 transmitted in former communication.
‡ Marginal note by Governor Darling.—Mr. Finch, for example! The terms which his acquiescence was obtained will be seen by my Despatch transmitting this.
§ Marginal note by Governor Darling.—I will not permit myself to designate such palpable perversions of truth. It will be seen on reference to the letter, that he was not called on to station these officers, Messrs. Lambie and Dulhunty being re-appointed to the Road Dept. He was merely apprized that Messrs. Finch and Elliott were no longer required and were at his disposal for the general survey.
DARLING TO MURRAY.

of Roads" (as Mr. Nicholson has been styled), in other words, to alter the disposition I had made of my assistants for one suggested by a very junior Assistant Surveyor, whose qualifications as such an authority after all, beyond a knowledge of bridge-making, I have still to discover; although he is of my own nomination, and although he may do as well as any of his predecessors in that office who had three times as much salary, notwithstanding the contrary opinion of the Governor, so singularly inconsistent with the late order.

The Governor having been prevailed on, as soon as I had been deprived of the authority over the parties employed on the roads I had marked out, to give an additional number of men for the construction of my new road by Mount Victoria, sent for Assistant Surveyor Nicholson, and directed him to place these men on the new line; when, notwithstanding that this officer had been informed that he should receive instructions only from the Secretary, it was found necessary for him to apply to me; I sent him instructions, and I requested the continuance of a weekly return of the position of the Gangs, such as is sent to the Deputy Commissary General, and the Colonial Secretary, and, as had been till lately, also sent to me. The first act of direct disobedience on the part of this Assistant Surveyor has occurred respecting this return, and you will perceive by the accompanying letters to which I beg leave to refer, that he has been encouraged in this disobedience towards the head of his Department by the local Government. The object I had in requiring a copy of the Return was twofold; first, I had, on Mr. Nicholson’s application, given him instructions as to the placing of the gangs on the new line, and I wished to know how these were understood or carried into effect, and, I beg to submit that, had we been only on an equal footing, it would have been but reasonable, when I afforded the information required of me, that my request of information on the same subject should have been complied with in return: Secondly, It has hitherto been necessary for me, as head of the Department, to sign at the usual period for payment of salaries a

* Marginal note by Governor Darling.—It cannot be necessary for me to point out the extremely disrespectful and impertinent tone of these observations.

† Marginal note by Governor Darling.—Some then were added in consequence of the suggestions of Major Mitchell, the "two cargoes" which he applied for were not sent as he requested to "my new road."

‡ Marginal note by Governor Darling.—Because Major Mitchell continued to interfere with Mr. Nicholson, tho’ the Road Dept. was no longer under his direction.

§ Marginal note by Governor Darling.—For what purpose?

¶ Marginal note by Governor Darling.—It became absolutely necessary to put a stop to Major Mitchell’s interference by every possible means.

†† Marginal note by Governor Darling.—I understood the Governor said to Mr. Nicholson that I had no more to do with him than with his orderly, even before the publication of any Govt. Order relieving him from my authority.—T.L.M.
1881.
23 March.

Power for appointment of overseers.

Alleged effects of interference.

The effects of the interference on the part of the local Government in such matters are not more painful and discouraging to me than they are prejudicial to the Public Service. It is now upwards of six Weeks since Mr. Nicholson was informed that he was to have the entire control of the officers employed on the Roads. Among these are some officers of much standing and experience, Mr. Finch, who holds the higher Grade of Surveyor, being one; no instructions have been given to these officers on the subject. By the repeated changing of officers the operations on the roads are nearly at a stand.† At Mount Victoria where there are hands enough, if properly exerted to accomplish some public work worthy even of a Greek or Roman Colony, the operations have been a considerable time at a stand for want of gunpowder‡ and material for removing rocks. On the North road, the person who is to succeed Mr. Finch is not acquainted with the country nor what is to be done on the roads I laid out there, whereas I had instructed Mr. Finch on the spot, this officer having also previously surveyed that country. I am therefore under the necessity§ of proceeding to that part, in order to repeat to Mr. Finch’s successor (Mr. Dulhunty) the instructions I had already given to Mr. Finch.

In conclusion, I beg to refer to my letter No. 31/19 dated 20th January and to submit without further observation the Secretary’s answer to it dated 7th instant No. 31/122.

I have, &c.,
T. L. MITCHELL, Surv. Genl.

* Marginal note by Governor Darling.—This shews his object and feelings, and the necessity I have been under of keeping him in his place, as well as the difficulty of doing so. Nothing can show his arrogance and presumption more clearly. His “high and independent office” no doubt renders him, in his conception, independent of the control of the Govt. and gives him control over a Dept. no longer under his Orders.

† Marginal note by Governor Darling.—These changes have been made in consequence of the appointments notified from Home. He knows this. I shall not reply to his remarks on a department with which he has nothing to do, though I was not insensible of these impertinences. He appears sensible of the inconvenience which Mr. Finch will be put to in being removed from New Farm, where he has rendered him so comfortable.

‡ Marginal note by Governor Darling.—These being no scarcity of these articles in Sydney.

§ Marginal note by Governor Darling.—Not at all necessary, nor is it, I believe, consistent with truth.
DARLING TO MURRAY.

[Sub-enclosure.]

Copies of Correspondence referred to in a Letter addressed to the Right Honble. the Secretary of State, dated 7th February, 1831.

[AI] Colonial Secretary Macleay to Mr. J. Nicholson.
(A No. 30/5.)

Sir, Colonial Secretary's Office, 10th Dec, 1830.

I have the honor by the direction of His Excellency The Governor to inform you that, as it is of importance that the attention of the Surveyor General should not be diverted from the duties of his office by directing the details of the Road Department, this branch is, from the 1st instant, to be carried on as a distinct department under your direction. The Surveyor General will only be required to trace or lay down such Roads as the Government may deem it necessary to establish, the making and retaining of the roads generally, the conduct of the parties employed and all other matters connected therewith being left to the officer in charge of the Road Department.

The Assistant Surveyors to be at present attached to the Road Department are as follows, viz.:

Assistant Surveyor Elliot; Assistant Surveyor Edwards; Assistant Surveyor Kentish; Assistant Surveyor Rusden; Assistant Surveyor Simpson.

The usual reports are to be transmitted by the Officer in Charge of the Department direct to the Colonial Secretary, with whom he will communicate whenever instructions are required, and the Assistant Surveyors employed on the several roads will report to and communicate with him.

I am accordingly directed to request that you will report where you would propose to station the several Assistant Surveyors, keeping in mind that Mr. Surveyor Finch remains in the Department till the arrival of Mr. Rusden.

ALEXR. MCLEAY.

[AI2] Surveyor-General Mitchell to Colonial Secretary Macleay.
(No. 30/545.)

Sir, Surveyor General's Office, 31st December, 1830.

I have to acknowledge the receipt of your letter, dated 27th inst., No. 30/1489, in which you inform me, by direction of His Excellency the Governor, that, in order to provide more effectually for the duties of the Road Department, the Secretary of State has been pleased, by a despatch dated the 13th July, 1830, to augment the number of Assistant Surveyors in my department to Twenty, and that Messrs. Percy Simpson, Lambie and Dulhunty have been confirmed as Assistant Surveyors; That the arrangement communicated in your letter of the 4th inst. No. 30/1408 respecting the Assistant Surveyors attached to the Road Department is cancelled in consequence of the above appointments, and mentioning the names of the Assistant Surveyors who are to be employed in that Department and the station of each; further that Assistant Surveyor Nicholson being in charge of the Road Department is
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1831.
28 March.

Instructions required for L. V. Dulhunty.

Approval of stations for assistant surveyors.

Order re duties in road department.

Request by T. L. Mitchell for definition of his control.

to be styled "Surveyor of Roads" and informing me that Mr. Dulhunty has been requested to attend me and Mr. Nicholson to receive his instructions.

In answer to this letter I beg leave to ask on what subject it is intended that I should give instructions to Mr. Dulhunty? Mr. Nicholson was instructed in a letter from you to state where he proposed to station the Assistant Surveyors; now as these officers, the Assistants in my department, had been then stationed by me on the roads which have been surveyed and marked by me, facts I presume not unknown to His Excellency, I trust I may be excused in expressing a desire to know on what subject I am now required to give Mr. Dulhunty instructions, whether they are to be according to the new arrangements of Mr. Nicholson or my own.

I have, &c,
T. L. MITCHELL, Sr. Gl.

(No. 31/8.)

Sir,
Colonial Secretary's Office, 3rd Janly., 1831.

I have the honor, by the direction of His Excellency The Governor, to inform you that, in pursuance of the recommendation of the Surveyor of Roads, His Excellency has been pleased to approve of Assistant Surveyors Lambie and Dulhunty immediately relieving Messrs. Finch and Elliott at their stations at Mount Victoria and on the Woloombi respectively, instead of awaiting the arrival of Assistant Surveyor Rusden as ordered by my letter of the 27th ultimo, No. 30/1498.

I have, &c,
ALEXR. MCMLEAY.

(Immediate No. 31/19.)

Sir,

Adverting to a "Government order"* which appears in this day's gazette respecting the duties of the "Road Department," in which it is ordered that "the services of the Surveyor General in this branch will be confined to laying down the lines of road" and that "the making and repairing of the roads, and the details connected therewith will be carried on by Mr. Nicholson," five other Assistant Surveyors being also named in that Order as attached to the "Road Department."

I have now the honor to request, as I never condescended hitherto "to make or repair the roads," that you will be so good as inform me whether it is intended that my authority as head of the Department is to be also "confined," for I beg to submit that my services as Surveyor General consist in exercising a proper authority over the Assistant Surveyors, and I am now compelled to ask whether it is the intention of the local Government to support this authority or to render these officers independent of any instructions I may think it my duty to give them; and I am sorry to have occasion to observe that in other respects the order makes alterations in mere matters of form, tending only to degrade my office and weaken my authority over the Assistant Surveyors.

I have, &c,
T. L. MITCHELL, Sr. Gl.

* Note 72.
[B 3] Colonial Secretary Macleay to Surveyor-General Mitchell. 
(No. 31/122.)

Sir, Colonial Secretary's Office, 7th Feb., 1831.
With reference to my letter of the 22nd ultimo, No. 31/74, informing you that, in the absence of the Governor, it was not in my power to reply to the enquiries contained in yours of the 20th, No. 31/19, advertsing to the Government Order of the 19th of last month, No. 4, relative to the duties of the Road Department.

I have now the honor by the direction of His Excellency The Governor to refer you to my communication of the 4th December, No. 30/1408, which with the Government Order in question contain every necessary information. You will of course understand that you are not to interfere in the details of the Road Department or with the Assistant Surveyors, who have been attached to it, and who were in fact appointed for the purpose, as it would be inconsistent with the arrangement which the Government has thought fit to adopt.

I have, &c.,
ALEX. MCLEAY.

[Enclosure No. 5.]

PROCEEDINGS of the Executive Council in the case of the Surveyor General, 28th February to 15th March, 1831.

Extract from Minute No. 7, dated 28th February, 1831.

Present:—His Excellency the Governor; The Venerable the Archdeacon; The Hon. the Colonial Secretary; The Hon. Colonel Lindsay.

His Excellency the Governor laid before the Council sundry documents having reference to the conduct of the Surveyor General in the performance of his official duties, and to the tone and spirit of his communications with the Government, such part of which only as was considered necessary to a full and correct elucidation of the case has been recorded in the Appendix to the proceedings of Council, viz.:
No. 1. A Letter, dated 7th May, 1828, from the Surveyor General to the Colonial Secretary on the subject of the extraordinary and unusual scale of the equipment of Surveyors; with a Memorandum of His Excellency the Governor upon the second paragraph.

No. 2. A Letter from the same officer to the Colonial Secretary dated 3rd June, 1829, relative to the application made by the Trustees of the Clergy and School Estate to be allowed to take copies of the Maps of those districts in which Lands have been conveyed to them.

No. 3. A copy of the Colonial Secretary's Letter dated 13th June, 1829, transmitting a Memorandum by His Excellency the Governor animadverting upon the indecorous and improper style of the Surveyor General's Letter.

No. 4. A Letter from the Surveyor General to the Colonial Secretary dated 22nd May, 1830, on the subject of the division of the ground originally reserved in Darling Harbour for a Dock Yard into a reserve for an Engineer's Yard and allotments for sale.

No. 5. Memorandum by the Town Surveyor, dated 16th June, 1830, relative to the reserve in Darling Harbour for an Engineer's Yard.

No. 6. A copy of a Letter from the Colonial Secretary to the Surveyor General, dated 31st Aug., 1830, in reply to his Letter of 22nd May, apprising him that the yard adjoining the Convict Barracks in Hyde Park had been considered more eligible for the Engineer's Yard, than the spot reserved for that purpose in Darling Harbour; and, in connection with the arrangement which was abandoned, approving of the exchange which had been proposed by Captain Wilson with Mr. Terry Hughes for the latter to give up to government the allotment of ground claimed by him on the South side of Erskine Street for a piece of ground belonging to the Crown situated South of the Market Wharf.

No. 7. The Surveyor General's reply dated 3rd September, 1830, stating that the plan he had submitted was in accordance with the views of the other Commissioners for apportioning the Colony, in reference to the 7th Paragraph of their instructions.

No. 8. A Letter from the Director of Public Works to the Colonial Secretary, dated 5th September, 1830, on the subject of the exchange of allotments proposed with Mr. Terry Hughes.

No. 9. A Letter from Do. to Do. dated 5th September, 1830, transmitting, in compliance with the instructions conveyed to him in the Colonial Secretary's Letter of 31st August, descriptions of two allotments of land, one to be given in lieu of the other to Mr. Terry Hughes with a Memorandum upon the same by the Surveyor General, dated 5th October, 1830, to the effect "that he knew nothing at all of this matter, but it would appear that the subject was one with which the Director of Public Works has nothing to do."

No. 10. A Letter from the Director of Public Works to the Colonial Secretary, dated 29th September, 1830, by which it appears that a portion of the allotment in Darling Harbour proposed to be given to Mr. Terry Hughes had been held by Mr. Thomas Street under a permissive occupancy for some years, and suggesting that an adjoining piece of equal extent should be given in lieu thereof to Mr. Street.
No. 11. A copy of a Letter from the Colonial Secretary to the Surveyor General dated 10th November, 1830, in reference to his Memorandum of the 5th preceding upon the Director of public works' Letter of 29th September, relative to the allotments in Darling Harbour proposed to be exchanged with Mr. Terry Hughes, that he, the Surveyor General, "knew nothing at all of the matter"; referring him to his communication of the 31st August, which fully detailed the arrangement in question, and returning the papers for any Report the Surveyor General might consider necessary thereon, in order that the ground to be exchanged with Mr. Terry Hughes might be included in his Abstract of allotments; also informing him that the Director of public works had submitted a claim of Mr. Thomas Street to a portion of the ground ordered for Mr. Hughes, and that His Excellency approved of that officer's suggestion that Mr. Street should be allowed an equal extent of the vacant ground adjoining.

No. 12. The Surveyor General's reply dated 30th November, 1830, to the Colonial Secretary's Letter of 19th preceding, stating that the plan of the Engineer's Yard submitted by him was in conformity with the views of the Commissioners; and, as his own Report is tantamount, he presumes now, to that of the Commissioners, he begs to state that the spot he planned is, in his humble opinion, the most eligible for the purpose proposed, not being aware of His Excellency's reasons for preferring the place he mentions, especially if their object is to prevent the public recreation being invaded by the establishment of a Lumber Yard Wharf. With respect to the exchange of certain Crown Lands for Land held by Mr. Terry Hughes, as proposed by Captain Wilson, he begs to state that it is not essential either in the event of his plan being adopted or otherwise, and that he does not recognise the right of Captain Wilson to meddle in land affairs at all.

He considers it also necessary to state that, as the inactivity of the Commissioners and their consequent dismissal may be supposed to have been because the King's instructions respecting their duties had not been strictly acted on, he must request that, in all cases in which responsibility attaches to him, and where the Governor is pleased to set aside his plans, these and the correspondence may be referred to His Majesty's Government.

No. 13. The Surveyor General's Report, dated 28th December, 1830, upon the Letter of the Director of public works, transmitting through him a description of the allotment of land given to Mr. Street; stating that he considered the alienation of this land to Mr. Street as decidedly objectionable, for it encroaches on the wharf and on the right of the public to a sufficiency of space adjoining the wharf; nor did he consider that Mr. Street had any title to compensation for he had only a permissive occupancy of the building to the South, it being upon a Government reserve. Under these circumstances, he begs leave to withhold his sanction from the measure, and to refer particularly to the concluding paragraph of his Letter of 30th November.

No. 14. A Letter from the Surveyor General, dated the 27th October, 1830, stating that he had received from the Director of public works plans of two sections of allotments in Sydney, but which do not show any of the buildings, and therefore suggesting that, on so large a scale, every house and stone wall should be laid down, without which a plan of Sydney would be of little use.
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No. 15. A Letter from the Director of Public Works to the Colonial Secretary, dated the 18th November, 1830, conveying a representation on the part of the Town Surveyor of the great delay, which must necessarily take place in furnishing the descriptions of allotments as above suggested by the Surveyor General; and submitting, therefore, that the Survey be first completed according to the present arrangement, and in particular instances a minute survey including Houses and walls be then made.

No. 16. A copy of a Letter from the Colonial Secretary to the Surveyor General, dated the 29th November, 1830, on the same subject as the two preceding letters; observing that His Excellency is not in possession of the requisite information to enable him to determine whether the proposed additions be really expedient or not; but, this being a matter of mere detail, he cannot but consider that it will best be arranged by the heads of the departments concerned, if there be but sufficient willingness to co-operate with each other for the advancement of the public service; and directing that, after communicating with the Director of public works, the Surveyor General will report jointly with him what plan appears to them both best calculated for ensuring the speedy survey of the whole town, and for keeping both departments and the government informed of such particulars as may be respectively requisite, with the least practicable impediment to the public service.

No. 17. Copy of a letter from the Director of Public Works to the Surveyor General, dated the 22nd December, 1830, acquainting him that he had received His Excellency’s instructions to consult and report jointly with him what plan appears best calculated for ensuring the speedy survey of the town of Sydney, etc., and adding he would be happy if the Surveyor General would appoint a time for this duty, and if it would be more convenient to meet at his office, he would direct the Town Surveyor to attend.

No. 18. Copy of a Letter from the Surveyor General to the Director of Public Works dated the 22nd December, 1830, stating in reply, that, as Surveyor General, he does not consider it incumbent on him to make a joint Report on the survey of any part of the Territory of New South Wales.

No. 19. A copy of a Letter from the Colonial Secretary to the Surveyor General, dated 29th January, 1831, communicating to him the decision of His Excellency the Governor with the advice of the Executive Council, upon Mr. Horton James’s claim to Fifty Acres of Land at Watson’s Bay near the South Head of Port Jackson; and His Excellency’s order accordingly that, as Mr. James already possesses Eleven Acres in that situation, he may be allowed to select Thirty nine acres in the same neighbourhood to complete the original quantity.

No. 20. A Letter from Mr. Horton James to the Colonial Secretary, dated 4th February, 1831, pointing out his selection of 39 acres of Land in Double Bay in pursuance of His Excellency’s aforesaid order, which, with a memorandum upon it requesting the Surveyor General to report with a sketch of the land in question, was transmitted from the Colonial Secretary’s Office to him on the 4th Feb., 1831, and returned with a Memorandum subjoined by the Surveyor General dated the 7th February to the following effect:—“I protest against the claim of this applicant being allowed, and mean to appeal to His Majesty’s Government.
According to the records of this office, he has no claim: there is therefore, no necessity for a sketch, especially as this is but a part of the land he has already applied for. I am really not aware why Mr. Horton James should be allowed not only to claim but to notify selections of land contrary to the established forms.

No. 21. A Letter from the Surveyor General to the Colonial Secretary, dated the 10th February, 1831, acknowledging the receipt of his letter of 29th January, which communicates His Excellency's decision, with the advice of the Council, on Mr. Horton James's claim of 50 acres of Land at Watson's Bay, protesting against the admission of his claim to more than Eleven Acres in that situation for several reasons therein detailed, and requesting that His Excellency the Governor will be pleased to refer the subject for the decision of the Right Honorable the Secretary of State before the claim of Mr. James to 39 acres more at Watson's Bay be admitted in the face of his report.

The Council proceeded with the reading and examination of the foregoing papers, and adjourned their further consideration of the subject to the following day.

A true extract:—E. Deas Thomson, Cllk., Col.

MINUTE No. 11.

Government House, Friday, 4th March, 1831.

Present pursuant to adjournment:—His Excellency the Governor; The Venerable the Archdeacon; The Hon. the Colonial Secretary; The Hon. Colonel Lindsay.

The Council proceeded with the further consideration of the papers relative to the Surveyor General's conduct, and, in reference to his memorandum on Mr. Horton James's Letter of the 4th February, 1831, and to his communication of the 9th following, in both of which he "protests" against the admission of Mr. Horton James's claim to the possession of more than eleven acres of land at Watson's Bay, as well as to his letter of the 28th December, 1830, on the subject of the allotment of land granted to Mr. Street at the Market Wharf, Sydney, in which he states that he withholds his sanction from that measure; they recommended that a communication should be made to the Surveyor General requesting he will point out by what part of the instructions, which were issued to the joint Commissioners, he considers himself authorised to make any such remonstrance.

The Council then adjourned their further consideration of this case to the following day.

E. Deas Thomson, Cllk., Col.

MINUTES Nos. 12 and 13, dated 5th and 7th March, 1831.

[These minutes were similar to the minutes numbered 8, 9 and 10.]
EXTRACT FROM MINUTE NO. 14, DATED 8TH MARCH, 1831.

PRESENT:—His Excellency the Governor; The Venble. the Archdeacon; The Hon. the Colonial Secretary; The Hon. Colonel Lindesay.

The Council resumed the consideration of the documents laid before them relative to the conduct of the Surveyor General; and, in reference to the proceedings on the 4th instant, His Excellency the Governor now presented to the Council a Letter from that Officer, in reply to the communication which they recommended to be made to him, requesting he would point out by what part of the instructions to the joint Commissioners he considers himself authorised to make remonstrances against the decisions of the Governor. The Surveyor General observed, “that these instructions, with a copy of the King’s to the Governor respecting the Commissioners, which was sent to them for their guidance, would perhaps justify even a remonstrance on his part in certain cases.”

The Council recommended that research should be made in the records whether the King’s instructions to the Governor had been officially communicated to the Surveyor General, or to the Commissioners for apportioning the Territory; and, if it should not thence appear to have been the case, that he should be required by His Excellency to state, in what manner he had obtained possession of them.

The Council then adjourned to the following day.

A true extract:—E. DEAS THOMSON, Clk., Col.

EXTRACT FROM MINUTE NO. 15, DATED 10TH MARCH, 1831.

PRESENT:—His Excellency the Governor; The Venble. the Archdeacon; The Hon. the Colonial Secy.; The Hon. Colonel Lindesay.

The Minutes of proceedings from No. 7 of the 28th ultimo inclusive were read and confirmed.

In reference to the proceedings on the 5th instant, the Council resumed the consideration of the papers relative to the allotment of land adjoining the Market Wharf, Sydney, which had been granted to Mr. Thomas Street, in lieu of an adjoining piece of equal extent, of which for upwards of ten years he enjoyed a permissive occupancy, and which was given in exchange to Mr. Terry Hughes for an allotment of ground in another part of the Harbour ceded by him to the Crown. It appears from the Surveyor General’s Report that this land forms part of a Government reserve.
and that, in his opinion, its alienation is objectionable as it encroaches on the Market wharf and on the right of the public to a sufficiency of space adjoining the wharf.

The Council adjourned for the purpose of personally inspecting the site in question, and, having made a careful examination of the spot, they agreed that it was evidently the original intention to carry the Market wharf to the extent stated by the Surveyor General in his Report, dated the 7th March, 1831, and that, if Mr. Street were willing to accept a compensation elsewhere, such an arrangement might be even now desirable. At the same time, it did not appear to them so indispensable, either for the purpose of securing sufficient room on the wharf, or a convenient approach to it that the Government on this account need acquiesce in any unreasonable expectation or demand on the part of Mr. Street. At all events an ample sufficiency of room might still be obtained by removing an old and unsightly building, which is used for containing Government tools and now obstructs the approach to the Wharf.

2. In reference to the proceedings on the 7th January last, the Council resumed the consideration of the question, whether the powers and discretion formerly vested in the Commissioners for apportioning and valuing the territory were now delegated to the Surveyor General by the revocation of their Commissions and the transfer of the duties hitherto performed by them to that officer, who with the aid of the Assistant Surveyors is directed by the Secretary of State to be held responsible for the survey and division of the Territory.

The Council, having very fully and maturely considered the subject, were of opinion that, as the responsibility formerly attached to the Commissioners had been without limitation imposed on the Surveyor General with the aid of his Assistants, it must have been intended that the powers, which they possessed, should also be to their full extent transferred to the same officer. In reference, however, to the 20th and 22nd Paragraphs of the King's instructions* for the disposal of Crown Lands, which require that, in the event of His Excellency the Governor with the advice of the Executive Council, differing in opinion with the Commissioners, the decision upon the subject shall be suspended until a reference be made to His Majesty's Government; the Council cannot but entertain strong doubts as to the expediency of an arrangement, by which a single individual is invested with the power of arresting measures upon the propriety of which the Governor and Council may have come to an unanimous determination. Foreseeing the frequent and serious embarrassments which must be occasioned, if it be necessary, as requested by the Surveyor General, that in all cases, in which responsibility attaches to him and where the Governor is pleased to set aside his plans, these and the Correspondence should be referred to His Majesty's Government, they deem it becoming to recommend to His Excellency the Governor that the particular attention of H.M. Government should be called to this inconvenience.

The Council at the same time, adverting to the 20th, 28th, 29th and 30th Paragraphs of the King's instructions* to the Governor, deduce from these taken in connection that the duty of the Commissioners, to report what lands it may be proper to reserve for public purposes in each County, hundred and parish, extended to that portion of the territory heretofore surveyed, no less than to

* Note 73.

Power of governor over reserves prior to appointment of commission.

28 March.


Power of governor over reserves prior to appointment of commission.

1831.

the Counties which they were required to mark out. As the survey proceeded it appears to the Council to have been incumbent on the Commissioners, as required by His Excellency's instructions to them, to report to the Governor what tracts it was in their opinion necessary to reserve for such purposes in the districts so surveyed; and such tracts, in conformity with Paragraph 30 above referred to, could not be alienated to any private purposes.

With respect, however, to reserves in towns, which may have been made before the Commission was established, and which have not been set apart afresh by the Commissioners, the Council cannot but be of opinion that the Governor with their advice is authorised to make such a fresh distribution, as, in consequence of a change of circumstances, the advantage of the public may require, as in the case of the land in Darling Harbour originally set apart for a Dock Yard, and subsequently found to be unsuitable for that purpose.

In such instances, they do not admit the necessity of the Surveyor General's sanction to the proposed arrangements, nor recognize in that officer any right to make remonstrances or protests if the Report, which he, in the execution of his duty, presents for the consideration of the Governor and Council, be not implicitly adopted by them.

3. The Council then took into consideration the Report from the Surveyor General having reference to their decision upon the claim of Mr. T. H. James to the possession of 50 acres of land at Watson's Bay near the South Head of Port Jackson, protesting against the admission of Mr. James to more than Eleven Acres in that situation for certain reasons therein detailed. The Council, having considered the objections advanced by the Surveyor General, saw no reason to depart from the decision they had already arrived at upon this question. They felt it due to themselves to notice in terms of reprobation the conduct of that officer in entering a protest against their decision upon the ground that this claim is not supported by the Records of his Office. The Council certainly consider it their duty to deliberate and to form their opinion upon every question, which comes before them upon enlarged general views of its equity and expediency. In the present case, it appeared to them that, if no property in land could be considered secure unless supported by a regular series of documents from the Surveyor General's Office, the titles to a very large proportion of the Territory would be rendered dubious, in consequence of the imperfect state, in which it is known the earlier records have been preserved. It was therefore deemed by the Council more politic to concede even a doubtful claim of 39 Acres of land, for which the applicant had unquestionably paid a valuable consideration, rather than raise a question of such magnitude, and calculated to excite so much general uneasiness; and they conceive that no officer under the Colonial Government should be permitted to assume a tone so disrespectful in commenting upon their proceedings.

4. In reference to the proceedings on the 8th instant, the Council then took into consideration the reply of the Surveyor General, dated the 7th instant, to the Colonial Secretary's letter of the 5th preceding, whereby he was requested to point out by what part of the Instructions to the joint Commissioners he considered himself entitled to remonstrate against His Excellency's decisions on matters connected with his department; and they directed their
particular attention to that paragraph of the Surveyor General's letter, in which he observes that a copy of the King's instructions to the Governor was sent to the Commissioners for their guidance, and would perhaps justify even a remonstrance on his part in certain cases.

The Council, having thus made themselves masters of the substance of all the documents laid before them having reference to the conduct of the Surveyor General in the performance of his official duties, and to the tone and spirit of his communications, proceeded to deliberate with a view of forming their final decision. Upon the latter point, the Council were decidedly of opinion that the language employed by the Surveyor General has been on many occasions inconsistent with the deference and respect which should be manifested by every subordinate officer to the head of the Government under which he serves. Adverting particularly to his letter of May the 7th, 1828, upon which His Excellency personally remonstrated with Major Mitchell, and to the letter addressed to the latter by the Colonial Secretary in conformity with the Governor's Minute of 12th June, 1829, as well as to the Surveyor General's Memorandum on Captain Wilson's Letter of 29th Sept. 1830, his letter of 28th December, 1830, on the same subject, his protest against the decision of the Council in the case of Mr. Horton James's land (on which they have already strongly animadverted) his letter to the Colonial Secretary of 9th February, 1831, on the same question, and to that passage of his letter of 7th March, 1831, purporting that "it has been his duty to write thousands of letters, and he has not such a high opinion of his correspondence as to suppose that a Governor desirous of finding a flaw may not find several therein"; they cannot but consider these as proofs of a long standing and still continued determination on the part of the Surveyor General to indulge in an unbecoming and disrespectful tone in conducting his correspondence with the Government.

The performance of his official duties by the Surveyor General was next taken into consideration by the Council, upon which point it appears that, on the 31st August, 1830, the Surveyor General was fully apprised by the Colonial Secretary, in pursuance of instructions from His Excellency, of the course intended to be pursued with reference to the exchange of ground with Mr. Terry Hughes; but that the Surveyor General, notwithstanding this, returned a reply, stating "I know nothing at all of the matter," and adding "the subject appears to be one with which the Director of public works has nothing to do"; although he had received an official communication that the latter officer had been directed to convey descriptions of the land through the Surveyor General's office, which was done accordingly. It also appears that, on the 29th November, 1830, a letter was addressed by the Colonial Secretary to the Surveyor General, conveying His Excellency's directions that, after consulting with the Director of public works, he should report jointly with that gentleman what plan might appear to both of them best calculated for securing the survey of the whole town; and on application being made to him by the Director of public works to appoint a time for this duty, the Surveyor General stated that he did not consider it incumbent on him to make a joint Report on the Survey of any part of the territory of New South Wales; and His Excellency's instructions accordingly were

Neglect of duty and disobedience of orders by T. L. Mitchell.

Instructions to be issued re duties of surveyor-general.

Caution to be given to T. L. Mitchell.

Misstatement by T. L. Mitchell re official receipt of extract from King's instructions.

1831.
28 March.

In these instances, the Council are of opinion that the Surveyor General has been guilty of a neglect of duty and disobedience of orders; and, upon this decision, they are restrained from recommending his immediate suspension from office only by an apprehension that any change in the conduct of the Surveyor General's office might be attended with inconvenience. But, as the Surveyor General appears to have been acting under a misapprehension of his own actual powers, arising from an erroneous impression that His Majesty's instructions had been transmitted to the Commissioners for their guidance, the Council recommend that immediate directions should be transmitted to him to surrender the copy which he possesses of that part of the instructions under the sign manual, which refers to the survey and division of the territory, together with the instructions to the Land Commissioners, under date the 6th February, 1828. And they further recommend that fresh instructions should be issued to Major Mitchell strictly defining his duties as Surveyor General, and particularly the mode to be observed in conducting, with the aid of the Assistant Surveyors, those duties which formerly were performed by the Land Commissioners; and intimation being at the same time conveyed to him that, on any repetition by him of the improprieties animadverted on by the Council, the Government will be under the necessity of resorting to the only measure by which their recurrence can be prevented.

A true Extract:—E. Deas Thomson, Clk., Col.

Extract from Minute No. 17, Dated 15th March, 1831.

Present:—His Excellency the Governor; The Venerable the Archdeacon; The Hon. Colonel Lindsay.

His Excellency the Governor laid before the Council a letter, addressed by the Surveyor General to the Colonial Secretary dated 14th instant, referring for the information of His Excellency to the Surveyor General's Letter dated 4th June, 1829, by which he says the Colonial Secretary will learn that a copy of the King's instructions was enclosed in the letter from him to the Commissioners dated 6th March, 1828. Accompanying this, His Excellency also submitted a copy of the last mentioned letter and the original reply of the Commissioners, from which it is evident, by their own acknowledgment, that the only enclosures therewith forwarded to them were instructions addressed to them by the Governor and their Commission of appointment. The Council took these several letters into their consideration, together with the letter of 4th June, 1829, to which the Surveyor General refers, and the original of which was now before the Council. Upon the latter, they deem it necessary to remark that, as the references to number and date of the Colonial Secretary's letter of 6th March appear to have been inserted by the Surveyor General's own hand, in blanks left for that purpose, it is to be presumed that he must have referred to the letter itself; and it is, therefore, more surprising that he should even then have made so incorrect a statement as it is obvious he has done, and should still persist in the same. The Council deem it indispensable that he should be without delay most distinctly informed, that the Extract from the King's instructions never was officially communicated to the Commissioners for their guidance; and that neither to them nor to himself was it at any
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Proceedings
of executive
Council.
in case of
T. L. Mitchell.

The Council hereupon came to the following decisions:—that the
Colonial Secretary is the accredited and proper organ of communi-
cation between the Government and all its officers, and that any
such officer, declining to comply with instructions expressly stated
to be directed by the Governor, is guilty of disobedience to the
Governor himself; and that the Surveyor General by inserting
the word "you" in his recapitulation of the Colonial Secretary's
letter has perverted its true meaning, and has attempted to lead
to the erroneous impression that he was required to communicate
to the Colonial Secretary the contents of letters addressed by him
directly to the Secretary of State, the true and obvious purport of
the requisition to him being that the Duplicates should be trans-
mited to the Governor as the originals were. Upon the question
of requiring such Duplicates, they are of opinion that it was
highly expedient and necessary that a correspondence embracing
such numerous and important points should be forwarded in that
form; and that, in compliance with established regulations, it was
the Surveyor General's duty to have furnished the documents in
question as required by the Governor.

Viewing this act of insubordination in connection with others
of the same character which have recently been brought under
their notice, the Council would have recommended the immediate
suspension of the Surveyor General, if the purport of their former
decision, as recorded in Minute No. 18 of the 10th March, had been
communicated to him. But, finding that this has not yet been
done and not desiring to proceed to an act of such severity without
due warning, they recommend that the application for duplicates
of the correspondence should be renewed, the Surveyor General
being at the same time given to understand that, if he shall
again decline to furnish the same, his suspension from office will
be the immediate consequence. And they further recommend that,
if after this notice he shall again refuse compliance, he be immedi-
ately suspended accordingly.

A true Extract:—E. Deas Thomson, Clk., Col.
APPENDIX

TO THE

PROCEEDINGS OF THE EXECUTIVE COUNCIL

In the Case of the Surveyor General.

[Enclosure N to Minute No. 7/1831.]

(No. 148.)

Copy of a Letter from T. L. Mitchell, Esq., Acting Surveyor General
to the Honble. The Colonial Secretary, dated

Sir,

Surveyor General's Office, Sydney, 7th May, 1828.

1. I have the honor to acknowledge the receipt of your letter dated 6th May
referring to various Requisitions transmitted by me for Articles for my use and that
of Assistant Surveyors Hoddle, Dixon, Elliott and Govett, and informing me that
the Equipment of the Assistant Surveyors appears to be on so extraordinary and
unusual a Scale that His Excellency The Governor cannot sanction any further Issue
of Stores on this account without receiving an explanation of the necessity. You
request me therefore to transmit a Return of the Equipment, which I consider
necessary for each Surveyor, as a Scale must be established and not exceeded; and
also to forward a Return of the Surveyors who have received Equipment since my
Appointment to act as Surveyor General.

2. * I have therefore the honor to state in answer to this implied Charge that,
had the Requisition lately sent in been on an extraordinary and unusual Scale for
the purposes of commencing a Trigonometrical Survey as ordered by your Letter of
22nd January last, No. 28/19, and in furtherance of The Governor's wishes, stated
verbally, that the Survey of one part of the Country should be completed before
another by employing several surveyors upon it. I should even then have considered
the supply of such extraordinary means as nothing more than what was due to me
in commencing such an undertaking.

3. Two of the abovenamed Surveyors are now at a stand still not being able to
proceed from the nature of the Country, according to the usual method of proceeding
here; there are two young Men to be instructed in the Duties which will be required
of them. I have been preparing to proceed with the whole Party to the most Moun­
taimous part of the Colony in order to make a Survey of a County connected on
trigonometrical principles, a Work which must be attended with considerable labor
and privations; and yet, to accomplish this, I have not exceeded in the Requisitions
by one single Article, by quality or by quantity, the Scale established for Field
Equipments before I acted as Surveyor General.

4. The enclosed List of Articles of Equipment hitherto established by Mr. Oxley
will prove this, and I cannot without some experience in Bush Surveying presume
to offer an opinion which could be equivalent to his on that subject.

5. The difficulty, which now impedes my progress, is the want of serviceable Bul­
locks to convey to these remote parts the common necessaries of Life. If sufficient
means of Transport are supplied, I shall be content to provide at my own Expense
what few Stores may be further required, rather than delay much longer in Sydney,
as I consider the Survey of the Country the most important part of my Duty.

6. The Assistant Surveyors, whose Names are written on the margin, have
received (after considerable delay in each case) articles of Equipment since my
Appointment to act as Surveyor General.

I have, &c.,

T. L. MITCHELL, Sr. Gl.

[Enclosure O to Minute No. 7/1831.]  

(No. 29/165.)

Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated

Sir,

Surveyor General's Office, Sydney, 3rd June, 1829.

* I have spoken to Major Mitchell respecting this paragraph.—R.D.
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letter of the Clerk of the Corporation, I will see the propriety of complying with their request even if in so doing my Department should be slightly inconvenient.

In reply, I beg to state that I shall always be ready to obey implicitly His Excellency's Commands; that I have therefore perused that letter, but that I cannot see notwithstanding, the propriety of complying with the request of the Corporation.

I trust, therefore, that the Governor will excuse my proceeding in the Correspondence on this subject, in order that the Matter may be laid fully before him, because should the Corporation finally carry this point, I shall have no Alternative but that of addressing myself to The Right Honble. The Secretary of State through His Excellency on the subject.

I would, therefore, do myself the honor to observe, with respect to the Plans of the Bathurst Parishes, as mentioned by Mr. Cowper, that, although he insisted that the Names of the adjoining Grantees are not, or are only partially, inserted, it happens that these Parishes have only two Grantees adjoining, viz., James Orr and James Elder (which are both inserted on the Parchment). The Parishes of Apsley, Oakley, and Panscoy having been Reported by the late Surveyor General may be an exception, several Grants having been selected in the Neighborhood since. But Mr. Charles Cowper observes that although the other Charts do not contain the Names of the adjoining Grantees, yet the Grantees in the neighborhood of the Church Lands are not mentioned.

It is plain therefore that nothing less is desired by the Corporation (or by Mr. Charles Cowper) than Plans of all Grants by the Crown, and of the whole Colony, and that it may finally prove impossible to measure a Grant to an Individual without the Cognizance of the Corporation.

I feel bound to confess that I cannot make out, after an attentive perusal of Mr. Cowper's Letter that any necessity exists for a knowledge on the part of the Corporation of the Lands of Individuals, which lie beyond the immediate boundaries of the Church Lands. I am well aware that, in this Country where all are interested more or less in land, it would be very convenient for the Corporation and the Public to have a complete Map; and, in order to be enabled to compile such a Map for the information of His Majesty's Government and subsequent publication, I am frequently occupied in furtherance of this desirable object while Mr. Charles Cowper and the Church Corporation are at Tea, or at Dinner, or in Bed, or at Church.

I beg you will, therefore, inform me whether it is His Excellency The Governor's pleasure that I should supply the Corporation with a tracing of all that our Maps can supply of the granted Land adjoining the Church Land, which I have always wished to do (altho' this is more than can be done for Individuals) or that the results of my extra Official Labours for the general Survey are to be transferred as I proceed into the Archives of the Church Corporation. I trust His Excellency will see the impropriety on this further Report of introducing into my Office an irresponsible person independent of my authority.

I beg His Excellency will contrast the grounds of my objection to admit the Draftsman of the Corporation to copy the Official Records of the Lands Individuals hold in this Colony with that of the Corporation, who refused (vide No. 29/237 dated 20th March) to allow me a sight of the Deeds of Grant for the purpose of Registry in my Office in any other manner than at their Office in the presence of The Archdeacon.

I beg to remind His Excellency of the former state of this Office and what has been already done on Maps in former times here.

I beg His Excellency to consider the nature of such a precedent as this, not that I entertain more suspicion of the Integrity of the Draftsman of the Corporation than the Corporation (entertained of me with respect to the Deeds; and in reply, I have now the honor to transmit to you a Copy of a Memorandum which I have received from His Excellency on the subject.

I have, &c.,

T. L. MITCHELL, Sr. Genl.

[Enclosure P to Minute No. 7/1831.]

Copy of a Letter from The Honble. The Colonial Secretary to The Surveyor General, dated 

Sir, I have duly received and submitted to The Governor your Letter of the Transmission of memorandum from R. Darling.

I have, &c.,

ALEX. McLEAY.
HISTORICAL RECORDS OF AUSTRALIA.

1831.
28 March.

Critical of language used by T. L. Mitchell.

Information to be given to corporation.

MEMORANDUM FOR THE COLONIAL SECRETARY.

Miscellaneous.

12th June, 1830.

ACKNOWLEDGE the Surveyor General's Letter of the 3rd instant and inform him that, having some time since communicated my Sentiments to him at a personal interview respecting the Style of a Letter addressed by him to the Government, I am the more surprised at the receipt of the present Letter, which appears to me extremely indecent and improper. Had he taken the trouble of enquiring instead of indulging in the angry feeling to which unfortunately he appears so prone, he would have ascertained that the Corporation had no intention of applying for information respecting the Boundaries of the Church Lands beyond the Farms or Grounds immediately adjacent those lately transferred to them. Add that I cannot have any objection to his making any representation he may think proper to The Secretary of State. But I must desire he will, in the meantime, either furnish the Corporation with the necessary sketches filled in according to the Surveys, which have been made, or allow their Draftsman to take them; Observe that the latter mode was suggested, as he has so frequently represented the inadequacy of his Department to the Duties it has to perform; And that I conceive means might be found of preventing the Draftsman of the Corporation from making any improper use of the access allowed him to the Maps, should he even be so disposed. It is, however, to be presumed that the Corporation will be careful in selecting a respectable and proper Individual for this duty.

[Enclosure Q to Minute No. 7/1831.]

COPY of a Letter from the Surveyor General to The Honble. The Colonial Secretary, dated

Sir, Surveyor General's Office, Sydney, 22nd May, 1830.

With reference to your Letters dated 7th January, 9th March and 3rd April last;

I have now the honor to transmit a Plan of the Ground in Darling Harbour originally reserved for a Dock Yard.

I have also the honor to Report, in compliance with the Instructions conveyed by your Letter No. 30/19, that I have divided the vacant ground into a Reserve for an Engineer's Yard and Allotments for sale in the following manner, vizt.:—

1st. The spot selected for the Yard includes the Northern or Rocky part of the little Bay, on which West King Street terminates, and also on the North, the part most projecting Westward of the high ground, and an extensive surface of Rock, bare at low water, great space however may be gained from the sea as the Bay is very shoal, so that Timber may be floated, etc. The high ground may be easily separated into distinct portions, which would be an advantage, where, for the sake of arrangement, such separation may be necessary; in short by ingenious arrangement I consider this place sufficiently favourable for an Engineer's Yard.

The access being also open to the Town on various sides Eastward by West King Street, North and South by Sussex Street, which it adjoins, and I also propose an opening to Erskine Street, which is necessary for the three Allotments Nos. 1, 2 and 3 between this Reserve and Mr. Terry Hughes' allotment, where I have marked a situation apparently favourable for a Rope Walk as already reported on.

I would insist on squaring Mr. Terry Hughes' allotment by the line marked as the Northern boundary of No. 1, an Arrangement to which he could not well object, in order to have his Titles regularly recognized.

There are other two smaller Allotments between John Randall and Bray, and four to the Southward of the Market Wharf, making in all nine (9) Allotments for sale containing as follows:—

No. 1, 21 Poles; No. 2, 25; No. 3, 26; No. 4, 7; No. 5, 8; No. 6, 15; No. 7, 10; No. 8, 13; No. 9, 10.

I have also to point out the necessity for preserving all the side Lines of these Waterside Allotments parallel to each other, in order that there may be no disputes respecting the land below high water mark, which, being extensive, may in time be reclaimed from the Sea, for Quays, etc., similar to that of Mr. Street, whereas, if the Lines were not parallel, their prolongation into the Water would leave very unequal portions to the different Allotments.

I beg to state that there is a valuable spot of this Reserve on the point North of Erskine Street occupied by Shelly on a Lease which expires in August, 1833, conditioned to build a sufficient Dwelling house 36 feet in length by 14 in width, the right being reserved of improving the Street with such part of said Land as Government may require.

There is a Hut on No. 6 Allotment built by William Street, who will render it up when called on to do so. There are also Sawpits on Nos. 7 and 8 used by a George Hawker, a Sawyer.
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With respect to the vacant Land behind the Military Hospital, I would recommend it to be reserved for the present, as it is a mere precipice between the Water and the Line of Street, which may be much improved by throwing over the Rubbish of the Quarries opposite it, so as to widen the Ground between them and the Harbour.

I have, &c,

T. L. MITCHELL, Sr. Genl.

[Enclosure R to Minute No. 7/1831.]

Memorandum.

The Government Reserve on the West side of Sussex Street is a very uneven piece of Ground, the Rocks in some parts falling from Twenty to Thirty feet, particularly at the South end where the ground does not exceed from forty to fifty feet in depth Darling to the Water. The Plan proposed by The Surveyor General makes the Site at the harbour, South end, which would have to be filled in to a considerable distance into Darling Harbour, the expense of which even with Convict labor would greatly exceed the value of the Land.

I think there would be sufficient now, could we begin at Erskine Street, taking in Terry Hughes' Allotment and extending Easterly as far as the back of the Allotments marked out on the Plan for a Rope Walk, a distance of about 300 feet. This would disturb but One Allotment and give us the only part of the ground suited for our purpose. Terry Hughes might be compensated with a piece at the South end in my opinion quite as eligible for a Whaling Concern.

Town Surveyor's Office, 16th June, 1830.

[Enclosure S to Minute No. 7/1831.]

(Copy of a Letter from The Honble. The Colonial Secretary to the Surveyor General, dated 31st August, 1830.)

Sir, Colonial Secretary's Office, Sydney, 31st August, 1830.

With reference to your Letter of the 22nd May No. 30/235 transmitting a Engineer's Sketch shewing a Spot in Darling Harbour, which you propose for an Engineer's Yard in lieu of that in Bridge Street:

I am directed by His Excellency The Governor to inform you that, from an inspection of the Ground, the Yard adjoining the Convict Barrack in Hyde Park has been considered more eligible for the purpose stated than the place proposed as above, to which effect the Director of Public Works has been duly instructed.

At the same time, in connexion with the arrangement which has been abandoned, as Captain Wilson proposed an exchange with Mr. J. Terry Hughes, which the latter acceded to, namely, for Mr. Hughes to give up to the Government the Allotment of Ground claimed by him in Darling Harbour on the south side of Erskine Street for a piece of Ground belonging to the Crown situated south of the Market Wharf, adjoining the North Boundary of an Allotment claimed by Mr. T. Horton James, I am commanded to inform you that His Excellency has approved of the above exchange and the Director of Works has therefore been requested to furnish descriptions through you of the two pieces of Ground in question, which you will have the goodness to accompany by your Remarks if necessary, in order that the proper Deeds may be prepared accordingly.

I have, &c,

ALEXR. MCLEAY.

[Enclosure T to Minute No. 7/1831.]

(Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated 3rd September, 1830.)

Sir, Surveyor General's Office, 3rd September, 1830.

In acknowledging the receipt of your Letter No. 30/996 informing me, with Letter reference to my Report and Sketch of the Ground proposed for an Engineer's Yard in Darling Harbour, that, from an inspection of the ground, the Yard adjoining the Convict Barrack in Hyde Park has been considered eligible for the purpose stated.

I have the honor to inform you that the Plan, which I had the honor to submit, was arranged in accordance with the views of the other Commissioners for apportioning the Colony in reference to the seventh Paragraph of their Instructions.

I have, &c,

T. L. MITCHELL, Sr. Genl.
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28 March.

[Enclosure U to Minute No. 7/1831.]

(No. 30/281.)

Copy of a Letter from The Director of Public Works to The Honble. The Colonial Secretary, dated

Sir, Office of Public Works, 9th September, 1830.

I do myself the honor to return to you the Plan of Darling Harbour, transmitted in your Letter dated 10th June last No. 30/348, at the same time a certified copy of a Letter I addressed to Mr. Terry Hughes by direction of His Excellency The Governor and that Gentleman's answer.

I have, &c,

CHAS. WILSON, C.E., D.P.W.

[Enclosed in the foregoing.]

(No. 30/50.)

Copy of a Letter from the Director of Public Works to Mr. Terry Hughes, dated

Sir, Office of Public Works, Sydney, 19th June, 1830.

In furtherance of the subject upon which we had a conversation yesterday, I am desirous you will do me the favor of expressing your Sentiments upon the proposal I now beg to make you with a view to submitting the same to the consideration of His Excellency The Governor, namely,

Provided His Excellency The Governor approves, shall you be willing to take a Grant from the Crown of the Allotment of Ground situated South of the Market Wharf adjoining the North boundary of an Allotment claimed by Horton James and extending from thence Northward, Water frontage (234) Links, Street frontage (275) links, Depth to high water Mark (148) links, Depth to low Water Mark (492) links, in exchange for the present Allotment claimed by you, bounded on the North by Erskine Street (296) links, depth Water frontage (198) links, east line (130) links.

I have, &c,

CHAS. WILSON, C.E., D.P.W.

COPY of a Letter from Mr. Terry Hughes to The Director of Public Works, dated

Sir, Sydney, 23rd June, 1830.

In reply to your Letter of the 19th instant, wherein you wish to know (provided His Excellency the Governor approves) if I am willing to exchange an Allotment of Ground held by me, bounded on the North by Erskine Street 296 links, Depth water frontage 198 links, East line 180 links, for a Grant from the Crown of an Allotment of Ground situated South of Market Wharf, adjoining the North boundary of an Allotment claimed by Horton James and extending from thence Northward, Water frontage 234 links, street frontage 275 links, Depth to high water mark 148 links, depth to low water Mark 492 links.

I beg to inform you that I purchased the above described piece of Ground for the purpose of erecting Stores being about to embark in Whale Fishery, which Land is well adapted owing to its bold shore and depth of Water, whereas the Allotment proposed by you in exchange is quite shallow; nevertheless, as it is to further the views of Government, I will (should His Excellency the Governor approve) accept of a Grant from the Crown of the allotment of Ground proposed in your Letter.

I have, &c,

JNO. TERRY HUGHES.

[Enclosure V to Minute No. 7/1831.]

(No. 30/307.)

Copy of a Letter from The Director of Public Works to The Honble. The Colonial Secretary, dated

Sir, Office of Public Works, Sydney, 29th Sept., 1830.

In compliance with the Instructions conveyed to me in your Letter of the 31st August 30/368, I have the honor to forward through the Office of the Surveyor General descriptions of two allotments of Land, the one to be given in lieu of the other to Mr. Terry Hughes, in order that a Deed of Grant may be prepared.

I have, &c,

CHAS. WILSON, C.E., D.P.W.


Memorandum endorsed on the foregoing.—I know nothing at all of this Matter but it would appear that the subject of the Letter is one with which the Director of Public Works has nothing to do.

T. L. MITCHELL, Sr. Genl.

5th Octr., 1830.
DARLING TO MURRAY. 207

[Enclosure W to Minute No. 7/1881.]
(No. 30/306.)

Copy of a Letter from the Director of Public Works to The Honble. The Colonial Secretary, dated

Sir, Office of Public Works, Sydney, 29th Septr., 1830.

I do myself the honor to refer you to the Instructions communicated to me in your Letter of the 31st August, 30/368, and to acquaint you that I accordingly apprised Mr. Terry Hughes of His Excellency The Governor's approval of the proposed exchange of Land, and I have this day forwarded, through The Surveyor General, the description of the allotments in question in order that a Deed of Grant may be prepared in favor of Mr. Hughes of the portion to be conveyed to him on his transferring the Allotment now in his possession to the Government.

I now beg leave to draw your attention to the enclosed Letter from Mr. Street and to explain for His Excellency's information that, in the accompanying sketch, the strip of Land, dotted off upon the Allotment marked Terry Hughes, is the small allotment asked for by Mr. Street, the Building shaded Red being the shed which His Excellency will perhaps recollect standing near when he looked at the allotment some few Weeks ago.

If His Excellency should be pleased to take into consideration the request of Mr. Street's, I have ascertained that Mr. Street will feel himself amply indemnified for the strip in question, which is about to be comprised in Mr. Terry Hughes' Grant, if His Excellency will substitute the small portion coloured Green adjoining thereto as far as the dotted line, to which I see no objection, but I forward it through the Surveyor General for his further Observations.

I must observe that, in recommending to His Excellency the exchange of Allotments with Mr. Terry Hughes, I was not at the moment aware that I was depriving an Individual of a Portion of Land to which he had the smallest pretensions; I therefore trust in having so done I shall not in the smallest degree prejudice Mr. Street; indeed I should consider it as a great act of grace in His Excellency towards me, if His Excellency would grant the piece of Ground I have proposed (coloured Green) to Mr. Street in lieu of that he has asked for, feeling that I may have unintentionally placed Mr. Street's Claim in a remoter situation than it was when he made his application.

I have, &c,

CHAS. WILSON, C.E., D.P.W.

[Enclosed in the above.]

Copy of a Letter from Mr. Thos. Street to The Honble. The Colonial Secretary, dated

Hon'ld Sir, Sydney, 18th August, 1830.

I most respectfully request His Excellency the Governor will be pleased to Request for a Title to a small piece of Ground (about forty feet Front) situated at the grant by lower end of Market Street, and bounded by the Water of Darling Harbour, and T. Street, near to the Market Wharf, and on which I have erected a temporary Building; but, in the event of my obtaining a just claim to it, I shall immediately proceed to make great improvements thereon.

I beg leave to state to your Honor's attention that I never yet received the indulgence of having an Allotment of Ground granted to me in Sydney by Government except the piece now in question, which I always considered my Claim just by its having been given to me by Major Ovens in 1821, and my quiet and peaceable possession ever since.

I, therefore, Sir, hope you will be kind enough to submit my former Application to His Excellency The Governor, and be pleased at your earliest convenience to let me know His Excellency's pleasure thereon.

I have, &c,

THOMAS STREET.

Hon'ld Sir, Sydney, 13th November, 1830.

I beg most respectfully again to solicit your attention to the piece of ground, which has been in my possession since the Year 1821, and will be found by reference to the Chart of Darling Harbour marked off to me.

My application was made on the 18th August for a Grant of the same, and I was induced to believe, from your letter of the 24th August, 1830, that I should be furnished with the description, etc., as soon as the survey of the Town was completed.

In consequence of some mistake arising on the part of the Director of Public Works, I am credibly informed that my piece of ground, on which a Building has been erected seven years is about to be given in exchange to Mr. Terry Hughes.

This proceeding I am totally at a loss to account for, as I always considered my Claim just by its having been given to me by Major Ovens in 1821, and my quiet and peaceable possession ever since.

I, therefore, Sir, hope you will be kind enough to submit my former Application to His Excellency The Governor, and be pleased at your earliest convenience to let me know His Excellency's pleasure thereon.

I have, &c,

THOMAS STREET.
Copy of a Letter from The Colonial Secretary to The Surveyor General, dated

Immediate.

With reference to your Report of the 5th ulto. on the Director of Public Works' Letter of the 29th September, No. 30/307, transmitting a description of the Allotment claimed by Mr. John Terry Hughes in Darling Harbour, and likewise of the ground at the same place which it has been agreed shall be given to that Individual in exchange for the former, stating that you know nothing at all of the Matter.

I have the honor by direction of His Excellency the Governor to refer you to my communication of the 31st August last, No. 30/996, which fully detailed the arrangements in question, and to return the papers for any Report, you may consider necessary thereon, and in order that the Ground to be exchanged with Mr. Hughes may be included in your Abstract of Allotments.

At the same time I am directed to inform you that the Director of Works has submitted a Claim, which has been made by Mr. Thomas Street to a portion of the ground ordered for Mr. Hughes, and that, under the circumstances of the case, His Excellency has been pleased to approve of the suggestion of the Director of Works that Mr. Street may be allowed an equal extent of the vacant ground adjoining to the Northward of that now to be given to Mr. Terry Hughes, of which Captain Wilson has been duly apprised and requested to furnish through you a description of the Land in question, in order that you may likewise Report thereon in the next abstract.

I have, &c.,

ALEX. MCLEAY.

Copy of a Letter from The Surveyor General to the Honble. The Colonial Secretary, dated

Sir, Surveyor General's Office, 30th November, 1830.

With reference to your Letter No. 30/1348, dated 19th Instant, and those to which it refers touching the Sketch I transmitted by The Governor's direction on the 22nd May of the Reserve in Darling Harbour, and the Plan of the part I had the honor to recommend for an Engineer's Yard (a plan of which it appears the Governor disapproves) and also concerning an exchange proposed by Captain Wilson of certain Crown Land, for Land adjoining the Yard proposed by me, I have now the honor to state, at your request, what I consider necessary to Report further upon it.

The Plan of the Engineer's Yard, I had the honor to submit, was in conformity with the views of The Commissioners, and, as my own Report is tantamount (I presume) now to that of the Commissioners, I beg to state, for His Excellency The Governor's information, that the spot I planned is, in my humble opinion, the most eligible for the purpose proposed, not being aware of His Excellency's reasons for preferring the place you mention, especially if the Domain, so essential for the Public recreation, is likely to be invaded by the Establishment of a Lumber Yard Wharf.

With respect to the exchange of certain Crown Land for Land held by Mr. Terry Hughes, as proposed by Captain Wilson, I beg to state that it is not essential either in the event of my Plan being adopted, or in case The Governor thinks proper to set it aside, and that I do not recognise the right of Captain Wilson to meddle in Land affairs at all.

I consider it also necessary to state here that, as the inactivity of the Commissioners and their consequent dismissal may be supposed to have been because The King's Instructions respecting their Duties have not been strictly acted on, I must request in all cases in which responsibility attaches to me, and where The Governor is pleased to set aside my Plans, that these and the Correspondence may be referred to His Majesty's Government.

I have, &c.,

T. L. MITCHELL, Sr. Genl.
DARLING TO MURRAY.

[Enclosure Z to Minute No. 7/1831.]

(Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated 28 March. 1831.)

Sir,
Surveyor General's Office, Sydney, 28th Deer., 1830.

I have the honor, with reference to the enclosed Papers transmitted through Objections to my Office by the Director of Public Works, to refer to my former Letter on this grant of land subject of the 30th November, 1830, and I have moreover the honor to state for to T. Street, the information of His Excellency The Governor that I consider the alienation of this Land to Mr. Street as decidedly objectionable, for it encroaches on the Market Wharf and on the Right of the Public to a sufficiency of space adjoining the Wharf; nor do I consider that Mr. Street has any Title to compensation, for he had only a permissive occupancy of the building to the South, it being on a Government Reserve; Under these circumstances, I beg leave to withhold my Sanction from this measure and to refer particularly to the concluding Paragraph of my former Letter before alluded to.

I have, &c.,
T. L. MITCHELL, Sr. Genl.

[Enclosed in the foregoing.]

(Copy of a Letter from The Director of Public Works to The Honble. The Colonial Secretary, dated 14th December, 1830.)

Sir,
Office of Public Works, Sydney, 14th December, 1830.

In accordance with the Instructions contained in your Letter of the 19th Description November, No. 30/497, I have the honor to transmit, through the Office of the allotment Surveyor General, a description of the allotment near the Market Wharf given to for T. Street, Mr. Street in lieu of that claimed by him, which has been comprised in the Allotment of Land given to Mr. Terry Hughes.

I have, &c.,
CHAS. WILSON, C.E., D.P.W.

[Enclosure AA to Minute No. 7/1831.]

(Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated 27 October, 1830.)

Sir,
Surveyor General's Office, 27 October, 1830.

I have the honor to acquaint you that I have received from the Director of Necessity for Public Works Plans of two Sections of Allotments in Sydney, but which do not shew complete plans, any of the Buildings; I, therefore, do myself the honor to submit that, on so large a Scale, every House and Stone Wall should be laid down, without which a Plan of Sydney would be of little use.

I have, &c.,
T. L. MITCHELL, Sr. Genl.

[Enclosure BB to Minute No. 7/1831.]

(Copy of a Letter from The Director of Public Works to The Honble. The Colonial Secretary, dated 18th November, 1830.)

Sir,
Office of Public Works, Sydney, 18th November, 1830.

Having communicated the Instructions conveyed to me in your Letter of the 3rd Inst. No. 30/473 to the Town Surveyor, I have now the honor to enclose for His Excellency's information the representation made to me by this Officer of the great delay that must necessarily take place in furnishing the descriptions of the allotments so as to include every house and stone wall.

I would therefore submit how far it may be expedient that the suggestion of the Town Surveyor be adopted, namely, that the Survey be first completed according to the present arrangement, which would perhaps be sufficient generally speaking, and I would suggest in particular instances where required a minuter Survey including Houses and Walls be then made.

I have, &c.,
CHAS. WILSON, C.E., D.P.W.
Proposal for inclusion of houses and walls in plan of Sydney.

[Enclosure CC to Minute No. 7/1831.]

Copy of a Letter from The Colonial Secretary to The Surveyor General, dated

Sir, Colonial Secretary’s Office, 29th November, 1830.

I have had the honor to receive and to refer to The Director of Public Works your Letter of the 27th October, No. 30/469, representing that, unless all Buildings and Stone Walls are inserted in the sketches of Sydney Allotments prepared for your Department by the Town Surveyor, a Plan of the Town (such as I presume you caused to be compiled from those sketches) can be of little use; and I now do myself the honor to enclose a Copy of Captain Wilson’s reply, which it is stated that the insertion of such particulars would occasion considerable delay, and that the General Plan would nevertheless be still imperfect, in consequence of the erection of additional Buildings during the progress of the Survey.

In doing this, I am directed by The Governor to observe that He is not in possession of information sufficiently exact to enable him to determine whether the proposed additions be really expedient or not. But, this being a matter of mere detail, He cannot but consider that it will be best arranged by The Heads of the Departments concerned, if there be but sufficient willingness to co-operate with each other for the advancement of the Public Service.

The object of the Government is to obtain, in the first instance, an exact definition of each portion of Land, the property of the Crown, and of Private Individuals, respectively, in order that valid Titles may be granted for the latter, and, when these are completed, to enable the Town Surveyor to attend to his more immediate Duties of Superintending the care of the Streets, and the alignment of private Buildings. In the attainment of these ends, it is evident that the utmost possible dispatch ought to be used, and that, in strictness, the Duties of the Surveyor General have special reference to the Boundaries of the Land, while the Director of Public Works takes more immediate cognizance of the Buildings. But if, for the preservation of a Record the preparation of the Plans required by the Governor or for any other purpose, it be deemed advisable to keep the Surveyor General apprised of all Buildings erected from time to time, and if it be found that the Public Service will be thereby promoted in a degree commensurate with the additional labor required, this may be effected either by inserting outlines in the traced Sketches furnished by the Director of Public Works (which ought not to occupy much time) or by allowing a Draughtsman from The Surveyor General’s Department to have access to the General Plan, prepared by the Town Surveyor, for the purpose of copying it.

As mentioned above, however, His Excellency neither possesses the Information requisite to enable him to decide these questions, nor deeply considers that they could be so well determined by Himself as by the Officers immediately concerned. He directs, therefore, that, after consulting with The Director of Public Works, you will Report jointly with that gentleman, what Plan appears to you both to be best calculated for ensuring the speedy Survey of the whole Town, and keeping both Departments and the Government informed of such particulars as may be respectively requisite with the least practicable impediment to the Public Service.

I have, &c,
ALEXR. MCLEAY.

[Enclosure DD to Minute No. 7/1831.]

Copy of a Letter from The Director of Public Works to The Surveyor General, dated

Sir, Office of Public Works, Sydney, 22d Dec., 1830.

I shall be happy if you will appoint a time for this duty, and, if it should be more convenient to meet at your Office, I will direct the Town Surveyor to attend.

I have, &c.
CHAS. WILSON, C.E., D.P.W.

[Enclosure EE to Minute No. 7/1831.]

Copy of a Letter from The Surveyor General to The Director of Public Works, dated

Sir, Surveyor General’s Office, 22nd December, 1830.

I have the honor to acknowledge the receipt of your Note and, in answer to it, to inform you that, as Surveyor General, I do not consider it incumbent on me to make a joint Report on the Survey of any part of The Territory of New South Wales.

I have, &c.
T. L. MITCHELL, Sr. Genl.
DARLING TO MURRAY.

[Enclosure FF to Minute No. 7/1831.]
(No. 31/95.)

Copy of a Letter from The Colonial Secretary to The Surveyor General, dated

Sir, Colonial Secretary's Office, Sydney, 29th January, 1831.

His Excellency the Governor having submitted to the Executive Council the Instructions Claim made by Mr. T. H. James to Fifty Acres of Land at Watson's Bay, stated to have been originally ordered by Governor Macquarie, in the Names of Watson and T. H. James.

Murray, together with your Reports thereon of 3rd January, 1829, and 4th March, 1829, No. 39/55, I am now directed to communicate to you His Excellency's decision with the advice of the Council upon the Subject.

Although it does not satisfactorily appear that the Land granted to Watson and Murray, whose claim Mr. James represents, was to be situated at the South Head, it is considered that it will be most equitable, in the absence of other Evidence, to abide by the opinion of Captain Piper who purchased Watson's right, and whose Title has been transferred to Mr. James; and accordingly His Excellency has been pleased to order, as Mr. James already possesses Eleven Acres of Land in Watson's Bay that he be allowed to select Thirty nine in the same Neighbourhood to complete the original quantity, conformably with the description given by Captain Piper, it being understood that the Land, which he may so select, shall not encroach upon the Four Acres of Humphries or upon the Allotments granted to the Pilots Watson and Siddons, or upon the small Allotments proposed to be appropriated to future Pilots and Fishermen or upon any Land reserved for Roads or other Public purposes.

Mr. James has accordingly been requested to notify his selection to you within Four Months from this date, in order that it may, if unobjectionable, be included in your next Half Monthly Abstract for Approval.

ALEXR. MCLEAY.

[Enclosure GG to Minute No. 7/1831.]

Copy of a Letter from Mr. T. Horton James to The Colonial Secretary, dated

Sir, George Street, 4th February, 1831.

Since the receipt of your Letter of 1st Instant acquainting me that the Point between Rush Cutting and Double Bay is specially reserved, I have selected the 39 Acres in Double Bay with the Water frontage bounded on the East by the Fence of Messrs. Cooper and Levey and on the West by the Stream of Water.

Hoping that this will meet His Excellency's approbation,

I have, &c.

T. HORTON JAMES.

[Enclosure HH to Minute No. 7/1831.]
(No. 31/39.)

Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated

Sir, Surveyor General's Office, 9th February, 1831.

I have the honor to acknowledge the receipt of your Letter No. 31/95 dated Instructions 29th January, in which you inform me that His Excellency The Governor having acknowledged submitted to The Executive Council the Claim made by Mr. T. H. James to (30) Fifty acres of Land at Watson's Bay, together with my Reports thereon of the 3rd January and 4th March, 1829, had come to the decision in the absence of better evidence to abide by the opinion of Captain Piper, who purchased Watson's right, and had accordingly been pleased to order, as Mr. James already possesses Eleven acres of Land in Watson's Bay, that he be allowed to select Thirty nine Acres in the same Neighbourhood to complete the original quantity conformably with the description given by Captain Piper, it being understood that the Land, which he may so select, shall not encroach upon the Four acres of Humphries or to the Allotments granted to the Pilots, Watson and Siddons, or upon the small Allotments proposed to be appropriated to future Pilots and Fishermen, or upon any Land reserved for Roads or other Public purposes.

In answer I have to express my regret that the Governor should not have been satisfied with my Report on this Claim of Mr. Horton James, which is the only instance I am aware of having occurred since it has been my Duty to report on such matters for His Excellency's information, where doubtful Claims, set up by an Individual to Land, have been entertained by the Government when unsupported by
1831.

29 March.

Protest by T. L. Mitchell against admission of claim of T. H. James.

The Records of this office. I consider it unnecessary to repeat what is stated in my Letters of the 3rd January and 4th March, 1829, on this Subject; I have always been desirous to discover grounds in support of the Claims of Individuals; in this case I was particularly so, because I foresaw the trouble threatened if the Claim was not given way to, and this however is not yet likely to terminate, for no anticipated annoyance on the part of any Individual shall turn me from the conscientious discharge of my Public duty. I trust it may be clearly understood that I do not pretend to question how much His Excellency The Governor may be pleased to grant T. H. James or any man else, and that this is a very different matter, I protest against the admission of Mr. Horton James’s Claim to more than Eleven Acres at Watson’s Bay.

1st. Because Eleven Acres and no more had been measured and marked in that Situation by my predecessor to John Watson and on the grounds set forth in my Letters.

2nd. Because the admission of this Claim throws a doubt on the accuracy of my Report, which was founded on the Records of my Office, and may lead to the Establishment of other Claims equally groundless.

3rd. Because I have reason to think that Papers written by Mr. Horton James, in which I am concerned, have been submitted to the Council without having been referred to me.

4thly. Because many Persons (and amongst them Veteran Soldiers) entitled in the clearest manner to Land on Orders of Sir Thomas Brisbane and other Governors have been refused such Land from non compliance with an Order of the present Governor, which would equally deprive Mr. Horton James of any Right to more than Eleven Acres, however clear the Title of the Original Claimant.

On these grounds I beg leave to request that His Excellency The Governor will be pleased to refer the subject for the decision of The Right Honble. The Secretary of State before the Claim of Mr. Horton James to 39 Acres more at Watson’s Bay is admitted in the face of my Report.

T. L. MITCHELL, Sr. Genl.

[Enclosure JJ to Minute No. 9/1831.]

Copy of a Letter from His Excellency, The Governor to the Commissioners for the Survey and Valuation of Lands, dated

Government House, 6th February, 1828.

Instructions to Commissioners for survey and valuation of lands.

Gentlemen,

You will herewith receive a Commission under the Great Seal, by which you are appointed Commissioners for the Survey and Valuation of Lands, within this Territory and its Dependencies.

The objects embraced by this Commission are four: First. The division of the whole Territory into Counties, Hundreds and Parishes in manner hereinafter mentioned;

Secondly. A General valuation of Waste and unoccupied Lands throughout the Territory; Thirdly. The Reservation of Land for Roads, Sites of Towns and various other Public purposes;

Lastly. The appropriation of Lands for the support of the Clergy and Education of Youth.

In the performance of the important duties thus confided to you, you will be guided by the following Instructions:

1st. You are to divide and apportion the whole of the Territory into Counties, each of which shall contain as nearly as may be Forty Miles Square, and to apportion each County into Hundreds, each of which shall contain an Area of One hundred Square Miles, and again to subdivide each Hundred into Parishes, of which each shall, as nearly as may be, comprise an Area of Twenty five Square Miles.

2nd. In the proposed division, however, you will have regard to all such great natural divisions, as may be formed by High Lands, Rivers, Streams, Islands or otherwise, preferring a clear and well defined natural Boundary Line, even at the sacrifice of regularity in the Dimensions, Provided that no County, Hundred or Parish shall in any case exceed or fall short of the Dimensions before described to the extent of more than one third part; subject to the qualification mentioned in this Paragraph, You are to adhere as closely as possible to the exact dimensions already prescribed.

3rd. You will, as the Survey proceeds, give me from time to time regular Reports in Writing of your progress, specifying therein, with all possible precision, the limits of each County, Hundred and Parish which you may have apportioned. To these Reports also, you will annex Charts or Maps of every such County, Hundred and Parish, and every care must be taken to avoid doubt and uncertainty respecting the precise proposed Boundaries of each.

4th. Your second object has been already stated to be the making a Valuation of all Waste and ungranted Lands in the Colony; for this purpose, you will strike
DARLING TO MURRAY. 213

an average value of the Lands in each Parish separately, taking into your consideration the fertility and other natural, accidental, or local advantages or disadvantages of the Land in each such Parish as a Basis for the calculation. You will assume that the Land would be purchased in Tracts, containing One thousand, nine hundred and twenty Acres each, and be held in Fee Simple in free and common Sale without the Payment of any Quit Rent or Duty, and that the price would be paid in ready money at the time of the Conveyance; upon these assumptions, you will consider how much money a Purchaser might reasonably be expected to pay.

3. You will make written Reports to me of the progress of this Valuation, and in order to prevent uncertainty and confusion respecting the Lots of Land which will, upon such your Valuation, be hereafter offered for sale. You are also to prepare Charts of each Parish with division lines, by which the whole Parish shall be divided into Lots of Six hundred and forty acres each to be in such Charts severally described by a numerical Mark. To these Charts you will moreover attach Schedules, in which you will point out and describe the natural or artificial Land Mark corresponding with the division lines on the chart.

6. The two operations of Survey and valuation, you will effect contemporaneously; but you are to understand that neither will extend at present into Districts which lie entirely beyond the range of any actual Settlements.

7th. In the third place you are, in the course of your Survey, carefully to ascertain and Report to me what particular Land it would be proper to Reserve in each County, Hundred and Parish for Public purposes, Public Roads and other internal communications whether by Land or Water, for the erection of Towns, Villages, Churches, School or Parsonage Houses or as places for Interment of the Dead, for the future extension of existing Towns or Villages, for purposes connected with the health and recreation of the Inhabitants, for Quays and Landing places in the Neighbourhood of navigable streams or on the Sea Coast, or generally for any other purpose of Public convenience, health or gratification.

8th. In addition to the specification in your Reports of the Tracts or pieces of Land appearing to you to be best adapted for the various Public purposes thus enumerated, you will also accurately distinguish such Tracts or pieces of Land in the Charts or Maps annexed to those Reports.

9. The subject, that remains, is the appropriation of Lands for the Maintenance of the established Church and for the Education of Youth in the principles of that Church; For these most important purposes it will be your Duty to mark out and set apart in each County, into which you may divide the Territory, a Tract of Land comprising One Seventh part in extent and value of all the Land in such County.

10. This Land, to be called the Clergy and School Estate of that County, must as nearly as may be lie in one contiguous and unbroken Tract; If, however, this should be impracticable without serious injury or inconvenience to private Settlers, then you will be at liberty to allot such Estate in two or more Contiguous Tracts in the same County. You will nevertheless take especial care that the Clergy and School Estates in each County be not interspersed with or divided by other Lands except in those special cases. If a sufficient quantity of vacant and unallotted ground cannot be found in either of the Counties to make up the Clergy or School Estate of that County, then you will supply the deficiency by an Allotment of Land from the nearest adjacent County.

11th. These Estates are to be of an average quality and value in reference to the general quality and value of the Lands comprised within the County, in which each Allotment may be made. You will also select such situations for the said Estates as shall afford in each County a reasonable and equal share of every natural advantage of Water Carriage and Internal communication, which may be possessed by the lands in general throughout such County.

12. Your Report upon the subject of the Tracts so to be appropriated for the Clergy and School Estates will be Special and distinct Reports, made in reference to each County, and must point out with all possible precision the particular Tract appropriated.

13th. Lastly, in case you should not unanimously concur in any Report which I have heretofore directed you to make, you are respectively to communicate to me the grounds and reasons of the different opinions which you may severally entertain.

I have, &c.

RA, DARLING.

1831.
28 March.

Instructions to commissioners for survey and valuation of lands.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosed in the foregoing.]

GEORGE THE FOURTH by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith and so forth.

To whom all these presents shall come, Greeting.

Know ye that we, having taken into our Royal consideration, the Loyalty, Integrity and Ability of our Trusty and Well beloved Thomas Livingston Mitchell, Esquire, Our Acting Surveyor General of the Colony of New South Wales and its Dependencies, have appointed him to be our Chief Commissioner, and having also taken into Our Royal consideration the Loyalty, Integrity and Ability of our trusty and well beloved William Cordeaux of Leppington in the County of Cumberland in the said Colony, Esquire, and George Meares Countess Bowen of Sydney in the said County, Esquire, have appointed them to be the Colleagues of the said Thomas Livingston Mitchell and joint Commissioners with him to apportion the said Colony and its Dependencies into Counties, Hundreds and Parishes; and in the execution of this Commission all Civil Officers are hereby required to be aiding and assisting them the said Commissioners; and they are to obey all such Orders and directions as from time to time they shall receive from The Governor or Acting Governor of the said Colony for the time being, and in the execution of the said Orders and directions the said William Cordeaux and George Meares Countess Bowen are to conform to such Instructions as they or either of them shall receive from the said Chief Commissioner.

In testimony whereof we have caused these our Letters to be made Patent and the Great Seal of our Colony to be hereunto affixed.

Witness our trusty and well-beloved Ralph Darling, Esquire, Lieutenant General of our Forces, Governor and Commander in Chief in and over our Colony of New South Wales and its Dependencies, the Twenty sixth day of February, One thousand eight hundred and twenty eight, in the Ninth Year of our Reign.

RA. DARLING,
Governor in Chief.

By Command of His Excellency the Governor.

ALEX. MCLEAY.

[Enclosure LL to Minute No. 14/1831.]

Copy of a Letter from The Surveyor General to The Honble.
The Colonial Secretary, dated Sir,
Surveyor General’s Office, Sydney, 7th March, 1831.

I have to acknowledge the receipt of your Letter dated the 5th Instant, No. 81/187, in which you state that The Governor, having laid before the Executive Council several of my Letters in which I remonstrate against His Excellency’s decisions on matters connected with my Department, You have been directed by His Excellency at the instance of the Council to request that I will point out by what part of the Instructions, which were issued to the joint Commissioners and under which I am now acting, I consider myself authorised to make any such remonstrance.

In reply, I have the honor to state that I have never received any Instructions defining the Duties of the Office I fill here, and that I am not aware of the Letters to which you allude, in which I am stated to remonstrate against His Excellency’s decisions on Matters connected with my Department. If in any of my Correspondence I have done so and that it is beyond the line of my duty, I can only say that it must have been in cases where I mistook the nature of the duty of The Surveyor General of New South Wales, which, in fact, has never been explained to me.

I sought in vain for a Copy of Mr. Oxley’s Commission, and I have received no commission myself, so that I have continued the Correspondence much in the manner in which it had hitherto been carried on.

It has been my Duty to write thousands of Letters, and I have not such a high opinion of my Correspondence to suppose that a Governor desirous of finding a flaw may not find several therein; nor is it consistent with human nature that an Officer should feel perfect satisfaction in the indefatigable performance of his duty under such an unfavourable circumstance.

With respect to the Instructions to the Joint Commissioners under which you state me to be now acting, requesting also that I should point out by what part of them I consider myself authorised to make any such remonstrance, I have with much deference to observe that these, with a copy of the King’s to The Governor respecting the Commissioners, which was sent them for their guidance, would perhaps justify even a remonstrance on my part in certain Cases, and that I have.
therefore, under these peculiar circumstances, addressed a Letter to The Secretary of State on the Subject, which I have deferred sending a copy to His Excellency until now, because you informed me that my former Letter had not yet been sent. I have, &c.,

T. L. MITCHELL, Sr. Genl.

[Enclosure MM to Minute No. 14/1831.]

(Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated

Sir, Surveyor General's Office, Sydney, 7th March, 1831.

In attention to your Letter No. 30/181 informing me that you are directed to report by His Excellency the Governor with reference to my Letter of 29th December last reserves at request that I will report for His Excellency's information, at what time, by Darling whom and for what express purpose or purposes the piece of Land, which is proposed harbour; to be given to Mr. Street, was reserved; I have the honor to state that, as the Land proposed to be given to Mr. Street is a part of the Market Wharf as the Walls will testify, there can be no doubt of its being reserved; but the time when this took place and by whom the Reserve was made it is difficult to ascertain exactly. A large extent of Land here is coloured green on all the Maps and was always considered reserved for the Dock Yard, and that is all I am able to state on the subject. My Letter No. 30/235 was accompanied by a Report on and Plan of this Ground, showing what I proposed for an Engineer's Yard, etc.; by reference to this Plan and likewise to the Plan of the Allotment for that, which was transmitted through my Office by the Director of Public Works, it will be sufficiently evident that Street's Allotment is part of the Market Wharf.

With reference to that part of your Letter, in which you inform me that you reserve around are also directed by His Excellency The Governor to request that I will report for gaol at His Excellency's information when and by whom the Reserve round the Gaol at Parramatta; Parramatta was ordered, and for what several purposes it was specially intended, I have the honor to state that the same difficulty arises on this as on the former cases. I know not at what time and by whom it was made, but the space is coloured green and on it is written "Reserved for Government and other Public purposes"; this I found on the Maps of Parramatta and it has remained as I found it; and, with respect to Reserves in general, I beg to observe that a portion of Land once and reserves reserved, or in other words refused to Individuals on the ground of the Land in general being either required from its locality for some Special purpose, or kept vacant for the health, comfort or convenience of the Inhabitants, such a Reserve is likely to continue so, not only from deference to the judgment of those who directed this Reserve to be made, but because Applications by Individuals for such Land, having been once refused, it would be unreasonable that other Individuals should subsequently obtain it. I have, &c.,

T. L. MITCHELL, Sr. Genl.

[Enclosure OO to Minute No. 17/1831.]

(Copy of a Letter from The Surveyor General to The Honble. the Colonial Secretary, dated

Sir, Surveyor General's Office, Sydney, 14th March, 1831.

The tenor of your Letter No. 29/189 dated this day has induced me to let Transmission all other business stand, and search for some document in support of what I of King's distinctly stated in my Letter No. 31/74; and I am now enabled to refer you, for the information of His Excellency The Governor, to my Letter dated 4th June, 1829, by which you will learn that a Copy of the King's Instructions was enclosed in your Letter to the Commissioners No. 28/2 dated 6th March, 1828.

I have, &c.,

T. L. MITCHELL, Sr. Genl.

[Enclosure PP to Minute No. 17/1831.]

(Copy of a Letter from The Surveyor General to The Honble. The Colonial Secretary, dated

Sir, Surveyor General's Office, Sydney, 4th June, 1829.

I have the honor to state, for the information of The Governor in reply to your Letter No. 29/189 dated 2nd Inst., which refers to a Memorandum which I had the honor to make to His Excellency respecting the employment of the joint Commissioners, That we have now commenced our Duties and wish to proceed
strictly according to the letter of the Instructions of His Excellency to us, founded
on those of His Majesty, of which we have been also favoured with a Copy enclosed
in your Letter No. 28/2 dated 6th March.

Proceedings of commissioners.

With this view, finding that the division of the Colony into Counties is the first
in the Order of Duties proposed therein, We have maturely considered that subject
and made a division respecting which I beg to refer to our Report No. 1, dated
2nd Inst., This division being so arranged as to admit of the accurate survey of
such natural Boundaries as still require to be traced.

Under the same Head of division, the Subdivision into Hundreds and Parishes
is recommended, but the progress of this branch of Duty can only keep pace with
that of my Department; We therefore would proceed, with The Governor's approba-
tion, with the duty proposed under the next great Head, in those Counties where
the parochial divisions have been already made; these are Cumberland and Bathurst.

I refer to the Valuation (by Parishes) of all the Waste Lands; and this we propose
to proceed with in Cumberland; because the Quadruplicate Copies of parochial Maps
of that County (required by the Instructions) are drawing towards completion.

On this duty, therefore, we would now commence according to the Instructions.
We have fixed certain days for meeting, Monthly and Weekly; and our next day
of Meeting will be on Friday when our Report will probably convey to His Excellency
in more detail the proceedings in contemplation, and to which with respect to the
valuation I apprehend no cause of delay from my temporary absence.

I have, &c,
T. L. MITCHELL, Chief Comm'r.

[Enclosure QQ to Minute No. 17/1831.]

(C No. 28/2.)

COPY Of a Letter from The Honble. The Colonial Secretary to The
Commissioners for the Survey and Valuation of Lands, dated

Gentlemen,
The Colonial Secretary's Office, Sydney, 6th March, 1828.

Transmission of instructions and commission.

Herewith I have the honor to transmit to you a Letter addressed to you by
His Excellency the Governor, pointing out your Duties as Commissioners for the
Survey and Valuation of Lands, together with the Commission by which you are
appointed; and I am directed to request that you will have the goodness to acknow-
ledge the receipt of same.

I have, &c,
ALEXR. MCLEAY.

[Enclosure RR to Minute No. 17/1831.]

COPY of a Letter from The Commissrs. for the Survey and Valua-
tion of Lands to The Honble. The Colonial Secretary, dated


Letter acknowledged.

We have the honor to acknowledge the receipt of your Letter of the 6th in-
stant, together with a Letter of Instructions addressed to us by His Excellency The
Governor, pointing out our Duties as Commissioners for the Survey and Valuation
of Lands, and the Commission by which we are appointed.

We have, &c,
T. L. MITCHELL, Actg. Sr. Genl.
WILLIAM COBEY.
G. M. C. BOWEN.

[Enclosure SS to Minute No. 17/1831.]

(NO. 31/76.)

COPY of a Letter from The Surveyor General to The Honble.
The Colonial Secretary, dated

Sir,

Refusal by T. L. Mitchell to submit copies of letters.

In reply to your Letter No. 31/202 dated Yesterday, I have the honor to
inform you that I do not feel myself bound to furnish you with duplicates of the
Four Letters recently sent by me to His Excellency The Governor merely for trans-
misssion to The Secretary of State; and I do not think it would seem respectful to
that Minister on my part to enter into any Correspondence with you respecting the
contents of Letters, submitted to His judgment and consideration as Secretary of
State for the Colonies. This being the view I now take of your reference to such
Letters, notwithstanding what is said in my Letter No. 31/65, and I beg also to
state that I find, from the nature of the Correspondence, it would encroach too
much on that which properly belongs to the duties of my Office.

I have, &c,
T. L. MITCHELL, Sr. Genl.
MR. T. C. HARINGTON TO SURVEYOR-GENERAL MITCHELL.

Sir, Colonial Secretary's Office, 16th March, 1831.

I am directed by His Excellency the Governor to inform you, in reference to the correspondence which has lately passed between you and this Department, that His Excellency felt it necessary to take the same into consideration in Council; when, on a review of the various Documents above alluded to, the Council expressed their opinion "that the Surveyor General had been guilty of a neglect of Duty and disobedience of orders," and, upon this decision, they are restrained from recommending his immediate Suspension from Office, only by an Apprehension that any change in the conduct of the Survey Department might be attended with inconvenience to the Public Service. The Council at the same time suggested that an intimation should be conveyed to the Surveyor General "that, on any repetition by him of the improprieties animadverted on by the Council, the Government will be under the necessity of resorting to the only measure by which the recurrence can be prevented."

I am therefore to apprise you that, had the Suggestion of the proposed Council been carried into effect (which was unavoidably delayed previous to your Letter of the 12th instant, No. 31/76, the Governor should have considered it his duty, immediately on receipt of that Letter, to have directed your Suspension from Office, and I am now directed distinctly to inform you that, however painful it may be to His Excellency, He will consider it to be His indispensable duty to suspend you, should you not immediately comply with the Orders conveyed to you in my Letter of the 11th instant, No. 31/202.

I am further directed to apprise you that, having taken your Letter of the 12th instant, No. 31/70, above alluded to, into consideration, the Council came to the decision that, by inserting the word "you" in your recapitulation of the purport of my Letter, you have perverted the true meaning, and have attempted to lead to the erroneous impression that you were required to communicate to me the contents of Letters addressed by you directly to the Secretary of State, the true and obvious purport of the requisition being that the Duplicates should be transmitted to the Governor, as the originals had been.

I am also directed to inform you, with reference to your Letter of the 14th instant, No. 31/78, that the Council, on a full review of the whole of the Correspondence on the Subject to which it relates, can discover no grounds to justify your repeated assertion that the "Extract of the King's Instructions" was transmitted officially for the guidance of the Commissioners, as you inserted with your own hand in your Letter (written by your Clerk) of the 4th June, 1829, No. 29/2, the date and number of my Letter of the 6th March, 1828, No. 28/2. You must have been satisfied on reference to that Letter, when ascertaining its date, that the Extract of the King's Instructions formed no part of the Enclosures transmitted with it. If further evidence of this fact were necessary, the Letter from your Office dated the 7th March, 1828, would furnish it. It is signed by yourself and the joint Commissioners, and acknowledges the receipt of mine of the 6th of that month, with its several enclosures, which enclosures are distinctly enumerated, no mention

Opinion of executive council re conduct of T. L. Mitchell.

Proposed suspension of T. L. Mitchell.

Distortion of letter by T. L. Mitchell.

Denial of statement by T. L. Mitchell.

DARLING TO MURRAY.

[Enclosure No. 6.]

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1831.

28 March.
whatever being made of the Extract of the King's Instructions. The Council therefore felt the more surprise that you should have made so erroneous a Statement as it is obvious you have done, and that you should still persist in the same. I am therefore to apprise you that it appears to the Council, as it did to His Excellency, as intimated in my Letter of the 14th instant, that the Extract of the King's Instructions never was officially communicated to the Commissioners for their guidance, and that neither to them nor to you was it at any time competent to assume any power or discretion whatever grounded on a Document even to the existence of which you had never been authorised to refer.

I am in conclusion to request that you will forthwith comply with the orders conveyed in my Letter of the 11th instant, No. 31/202.

I have, &c.,

T. C. HARINGTON.

[Enclosure No. 7.]

(No. 31/84.)

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir,

Surveyor General's Office, 17th March, 1831.

In reply to Your Letter of yesterday's date, I have to state, for the Governor's information, that I declined forwarding Duplicates, 1st as I did not conceive it usual, and 2ndly, because it was not in my power to comply with the order from not having perfect Copies of the Originals; but being now forced by the hardest alternative to supply Duplicates of these Letters to the Secretary of State, I am under the necessity of requesting that the originals may be returned to me for the purpose of being Copied, especially the first Letter, respecting the Roads, of which I have no duplicate Copy.

To the rest of Your Letter, I shall for the present silently submit without any observations.

I have now to request leave of Absence from His Excellency The Governor to proceed to England on urgent affairs, two months hence; when I trust I shall have been able to place the affairs of my department in train to admit of my absence without prejudice to the Public Service.

I have, &c.,

T. L. MITCHELL, S.G.

[Enclosure No. 8.]

MR. T. C. HARINGTON TO SURVEYOR-GENERAL MITCHELL.

Sir,

Colonial Secretary's Office, 18th March, 1831.

With reference to your Letter of yesterday's date, No. 31/84. I have the honor by the direction of His Excellency the Governor to transmit to you the accompanying Packet, containing certified copies of the Letters of which Duplicates are required for transmission to the Secretary of State; and to inform you, in reply to your Application for leave to return to England, that circumstances do not permit of its being complied with.

The Enclosures I have to request you will have the goodness to return.

I have, &c.,

T. C. HARINGTON.
GOVERNOR DARLING TO UNDER SECRETARY HAY.

1831.

Government House, 28th March, 1831.

My dear Sir,

I cannot forward the Despatch, which I have been under the necessity of addressing to the Secretary of State by the present opportunity, respecting Major Mitchell, without requesting your attention to it. It may be sufficient to remark here that his Criticism of Head appears to have been turned by the importance of his Office, since the duties of the Land Commissioners and the Survey of the Church Lands have been transferred to him, in addition to the Road Department and his Duties as Surveyor General. You will see, that he talked of the high and independant Situation he has been placed in, of his being responsible to the Public and of his and the Inhabitants considering a certain measure as highly objectionable, the Government, of course, having no longer any control over him. The sneers and insinuations in some of his letters are indecent in the extreme. In proof of this, it will be sufficient to refer you to his letter of the 7th ult. No. 31/65 respecting Clement Doughty, copy of which is annexed to my notes on his letter of the 15th December last, which accompanies my Despatch of this date, marked "Separate." Having stated what was not true in that letter, as he has done in several other instances, he appears, on being detected, to have given vent to his irascible feelings in a train of impertinent observations. You will judge of my disposition towards him by my private Letter to you of the 6th June, 1829. At that time, I looked upon him as a hard working, rude, ill tempered fellow, who quarrelled with every one, and who, I may add, is still as much detested as ever by those who have any business to transact with him; notwithstanding the "facilities" which he so courteously affords persons wishing to select Land, who are not "fastidious." Anxious to get the business of the Government done, I was willing to make every Sacrifice, and he was allowed to "snarl and growl" unhedged, until at last his insolence became intolerable. I can only say, if those proceedings are not at once put down in a way that will operate as an example to deter others, there will be an immediate end to all subordination and to the Government itself. I will leave you to judge what the effect must be when the Duplicates of such letters as Major Mitchell's, charging the Governor with every species of misconduct, as well as his common official Correspondence, conveying the most contemptuous sneers, are written by the Clerks in his Office. Letters of that description must of course make an impression on the persons who copy them; and the manner in which the Governor's Conduct...
has been represented by their Chief no doubt forms a very prominent part of the Evening’s conversation, and is spread in the course of a short time throughout the Town to the great injury of the Government and the Colony. I include both, inasmuch as it must weaken the former, and a weak Government in such a Colony as this must in the end prove ruinous to it. A man, who cannot be fully confided in, should not be placed here or be continued.

You will only do me justice in believing that these Representations occasion me much pain; I have not been a Volunteer in any case, but have abstained until the conduct of the Individuals has compelled me to bring their names forward. Major Mitchell is in fact the Accuser.

In the case of Mr. Baxter, I took the liberty of privately apprising Sir George Murray, when I did myself the honor of writing to him on the 8th November, 1828, on the occasion of his Appointment to the Colonial Department, of Mr. Baxter’s incompetency. As my Letter was not acknowledged, I felt unwilling, even after Mr. Baxter’s disreputable habits became notorious, to say more with respect to him. You will hear from any one of whom you may choose to enquire, and I could wish that reference were made to Mr. Riddell, the Treasurer, who at least could not have been unfriendly to him, and I have no doubt he will satisfy you that his Conduct has been disgraceful in the extreme, having been almost constantly in a state of inebriety.

Notwithstanding this, he obtained an Address* from 14 Members of the Bar on leaving the Colony, which affords some proof how little importance is attached to Character by individuals who could be prevailed on to put their names to such a Document. I may now ask what must have been the Situation of this Government with such an Attorney General, and Mr. Moore as Crown Solicitor. The former incompetent, the latter certainly not disposed to serve the Government. When writing in this manner, I am persuaded you will not take amiss my expressing my Sentiments and Feelings with candour. Presuming on this, I must say that nothing could be more unfortunate than the Order to restore Mr. Moore to the Public Service. I am aware it did not prescribe the Situation, but I had no other means of complying with the Secretary of State’s Orders, and the want of legal knowledge and experience of the Crown Lawyers at the time rendered the Appointment of a Crown Solicitor, who was acquainted with the forms of business, necessary to Public justice. Besides as Mr. Moore appeared to have been apprised of the Order, the Government was not strong enough to resist his Re-appointment, and I yielded from necessity. The Situation of the Government from

* Note 74.
these combined causes has been extremely embarrassing; the Conduct of its legal matters has fallen into the hands of a man, whose Conduct, from whatever cause it proceeds, leaves the Government without a chance of success. I cannot omit mentioning in this place a case in which the Government has lately been cast. You may perhaps recollect the circumstance of Girard's Representation* and the Allusion in it to a piece of ground which he had taken possession of without any right and fenced in. The Fence was removed, as recommended by the Attorney General, Girard having no claim whatever to the Ground. He brought his Action and the Government had to pay Mr. Keith, Mr. Moore's late Partner, £57 14s. 6d., being the Costs, besides Damages to the Amount of £60. I took an opportunity of speaking to Judge Dowling who tried the Case; and he informed me, that it did not appear by the Proceedings that the Ground belonged to the Government, Mr. Moore who conducted the Case having neglected to put in a plea of justification until it was too late. I desired upon this that Mr. Moore would move for a new Trial; but he said the Judge's Charge was of such a nature as to preclude any chance of success. The Situation of the Government is rendered pretty obvious by this one case. Girard has, in consequence, again fenced in the Government Ground and has set the Government at defiance. We must therefore submit to the loss of the Ground, forcibly taken possession of by an Alien and to the payment of £117. I have called for a Report of this Trial and of others which have lately taken place with a view to their transmission to the Secretary of State, the Questions which they involve being highly important in the circumstances of this Colony. Lt. Governor Stirling sent three men by His Majesty's Sloop Comet, who were supposed to be Run-away Convicts from this Colony and who had committed a Felony at Swan River; but whom he had not the means at the time of bringing to Trial. These Men brought their Actions severally against the Sheriff for detaining them while the fact of their being Convicts was under investigation. The two first Actions were defended by Mr. Moore, and the Damages in each Case was £300, the costs increasing the Expenses of the two to more than £500. I desired that Dr. Wardell might be employed in the third case, and the Damages were given at £20. The Men then brought Actions against the Captain of the Comet, and it being important that the Government should not be supposed to have acted arbitrarily or inconsiderately, or be again subjected to Heavy Damages, Mr. Therry was employed to conduct the Defence. The Result was, Captain Sandilands, who brought the men forcibly from Swan River and kept them several weeks on board Ship, was cast with

* Note 75.
Damages of one Farthing; while the Sheriff, in the two Cases defended by Mr. Moore, having detained the men only during the Investigation whether they were actually Convicts, was adjudged to pay £200 in each. It is evident that these Cases, as well as Girard's, have been grossly mismanaged to say the least, and that the Government has paid dearly for the Confidence placed in Mr. Moore. I am aware, that Mr. Moore has had matters to attend to, which properly do not belong to his Office, in consequence of Mr. Baxter's insufficiency. What I complain of is, that he does not pay attention to the business which he undertakes, as may be seen from the Cases I have cited, the consequence of which is that Government has been subjected to very heavy Expenses, his own more immediate duties being at the same time neglected, as is shewn by the Representations of the Deputy Commissary General and Collector of Internal Revenue, forwarded with my Despatch of the 6th December last, No. 69, which obliged them to have recourse to other assistance, thus subjecting the Government to further Expense. In short, Mr. Moore is considered even by his friends to be one of the most idle Men living. You will perceive, from the facts now communicated, how we are circumstanced. Unless the Government is supported by Crown Lawyers of Character, experience and ability, it cannot make any effectual stand. I trust in God that the Gentlemen, whom we are led to expect, will enable the Government to recover its lost Ground, and to appeal to justice with at least some degree of confidence.

I beg to observe that I have not noticed several of Major Mitchell's observations and Assertions; and I think on reflection it would have been more consistent, had I simply forwarded the Minutes of Council on his Case, which so clearly shew his Character and disposition, without entering into any explanation of my conduct at the instance of such an Accuser.

I remain, my dear Sir,

Very faithfully yours,

RA. DARLING.

P.S.—I have omitted to instance, when speaking of Major Mitchell, that I have not been able to the present moment, to obtain a Map or Sketch of the Colony, as at present proposed to be divided, though I have repeatedly mentioned to him personally the inconvenience and embarrassment I feel, having nothing better to refer to when Settlers come to speak about their Land, than a common Map* of Arrowsmith's, which I brought out with me. I suppose I shall be favored with a Copy, in common with others when his new Map has been published.

R.D.

* Note 76.
Viscount Goderich to Governor Darling.

(Despatch No. 33, per ship Georgiana.)

Sir,

Downing Street, 29 March, 1831.

I have the honor to acknowledge the receipt of your Despatch of the 7th of October last No. 65, enclosing, in compliance with the directions conveyed to you by my Predecessor in his Dispatch of the 31st of July, 1828, No. 17, a report of the opinions entertained by yourself and by the Members of the Legislative Council relative to the question of Juries in Criminal cases.

I entirely agree in the general views and the reasoning on which the majority of the Council have come to the conclusion that the introduction of Grand and petit Juries on criminal Trials would, in the present state of the Colony, be inexpedient. With the exception of the concession towards this object, which you were directed by Sir George Murray's Dispatch of the 7th of April, 1830, I allude to the substitution of a Civil for a Military Jury in any cause in which the Governor or any of the principal officers of the Government are parties, I am not prepared to direct any further alteration for the present in the ordinary system of trial observed in New South Wales.

I am, &c.,

Goderich.

Viscount Goderich to Governor Darling.

(Despatch No. 34, per ship Georgiana; acknowledged by Governor Darling, 18th November, 1831.)

Sir,

Downing Street, 29th March, 1831.

With reference to my Dispatch of the 12th of January last No. 14, relative to an advance of £3,500, on the terms therein stated, for promoting the Establishment of a College at Sydney, I have the honor to transmit to you the Copy of a further representation from Dr. Lang on that subject, in consequence of which I am induced to authorize you to bring under the consideration of the Council the propriety of making to him the payment of £1,500, on his arrival in the Colony with the number of Emigrants proposed in his Letter. This Sum will be considered a part of the £3,500, which it was agreed, in the Memorandum accompanying my Dispatch before mentioned, should be advanced from the Colonial Treasury for the purpose of establishing the academical Institution in question. Dr. Lang further understands that no additional advance will be made by the Colonial Government, until they shall be satisfied that at least £1,500 shall have been actually expended upon the proposed Building.
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HISTORICAL RECORDS OF AUSTRALIA.

1831.
29 March.

Instructions re advances for establishment of college.

Inquiries re possible immigrant mechanics from Scotland.

Brig available for transport of immigrants.

Request for advance to pay for charter of brig.

When this fact shall have been made to appear, you will recommend to the Council the advance of the remaining £2,000 at intervals (covering a space of eighteen months), as originally agreed upon between this Department and Dr. Lang, who will be held personally responsible for the due execution of this Agreement.

I have, &c.,

GODERICH.

[Enclosure.]

REV. J. D. LANG TO VISCONT GODERICH.

My Lord,

London, 15 March, 1831.

Since I had last the honor of addressing your Lordship, I have been residing for several weeks in different parts of Scotland, chiefly with a view to ascertain to what extent the emigration of industrious Mechanics from that Country to New S. Wales would be expedient on the one hand and practicable on the other; and I do myself the honor to inform your Lordship that the result of my enquiries on that subject has been as follows:

1. That the wages of Mechanics in Scotland are at present comparatively very low.

2. That a great many of that class of operatives, especially in the City of Edinburgh and in the Town of Greenock, are either out of employment or very inadequately employed.

3. That many respectable individuals of the Class in question would gladly emigrate to New South Wales with their wives and families, were their passage paid in the first instance, on condition of their repaying the stipulated amount of it by weekly instalments from their wages in the Colony, which the high price of mechanical labor and the low price of the articles of subsistence would very soon enable them to do.

I have also ascertained that a Vessel of 350 Tons register, which was employed last year in conveying free Emigrants from the West of Scotland to Quebec, and which is capable of accommodating at least 60 families of free emigrant Mechanics, could at present be chartered in the Town of Greenock for the Voyage to N. S. Wales for the sum of £1,500, exclusive of the cost of outfit, Stores, etc., which would probably amount to a similar sum; and that the owners of the said Vessel are willing, contrary to the usual practice in such cases, to receive the said sum of £1,500 on the Ship's arrival in N. S. Wales.

I beg therefore most respectfully to propose to your Lordship that, if your Lordship would be pleased to authorise the Govr. of N. S. Wales to advance the sum of £1,500 from the Colonial Treasury for the payment of the Chartering of the Vessel above-mentioned on her arrival in the Port of Sydney with a Cargo of 60 families of Mechanics, or of 50 such families, and from 20 to 40 Pauper Children of 12 years of age from the Charity work-house of Edinburgh, security being given for the repayment of the said sum of £1,500 in five years on the buildings to be erected for an Academical Institution in the Town of Sydney, myself and my friends would advance the whole amount requisite for the outfit and provisioning of the said Vessel, and would use every available means, in the way of religious discipline and moral restraint, to...
DARLING TO MURRAY. 225

induce the said emigrants to fulfil their agreements on their arrival in N. S. Wales, and to set a virtuous and praise-worthy example to the laboring population of that Colony.

I beg moreover to state in conclusion that, if the experiment I propose to make should be found successful, the very respectable mercantile house, whose letter I do myself the honor to enclose, would willingly contract either with the Colonial Govt. or with any body of respectable Merchants in the Town of Sydney for the conveyance of a certain number of respectable Mechanics with their wives and children to N. S. Wales every year, an object the accomplishment of which has been long earnestly desired in the Colony and would prove of unspeakable advantage in a great variety of respects to the Colonial Population. I have, &c.,

JOHN DUNMORE LANG.

[Sub-enclosure.]

MESSRS. ALAN KER AND CO. TO REVD. J. D. LANG.

Revd. Sir, Greenock, 10th March, 1831.

In reference to your communication of the 7th Inst., relative to the Chartering of a vessel for the conveyance of free Emigrant Mechanics with their wives and families to New South Wales, we beg to inform you that we are willing to charter for that purpose the Brig Stirling Castle, of 350 Tons Register, for the sum of £1,500 stg., provided you can effect any arrangement for the repayment of that sum, with Interest, from the time of the vessel's Sailing, on her arrival at the Port of Sydney, New South Wales. The requisite expenses for the fitting up of Berths, and for the purchase of Stores, etc., for the passengers being defrayed by you.

We are, &c.,

ALAN KER AND CO.

We beg leave to add that the Brig Stirling Castle, within named, carried out last year from this Port to Canada above 250 Emigrants, and is well adapted for carrying Passengers.

VISCOUNT HOWICK TO GOVERNOR DARLING.

(Despatch per ship Georgiana.)

Sir, Downing Street, 29th March, 1831.

The Revd. Dr. Lang having applied for three months further Leave of Absence, I am directed by Viscount Goderich to acquaint you that he has granted him an extension of Leave to the period in question. I have, &c.,

HOWICK.

GOVERNOR DARLING TO SIR GEORGE MURRAY.

(Despatch No. 31, per ship Janet Izat; acknowledged by Viscount Goderich, 18th October, 1831.)

Sir, Government House, 29th March, 1831.

I have the honor to forward at the desire of Mr. Drew a Memorial representing certain grievances in having, as he conceives, been unjustly deprived of Land by my order.
I am really at a loss to understand what Mr. Drew means by a representation of this nature, every possible pains having been taken to accommodate and serve him. The correspondence, which has taken place, will fully prove this.

The case appears to be as follows:—Mr. Drew obtained a Grant of Land of 600 Acres, which he described as half a Mile South of Rodd’s Farm, and running due South 80 Chains or one Mile on the Bank of the Wollombi Brook.

Mr. Rodd afterwards applied for the intermediate space between his Father’s Grant and Mr. Drew’s Northern Boundary and obtained a promise of it.

On hearing of this, Mr. Drew represented that the late Surveyor General had directed, in consequence of the Nature of the Ground, that the frontage of his Grant on the Wollombi should be extended.

Orders were immediately given to cancel the Authority to Mr. Rodd, and to grant to Mr. Drew the Land selected by that Gentleman on his (Mr. Drew’s) Northern Boundary, not as an Additional Grant, for which he would have had immediately to pay Quit rent, but as an Original Grant, thus adding, without any claim or even application on the part of Mr. Drew, half a square mile on the most favorable terms to the Land he had received from my predecessor, extending his original Grant to one square Mile and a half.

Mr. Rodd, being disappointed in obtaining the half square Mile which he had been promised on Mr. Drew’s Northern Boundary, applied to be allowed to take it on his Southern Boundary. Mr. Drew then stated that he had also improved the Land in that direction, and requested if he could not be allowed to purchase it, that Mr. Rodd should be required to indemnify him.

It appeared to me that Mr. Drew had already received every reasonable indulgence, and that the precedent of paying people for improvements made on Land, to which they had no Claim, would prove extremely inconvenient in this Colony.

Mr. Drew then in October last, his Property having been sold by the Sheriff, applied for another Grant as an indemnification for his Losses; but, as he was without any means whatever, as stated in his own letter, Land could have been of no other use to him than for the purpose of raising Money. His Application was consequently refused.

Having gone through this detail, which I trust, Sir, will satisfy you that Mr. Drew has no just ground of dissatisfaction or Complaint, I must beg to draw your attention to one or two facts.
1st. It will be seen, by the accompanying Copy of a letter to the late Surveyor General, Notifying the Selection of his Grant of 600 Acres, that he states it to be half a Mile South of Rodd’s Farm, and running due South 80 Chains or one Mile on the Bank of the Wollombi; while, in the Letter annexed to his Memorial, which he transmits as a Copy of the above, it will be seen that the extent of the frontage on the Wollombi is stated at 120 Chains or one Mile and a half! So that, in his spurious Copy, he has not increased the Number of Chains only from 80 to 120; but, to be consistent when inserting the equivalent in Miles, has also increased the frontage to one Mile and a half instead of One Mile! It is to be presumed that this was necessary to make out his case.

2nd. Mr. Drew’s statement, even in other respects, is not a Candid one, and is besides incorrect in several essential points. He states his embarrassments to have been occasioned by his not being permitted to retain the Land he had Cultivated. This cannot be true, as the extent was inconsiderable, very few Acres only being planted with Maize. Mr. Drew came out here without any Capital, and was employed for some time as a Clerk at a low Salary. His failure as a Settler, if he can be so properly considered, is to be attributed solely to his having purchased Stock on Credit, when the prices were extravagantly high, and to the depreciation which had taken place in the value of Cattle when he was Called on for payment. His is by no means a solitary case. Numbers have suffered who were possessed of Capital. He was a mere Speculator without means, and appears to calculate his Losses according to the expectations he had formed of what he might have realised, had he succeeded. His case may serve to shew, what this Government has had to contend with. Every one has suffered, and many like Mr. Drew of course blame the Government for their want of success.

I have been unable from a pressure of business to report on Mr. Drew’s representation before the present moment. The privilege of complaining on every occasion, however trivial, is one which every Man now thinks he has a right to exercise. Here it is supposed that every one is entitled to just as much Land and as many Convicts as he wishes to receive, without considering that the latter can only be supplied to a moderate extent; the former might be lavished; and the Governor, who exercises a just discretion in the disposal of it, will always be subject to attacks of this Nature. As to myself, I am perfectly indifferent respecting them; but I feel deeply when the public interest suffers, as it must, by the waste of time and interruption,
which is occasioned in attending to representations which are the result of disappointed views, for which the Government can in no respect be answerable or induced by Captious or factious feelings.

I have, &c.,
RA. DARLING.

[Enclosures.]
[Copies of these papers are not available.]

GOVERNOR DARLING to SIR GEORGE MURRAY.
(Despatch marked "Confidential," per ship Gilmore.)
Sir,
Government House, 29th March, 1831.

I have the honor to acknowledge the receipt of Your Despatch, dated the 12th December, 1829, marked "Circular," "Confidential," having reference to the Act which had been passed for the relief of His Majesty's Roman Catholic Subjects, and calling my attention more particularly to the 28th Section of that Act. In reply, I do myself the honor to state, for your information, that there is no religious Order, Community or Society, nor any persons in this Colony, that I am aware of who are bound by Religious or Monastic Vows.

I have, &c.,
RA. DARLING.

VISOUNT GODERICH to GOVERNOR DARLING.
(Despatch No. 35, per ship Georgiana; acknowledged by Governor Bourke, 8th January, 1832.)
Sir,
Downing Street, 30 March, 1831.

I have received your Dispatch No. 56 of the 21st of September last, stating the circumstances under which it had appeared expedient to deposit a portion of the public Money in the Bank of New South Wales, notwithstanding the former mismanagement of the Affairs of that Establishment.

I concur in the view taken of this subject by yourself and by the Members of the Executive Council, and I have therefore to approve of the decision to which you came, with the advice of the latter, of again authorizing the Colonial Treasurer to reopen an account at the Bank, and to deposit therein a certain portion of the public Monies as was formerly done, taking care that the amount remaining in deposit does not exceed at any one time, a larger Sum than that which it will be easy to withdraw at any moment that such a step might be deemed necessary.
The Council have very properly recommended that it should be an indispensable condition of the Treasurer’s keeping an account with the two Banks that a Copy of the Half yearly Statements of the respective Establishments be transmitted to the Governor within one month after the expiration of each Half-year; But I think it would be no less advisable that this Statement should not only be transmitted to the Governor, but should also be published for the Information of the Community at large. It is right that those, who would be so deeply affected by the mismanagement of these Establishments, should have the fullest means of judging whether their Business has been properly conducted, and you will not, therefore, in any manner afford the countenance of the Government to any Banking Establishment, which shall decline to comply with this Rule, which experience has proved to be so greatly for the advantage of all parties concerned.

Viscount Goderich to Governor Darling.

(Despatch No. 36, per ship Georgiana.)

Sir, Downing Street, 30 March, 1831.

I have the honor to acknowledge the receipt of your despatch, No. 61 of the 3d of October last, representing the difficulty of obtaining competent Individuals to undertake contracts for the erection of Buildings, and enclosing a statement shewing the increase of expense when so undertaken, in comparison with the cost when the work is done by the Government establishments.

In the papers now received from you, I do not perceive any Estimate given of the charge arising from the large Establishments, which are required for the controul and superintendence of the Convicts employed by the Government, nor any calculation made of the expense arising from the great consumption, which annually take place of tools and materials; so that, had I not already decided in favor of the change from other sources of information, I should not have been able to come to a satisfactory conclusion upon the subject. The question, however, which you submit in your despatch, viz., whether, if the idea of having work done by Contract should be abandoned for the present, it may not be necessary to add to the Department of Works, so as to render it equal to the performance of what it may be necessary to undertake, added to your further observations that the superintendence is so deficient that the workmen comparatively do nothing, and that the relief is incalculable, which the Government would experience by the discontinuance of the
Government Establishments, furnish strong arguments against the present system, and confirm me in the opinion, which I have already expressed as to the propriety of a change in this respect. You will, therefore, follow the course pointed out in a letter, addressed to you by my Under Secretary on the 4th of December last, taking care to enter into no contract with Individuals for the erection of any Public Building, unless the party undertaking the work shall give ample security to the Colonial Government for the execution of his engagements, and to enforce to the utmost practicable extent the terms of the Bonds, which may be entered into by the Contractor or his securities.

I am, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 37, per ship Georgiana.)

Sir,

Downing Street, 30 March, 1831.

His Majesty having approved of the 4th Regiment of Foot proceeding by Detachments in charge of Convicts to New South Wales, I have to desire that, on the arrival there of the Service Companies of that Corps, the 39th Regiment may proceed to India, according to the further directions which will be communicated to you by the General Commanding in Chief.

I am, &c.,

GODERICH.

GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 32, per ship Janet Izat.)

My Lord,

Government House, 5th April, 1831.

I have been just now honored with the receipt of your Lordship's Despatches, Marked "Circular," dated the 22d of November last, the one Announcing that His Majesty had been graciously pleased to confide to you the Seals of the Colonial Department, the other notifying that your Lordship had appointed the Lord Howick as one of your Under Secretary's of State, and transmitting a Memorandum shewing the division of the business between his Lordship and Mr. Hay.

I beg to assure Your Lordship of my earnest desire to obey Your Lordship's Commands and conform to Your wishes on all occasions, and to express my hope, that I may be so fortunate as to merit Your Lordship's Approbation and Confidence.

I have, &c.,

RA. DARLING.
HOWICK TO DARLING.

GOVERNOR DARLING TO VISCOUNT GODERICH.
(Despatch marked "Separate," per ship Craigevar.)

My Lord,
Government House, 5th April, 1831.

I do myself the honor to transmit for Your Lordship's information the accompanying copy of a Communication, which I have addressed to the Lords Commissioners of His Majesty's Treasury, respecting Mr. Jackson the Barrack Master.

As the Lords Commissioners of the Treasury have directed that the Expenses of the Barrack Department should be defrayed from the Military Chest, since Mr. Jackson received his appointment under the authority of Earl Bathurst, I have been under some difficulty as to the Department to which I should address myself on the subject of Mr. Jackson's inefficiency.

I have not ventured to remove or suspend him though he has been totally useless, and I have put up with the trouble occasioned by his incompetency to the duties of his Situation, until I found it impossible to obtain any accounts from him. I have in consequence directed that his Pay shall be Stopped until his Accounts are rendered, but the embarrassment felt at present is very great and will of course be increased. I therefore trust, if the Barrack Department of this Command is under Your Lordship's control, that measures may be taken to provide for the efficient discharge of the duties which appertain to it, as I see no prospect of their being performed by Mr. Jackson.

The Pay is ten Shillings a day, with the Allowances of a Captain in the Military Service.

I have, &c.,
RA. DARLING.

[Enclosures.]

[These papers were a letter from Governor Darling to the honorable J. Stewart, dated 5th April, 1831, with enclosures thereto. The letter detailed the arrangements for the salary of the barrack-master and the accounts of the barrack department, and reported the inefficiency of Jackson, the barrack-master.]

VISCOUNT HOWICK TO GOVERNOR DARLING.
(Despatch per ship Mary to Hobart town.)

Sir,
Downing Street, 6th April, 1831.

I am directed by Viscount Goderich to transmit to you the enclosed Copy of a Letter from the Secretary to the General Commanding in Chief, with a statement of the Services of Lieutenant Jonathan Warner of the New South Wales Veteran Companies, and to acquaint you that it is his Lordship's desire that
this Officer, who appears to be now residing in New South Wales, may be admitted to the benefits held out by His Majesty's Regulations to Officers becoming settlers in New South Wales and Van Diemen's Land. I have, &c.,

HOWICK.

[Enclosure.]

LORD FITZROY SOMERSET TO UNDER SECRETARY HAY.

Sir, Horse Guards, 29th March, 1831.

I am directed by the General Commanding in Chief to acquaint you for the information of the Secretary of State that Lieutt. Jonathan Warner of the New South Wales Veteran Companies has obtained his Lordship's permission to dispose of his Commission with a view to his becoming a Settler in New South Wales. A statement of his services is herewith annexed, and Lord Hill is enabled to report favorably of his conduct on all occasions. His Lordship has accordingly to request that Lord Goderich will communicate to Lt. Genl. Darling such Instructions therein as he may think proper.

Lieutt. Warner is now residing in New South Wales.

I have, &c.,

FITZROY SOMERSET.

Services of Lieutt. Warner.


Lieutt. ............... 16 Novr., 1809.

‡ pay ...................... 20th May, 1817.

1st Vetn. Company ............. 18 Novr., 1824.

1st West I. Regiment ............ 9 April, 1825.


GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 33, per ship Janet Izat; acknowledged by Viscount Goderich, 21st October, 1831.)

My Lord, Government House, 6th April, 1831.

I have the honor to acquaint Your Lordship that I have nominated Mr. Thos. Scott Townsend to the Situation of Draftsman in the Surveyor General's Department, until Your Lordship's pleasure shall be known.

The Establishment of Draftsmen fixed by Sir George Murray is seven. The Names of the persons now employed, who have been Appointed by Your Lordship's predecessor, are as follows, Viz.:

Mr. White; Mr. Larmer; Mr. D'Arcy; Mr. Davidson; Mr. Balcombe.

I beg to enclose for Your Lordship's information the accompanying Copy of a letter from Mr. Herries, respecting Mr. Townsend, and the Surveyor General's Report, stating that he considers that Gentleman qualified for the situation of Draftsman. I have, &c.,

RA. DARLING.
GOVERNOR DARLING TO VISCOUNT HOWICK.

My Lord, Government House, 6th April, 1831.

It appearing, in consequence of the impracticability of
inducing the Convicts to Work as other Mechanics and Labourers
that it would require an Establishment of Fifty Shoemakers
to make up the Shoes required for the Prisoners necessarily main­
tained by the Government, I would recommend as being more
Convenient and less expensive under all Circumstances to have
the Shoes sent out from England, rather than keep up the Estab­
lishment which would be necessary to have them made up here.

When I first recommended that the Materials should be sent
from Home, I was led to believe that a much Smaller Number
of Shoemakers would be able to make up the whole of the Shoes
required; but, when the period for the last issue arrived, there
was not only a great deficiency, but the Shoes, which had been
prepared, were made in so very indifferent a Manner that the
sewing gave way in a few days, and the Men, who had not the
means of having them remade, were in fact barefoot.

I therefore request that 10,000 pairs of Shoes may be sent Requisition
out for the service of the ensuing Year 1832, in preference to the
Arrangement proposed by the Board, in the Report which accom­
panied the Estimates sent to the Lords of the Treasury in the
Month of December last for the supply of 1832, as by this means
the Establishment of Shoemakers, instead of being encreased to
fifty, may be entirely broken up.

I take leave to suggest that the order for the supply of Shoes, now required, may be promptly given and the Shoes forwarded
without any loss of time, or much inconvenience will be
experienced.

I have, &c.,
RA. DARLING.
Leave, will be issued in the Colony on the urgent Application of his Mother and friends, the other Moiety being paid to the person who officiates for him in Sydney.

I have made this Communication to prevent any issue on Account of Salary being made to Dr. Lang at Home.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 34, per ship Janet Izat; acknowledged by Viscount Goderich, 27th September, 1831.)

My Lord,

Government House, 8th April, 1831.

I do myself the honor to transmit for Your Lordship's information the enclosed Copy of a letter from the Chief Justice and the Assistant Judges of the Supreme Court in reference to the Despatch of Your Lordship's predecessor, dated the 16th May, 1830, No. 40, directing me to call on their Honors to report their opinion as to the expediency of the power of establishing Circuit Courts, which is vested in His Majesty by the 13th Section of the 9th Geo. 4th, Chap. 83rd, being called into operation.

In stating my own opinion on this point, as directed by Sir George Murray, I beg to observe that it appears to me that it would be quite sufficient, if the Court were enabled to proceed to any particular District, as the circumstances of the Moment might render Necessary, without fixing periodical Circuits. There have been only two instances in which it appeared at all important that the Trials should take place out of Sydney. One was that of the Bushrangers at Bathurst last Year, whose proceedings rendered it expedient that they should be tried in the District where the outrages had been committed; The other of a Daring Banditti, who had Committed Depredations at Hunter's River, and whose punishment on the Spot was a matter of Consequence.

I would therefore take the liberty of suggesting that Authority should be given, if practicable, for special Courts being held at Bathurst, Maitland or in such other Districts as Circumstances might require. Bathurst is 150 Miles from Sydney, Maitland above 100; But I cannot think it at all necessary that Circuit Courts should be held either at Windsor or Campbell Town, as was the case under the late arrangement, Windsor being only 35 Miles and Campbell Town 33 Miles from the seat of Government, and both in the same County as Sydney.

I am aware that Individuals are subjected to much inconvenience and loss of time in attending the Courts at Sydney as
Darling to Goderich.

Witnesses, and that the Expense to the Public is not inconsiderable; But I apprehend that the Expences of Circuit Courts would in a very short time, if not at present, greatly exceed that which is incurred by bringing Witnesses to Sydney, and that the inconvenience, which would be occasioned by periodical Circuits, would be greater to the public Service than that which Individuals at present experience. Besides, if Circuit Courts should be established, it would immediately be considered necessary to make more suitable arrangements than the present, which are totally unfit for the accommodation of the Court and the Persons attending it; As also for the more permanent Security of the Prisoners, which would require proper Jails to be built on an adequate Scale, as the Prisoners would be kept for Trial in the Country instead of being sent to Sydney as at present.

As Your Lordship is now in possession of the opinion of the Judges and of the view which I have taken of this Matter, which I offer with great deference, I trust You will be enabled to determine without difficulty on the point referred for our consideration.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this letter, dated 31st December, 1830, is not available.]

Governor Darling to Viscount Goderich.

(Despatch No. 36, per ship Sovereign.)

My Lord, Government House, 12th April, 1831. 12 April.

I have the honor to acquaint Your Lordship, in reference to Sir George Murray’s Despatch dated the 24th of August last, No. 75, that I have transmitted as directed to the Treasury Board a statement of the Persons belonging to the Police and Jail Establishments as they stood on the 1st of January, 1828, the date from which the Expences of those Establishments have been paid by the Commissariat Department.

I avail myself of this opportunity of stating for Your Lordship’s information, with reference to my Despatch of the 3rd Feby. last, No. 17, that the Augmentation of the Mounted Police has enabled me already to reduce a large proportion of the ordinary Constabulary, and that I shall continue the revision of the Police of the several Districts, and hope soon to have it in my power to report more Circumstantially as to the reductions which may be found practicable and the arrangements which may in Consequence be made.
1831.
12 April.
Necessity for mounted police against bushrangers.

I have found from experience that the ordinary Police are not equal, in a Country of this extent and Character, to keep down Bushranging, where these Banditti find no difficulty in obtaining Horses as they proceed, and eluding the Pursuit of Constables who are not Mounted.

I am quite satisfied, had it not been for the Mounted Police last year, that the Bushrangers, which at that time were in several detached Bodies (two of them in remote Districts), would have occasioned very Serious embarrassment by the Consternation and alarm produced amongst the Settlers.

In making the necessary arrangements, Your Lordship may be assured that every attention shall be paid to economy, consistent with the tranquillity of the Colony. I have, &c.,

RA. DARLING.

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GOVERNOR DARLING TO VISCOUNT HOWICK.
(Despatch per ship Sovereign.)

My Lord,
Government House, 12th April, 1831.

I have the honor to acquaint Your Lordship, in reply to Mr. Hay's Letter of the 18th of September last, that Dr. Moran was employed to attend the Sick of the Mounted Police at Maitland from the 1st of January to the 31st December, 1828, Supplying Such Medicines as they might occasionally require, for which he received the Sum of £38. From the 1st May, 1829, to the 8th of January, 1830, he was allowed at the rate of £100 per Annum, the care of such Convicts, belonging to Road Parties or otherwise employed in the Service of Government, having been added to his former duties.

The principal object of Mr. Moran's employment was to prevent the necessity of Sending Such Men to the Hospital at Newcastle, a distance of 20 Miles, as did not require Hospital treatment, it being a common practice with the Prisoners to feign illness, in order to avoid Working on the Roads. By this arrangement, all slight cases were attended by Dr. Moran, and, as he inspected the Men at Maitland, coming from the interior on their way to Newcastle, many were prevented proceeding who did not require being Sent to Hospital. I did not report the Circumstance, as the Situation of Mr. Moran was not considered in the Nature of an appointment but as a Contingent Expense, as he was bound by his agreement to supply the Men whom he attended with Medicines.

I have, &c.,

RA. DARLING.
DAVILLA TO GODERICH.

GOVERNOR DARLING TO LORDS COMMISSIONERS OF TREASURY.
(Despatch per ship Sovereign.)

My Lords,

Government House, 12th April, 1831.

I have been instructed by the Secretary of State for the Colonies to transmit, for Your Lordships' information, a statement of the pay and allowances of all persons belonging to the police and jail establishments of this colony, in reference to a report of the comptrollers of army accounts, dated the 4th of March, 1830; and I have the honor accordingly to transmit the same, with copy of a letter from the Auditor General, by whom the statement has been prepared.

I beg to add that I am at present engaged in revising the Police Establishment of the colony, and hope to be enabled to make such a reduction as will lead to a considerable saving.

I have, &c.,

RA. DARLING.

[Enclosures.]
[Copies of these papers will be found in a volume in series II.]

GOVERNOR DARLING TO VISCOUNT GODERICH.
(Despatch No. 37, per ship Sovereign; acknowledged by Viscount Goderich, 31st January, 1832.)

My Lord,

Government House, 13th April, 1831.

In making the communication, which I now feel myself called on to submit to Your Lordship, I beg, as prefatory to it, to refer Your Lordship to the despatches, which I had the honor to address to Sir George Murray on the subject of New Zealand, dated the 12th August last No. 50, and the 22d Sept. No. 57.

In the former communication, I took occasion to represent generally the sanguinary proceedings, which have taken place at New Zealand, and which in many instances have been the consequence of the disorderly and outrageous conduct of the crews of the vessels, which frequent those islands.

In the present I have to make known to Your Lordship the circumstance of an event, which is distinguished as an act of premeditated atrocity on the part of the master and crew of a British vessel, the object of which was to obtain a common article of merchandise.

It appears that a captain Stewart of the brig Elizabeth, a trader between this and New Zealand, being desirous of procuring a cargo of flax, proceeded for the purpose to Entry Island, which lies in Cook's Straits, and there entered into an agreement with a chief named Ranparaha to supply him on the condition of his conveying Ranparaha and his tribe to "Bank's
Peninsula," which is on the Eastern Coast of the Middle Island (the Islands of New Zealand Consisting of three) in order to having an opportunity of avenging some Act formerly Committed by the People of that District.

Captain Stewart received the Chief and his People on board the Elizabeth, who it is stated were Numerous, exceeding 100, and proceeded with them according to his agreement.

The following was related to me this Morning by a Son of one of the principal Chiefs, who said his father had desired he would come to Sydney and tell the Governor all that had happened, that the white people might be punished.

This Man, who appeared extremely intelligent, stated that the Natives were kept on board the Elizabeth in perfect secrecy; so much so, that it was not known that they had arrived until some days after, when they Landed.

It appears that Captain Stewart went on Shore in the mean time, and Used every possible Artifice, by professions of kindness and the offer of Arms and Ammunition, to induce the Chief of the District "Mara Nui" to go on board his Brig. He at length succeeded, and "Mara Nui" took his Daughter with him, a girl as described of 11 or 12 Years old.

They were taken into the Cabin and "Mara Nui" was immediately put in Irons by the Mate, named Clements. Unacquainted with his fate, "Mara Nui's" Wife proceeded on board and several Canoes went off, the people as they arrived being secured by Ranparaha, whose Tribe, as I have stated, remained in Concealment on board the Elizabeth.

After Securing the Chief, to which it appears some importance was attached (by the exertions used by Captain Stewart to induce him to visit his Vessel), Ranparaha and his people landed the same night, and appear to have indulged their natural ferocity to the utmost by putting every one to death without distinction of Sex or Age, and burning their Village to the ground.

It seems they then re-embarked with the remains of their Victims, which were not reserved as mere trophies, but were also made use of to gratify their inhuman appetites. "Mara Nui" and his Wife, seeing the fate which awaited them, strangled their Child; and, as they appear to have foreboded, they, with the other Prisoners, on the return of the Elizabeth to Entry Island, were landed and put to death in Cold blood.

The Native, whom I have mentioned as having related these facts, was accompanied by a fine lad of about fifteen, the Nephew of "Mara Nui." He was made Prisoner at Banks's Peninsula, and said that three of "Mara Nui's" Brothers had been killed on that occasion, or afterwards put to death at Entry Island.
The Sanguinary proceedings of these Savages could only be equalled by the atrocious conduct of Captain Stewart and his Crew. Ranparaha may, according to his Notions, have supposed that he had sufficient cause for Acting as he did. Captain Stewart became instrumental to the Massacre (which could not have taken place but for his Agency) in order to obtain a supply of Flax.

This event was first brought under my Notice early in the Month of February last, and I lost not a Moment in giving orders that it should be immediately proceeded in, the Elizabeth, the Captain and the Crew being here at the time. The Depositions, which were taken before the Magistrates (Copies of which are enclosed for Your Lordships' information), were referred to Mr. Moore, the Crown Solicitor, on the 7th February, the day they were received. But it will be seen, by the accompanying Copy of Mr. Moore's letter, that he entertained doubts whether there were sufficient grounds for putting the parties on their Trial.

I nevertheless desired that he should proceed, as will be seen by the accompanying correspondence, considering it a case in which the Character of the Nation was implicated, and that every possible exertion should be used to bring the offenders to justice. It has, however, lain over to the present time, and there is reason to apprehend that the parties, with the exception of Captain Stewart, who was held to Bail, have all left the Colony, which may render any proceeding in his case ineffectual.

A Mr. Gordon Brown, who resided for some time in New Zealand, and who intends to return thither, first brought this matter under Notice. I delayed taking any further steps until the result of the legal proceedings should be known. A recent occurrence, however, has induced Mr. Browne again to draw my attention to the subject, which coupled with the appeal made to me by the New Zealand Chief through his Son, as I have already stated, appears to me to render it necessary that this Government should not, by any Supineness on the part of its officers, which it may have the power of Countering, allow it to be supposed that these proceedings are Countenanced or viewed with indifference.

In requesting your Lordship's attention to the enclosed Copy of a letter from Mr. Gordon Browne, I beg to point out the Coincidence of his remark with that made in Mr. Marsden's letter, which was forwarded with my Despatch No. 50 of last year, and which would appear to be confirmed by the appeal made to me by the New Zealand Chief, Vizt., that they look to this Government for redress for the injuries they have sustained;
without which, it is to be apprehended that they will avenge themselves on the European Settlers, the law of retaliation appearing to be in perfect accordance with their notions of justice.

I need not take up your Lordships' time by any endeavour to enforce the observations contained in Mr. Browne's letter. They appear to be very judicious and cannot fail to receive due attention.

It therefore only remains for me to apprise your Lordship of the course, which in the present exigency it is my intention to pursue, and which I am induced to hope will answer the purpose desired.

I shall immediately send a person in the Character of Resident, which appears in accordance with the wishes of the Natives, so as to assure them of the desire of His Majesty's Government to afford them protection and to tranquillize the minds of the Settlers, who are apprehensive that their lives will be made answerable for the proceedings of their Countrymen. Such an Authority being once established in those Islands, a foundation will be laid, which may hereafter, if desirable, be extended and improved to our Advantage.

It will be necessary, as the Islands are very extensive, that a Vessel should be attached to the Resident for the purpose of enabling him to visit the different Settlements on the Coast and to communicate on any emergency with the Seat of Government. It is my intention to employ one of the Government Vessels in this Service, and to place Captain Barker, 39th Regiment, in the situation of Resident. I am in daily expectation of the arrival of that officer from King George's Sound. Lt. Governor Stirling speaks of him in terms of warm Commendation. His Services at Fort Wellington in Raffles Bay, where he succeeded in conciliating the Natives, who had always been hostile to our Settlement and exasperated at an unfortunate occurrence, which had taken place previous to his assuming the Command, recommended Captain Barker to my Notice, and now point him out as being well qualified for restoring Confidence between the Natives at New Zealand and the European Settlers. These are now becoming numerous, several of our Merchants have Establishments there, and the Trade is of great importance to this Colony.

It will be seen by the accompanying Return from the Custom House, as compared with that transmitted with my Despatch No. 57 of last year, that the Trade is progressively increasing; and I have no doubt, as the Natives are now much less anxious for Arms and Ammunition than formerly, being as is understood amply provided, that they will discover other wants, which it would be more advantageous to us to supply, and which sound

* Note 77.
policy and the principles of humanity should induce us to encourage.

Their Climate is moist, and they appear to have discovered, how much more comfortable warm clothing is than that which they Manufacture from their Flax. The Chief’s Son, whom I saw yesterday, had substituted a Blanket for his former upper Garment; and I understand that Blankets are now more acceptable as Presents than any other Article.

When the intercourse between the Settlers and the Natives is more generally established, the latter will no doubt acquire a taste for our Manufactures, which it may be presumed will be in demand as far as they possess the means of furnishing an equivalent.

An Application has been made to Me just now on the part of some New Zealanders, who have lately arrived, that the Heads, alluded to in Mr. Gordon Browne’s Letter, should be given up to them, being, as they state, the Heads of their relatives and friends. I shall immediately endeavour to have their Wishes Complied with, and shall make a point, as far as may be in my power, to put a stop to this inhuman practice. The demand for Heads, or the means of disposing of them, will stimulate their passion for War, and Counteract the exertions which are made to civilize them.

This barbarous traffic appears infinitely more disgusting than the Slave Trade, which may be Considered as a branch of it, and which it would certainly have the effect of promoting, in as much as the desire to obtain Prisoners would be encreased, who, instead of being kept as Slaves to be employed in the Service of their Captors, would to a certain extent be immolated as Victims to this New and detestable Commerce.

I hope to be enabled by the next opportunity to inform your Lordship of the particulars of the arrangement about to be made, which I am not prepared to do at this Moment; but I have thought it better to put Your Lordship in possession of the occurrences which have rendered it necessary, by this opportunity, as the proceedings at New Zealand may possibly reach Your Lordship through some other Channel.

I have, &c.,

RA. DARLING.

P.S. 16th April.—Since closing my Despatch, I have received a letter from the Archdeacon, transmitting one from the Revd. Mr. Williams of the Church Missionary Society at New Zealand, Copies of which I do myself the honor to enclose for Your Lordship’s information, and which Confirm the Communication I had previously received.

[Enclosures.]

[Copies of these papers will be found in a volume in series III.]
GOVERNOR DARLING TO VISCOUNT GODOREICH.

(Despatch No. 38, per ship Sovereign; acknowledged by Viscount Goderich, 19th November, 1831.)

My Lord,

Government House, 14th April, 1831.

I do myself the honor to forward for your Lordship’s information, in reference to My Despatch dated the 21st of November, 1829, No. 118, addressed to Sir George Murray, apprising him that Captn. Sturt, 39th Regiment, had proceeded on a Second Expedition to explore the Country to the Southward, in order to ascertain the course and termination of the “Murrumbidgee,” the Report of that officer, Containing an Account of his proceedings and the result of this important Undertaking,* which Your Lordship will perceive is in every respect highly satisfactory.

It appears necessary, before I proceed farther, to explain to Your Lordship the cause of this report having been delayed until the present moment, the result of the Expedition having been Notified here in the Month of May last. Captain Sturt, thinking that his original report which had been drawn up in the Field (Copy of which is now enclosed) was not prepared with that accuracy, which was necessary in the case of a Document intended for submission to His Majesty’s Government, expressed his desire to have an opportunity of revising and correcting it. He was too much exhausted on his return to Sydney to undertake what he had proposed, having suffered severely by the exertions consequent on the Service on which he had been employed, and, being soon after sent to Norfolk Island in the course of his Military duties, where he still remains, he has not had an opportunity of rendering his report more perfect. I have therefore thought it better, rather than delay the Communication any longer, to forward the accompanying Copy of his original report, which contains information sufficient to render it an important document to those who take an interest in the Concerns of the Australian Colonies.

I now beg to draw Your Lordship’s attention to the Copy of a Government order,* which was published as soon as the Report was received, which contains an outline of Capt’n Sturt’s proceedings from his embarking on the Murrumbidgee, until he reached the Southern Coast at Encounter Bay, a little to the Eastward of Gulph St. Vincent. During his progress, he discovered two Rivers, which he named the “Murray”† and the “Lindesay,” and at the same time ascertained that a third River, which he found flowing from the Northward into the “Murray,” is the Darling, which he discovered on his former Expedition, and which will be seen by my Despatch of the 21st of November,

* Note 81. † Note 79.
1829, No. 118, was one of the objects of Captain Stuart's Second Expedition. I beg to point out that it is extremely desirable that this fact should be ascertained, of which however, from the observations he has made, Captain Sturt appears to entertain no doubt whatever. It is also important, as the Outlet from Lake "Alexandrina" at Encounter Bay is so imperfect, that measures should be taken to ascertain whether there is a Passage from the Lake into Gulph St. Vincent. I have been unwilling to Undertake either of these objects from an apprehension that my employing Captain Sturt had not been approved.

Having put Your Lordship in possession of Captain Sturt's Report, it is unnecessary for me to trespass on your time in pointing out what is best explained in the Document itself; I may however be permitted to draw Your Lordship's attention generally to the favorable manner in which Captain Sturt speaks of several parts of the Country, and of Rivers "Murrumbidgie" and "Murray."

I have now to request Your Lordship's favorable consideration of Captain Sturt's services.

He was employed on his first Expedition* for a period of five Months, during which he was exposed to the utmost severity of the Climate, the heat from the long continued Drought having been intense, which, together with the privations he suffered, being frequently without Water, materially affected his Health. I beg to refer Your Lordship to my Despatch of the 24th April, 1829, No. 47, transmitting Captain Sturt's report of his proceedings on that occasion.

After a short repose, he was induced to Undertake a Second Expedition, the immediate subject of the present Communication, which proved equally successful and still more important than the first.

The result has been that the Character and extent of the Rivers Macquarie and Castlereagh have been ascertained; that three Considerable Rivers, the "Darling," the Murray and the "Lindesay," have been discovered, an event of the very first importance to this Colony; the first passing through an extensive tract of Country, running to the Southward, where it Unites with the "Murray," which in conjunction with the Murrumbidgie and the "Lindesay," proceed to the Coast, and form an extensive Lake, which immediately Communicates with the Sea. Thus a very considerable portion of the Interior has been explored, and in the direction, with reference to the Settlement of Western Australia and the advantages of the Climate in that quarter, certainly the most desirable for the extension of this Colony.

* Note 80.
These important Services have been performed by Captain Sturt in a Manner highly creditable to his Zeal and talents. Both Expeditions were conducted with skill, and the management, he has shewn in inducing his people to submit to fatigue and privations of no ordinary Character, proves him to be well qualified for such Undertakings.

Having placed Captain Sturt's Services before Your Lordship, it only remains for me to recommend his case to Your Lordship's most favorable Consideration; and I beg respectfully to express my hope that His Majesty's Government will consider that his Zeal and the important Services he has rendered give him a just claim to Promotion. It is not I believe Unusual in such Cases to reward officers in this manner. It has been as well merited in the present instance as it could have been on any occasion, and such a Mark of favor would not only be gratefully appreciated by the Individual in question, but would Act as a Stimulus to rouse others to exertion. I need not, My Lord, point out that, when Individuals find their Services disregarded, they become indifferent. Zeal is an essential quality in the Character of the Officers of the Government of such a Colony as this; and it is highly desirable that they should feel assured that no important Service will remain Unrequited.

I request Your Lordship will be pleased to Authorise the Expense incurred in the Equipment of the Party under Captain Sturt's orders, Vizt.: Value of Stores Supplied.—1st Expedition, £204 15s. 9d.; 2nd do., £265 19s. 4½d.; Total, £470 15s. 1½d.

I have, &c.,
RA. DARLING.

[Enclosures.]
[Copies of these papers will be found in a volume in series V.]

GOVERNOR DARLING TO VISCOUNT GODERICH.
(Despatch No. 39, per ship Sovereign.)

My Lord,
Government House, 20th April, 1831.

In compliance with the orders conveyed to me in the Several Despatches Specified in the Margin,* I do myself the honor to transmit herewith the following Annual Returns for the last year, Vizt.:

1st. Return of applications for Convict Servants, shewing the manner in which they have been answered respectively.

* The margin is blank in the copy available.
2nd. Return of Convicts employed by the Government, in the Several Departments and Public Establishments.

3rd. Return of Convicts necessarily maintained by the Government, being under Judicial Sentence, to which is added the Number of Convicts employed by the Government, as detailed in Enclosure No. 2.

4th. Return of the Tickets of Leave granted during the past year, with a Statement of the Prisoners’ original Sentences, and of the circumstances which have led to their receiving this indulgence.

5th. Return of the Convicts, who are supposed to have escaped from the Colony.

6th. Return of the Persons who have been Prisoners, that have Cleared out during the Year, at the Office of the Principal Supt. of Convicts and left the Colony.

I have, &c.,

RA. DARLING.

[Enclosures.]

[These returns have been omitted.]

GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 40, per ship Sovereign; acknowledged by Viscount Goderich, 26th October, 1831.)

My Lord, Government House, 21st April, 1831. 21 April.

I have the honor to transmit, for Your Lordship’s information, Copy of a Minute of the Executive Council in the case of Constable Geary, who has been disabled by Wounds received in an encounter with a desperate gang of Bushrangers in the Month of October last, in the District of Bathurst, as I have already had the honor of reporting in my Despatch No. 63 of last year.

Geary’s conduct on the occasion, alluded to, was highly praiseworthy; and, as it is only an Act of justice, as he is no longer able to obtain the necessary means of Support for his family, that the Government and the Colony, in whose Service he has suffered, should afford him at least some assistance in so doing, I feel no hesitation in recommending his case to Your Lordship’s favorable consideration.

I have directed that Geary shall receive a Conditional Pardon and be placed on the Pension of one Shilling a day, of which I hope Your Lordship will be pleased to approve.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this minute, dated 1st March, 1831, will be found in a volume in series II.]
Viscount Goderich to Governor Darling.
(Despatch No. 38, per ship Mary to Hobart town.)

Sir,

Downing Street, 24th April, 1831.

The late Secretary of State having in his Dispatch of the 13th of July, 1830, confirmed the appointment of Mr. P. Simpson and Mr. Lambie to the Road Branch of the Surveyor General's Department, I have but few observations to offer in reply to your Dispatch of the 24th of September last. Notwithstanding the objections entertained by you to the present arrangement, as directed by my Predecessor for superintending the Roads, I regret that I cannot consent to any alterations, at present, in that respect, the Commissioners of Colonial Enquiry having, in their report,* recommended, not only the continuance of it, but also the transfer to the Surveyor General of the duties performed by the Director of Public Works in addition to those which are already discharged by that Officer.

I have already notified to you in my Dispatch of the 22 of December last, my acquiescence in the transfer of Mr. Abbott's services to Van Diemen's Land, whenever a vacancy takes place in the Surveyor General's Department in that Island; but, as his removal thither, prior to such Vacancy, will diminish the number of Surveyors at New South Wales and increase the Establishment in the other Colony, I cannot give my consent to the arrangement, which you have proposed with a view to his accommodation, unless you are of opinion that the Surveyor General will not feel the want of his Services, in which case you are at liberty to make what arrangements you may think proper with Colonel Arthur for his removal, at once, to Van Diemen's Land.

I am, &c.,

Goderich.

Viscount Howick to Governor Darling.
(Despatch per ship Mary to Hobart town.)

Sir,

Downing Street, 27th April, 1831.

I am directed by Viscount Goderich to acquaint you that an advance of £150 has been made to Mr. Dunlop, who, you were informed by Sir George Murray in his Dispatch of the 9th of November last, had been appointed to the charge of the Observatory at Paramatta, and I am to desire that you will cause the amount to be repaid to the Colonial Government by a corresponding deduction from the Salary assigned to that Situation. Mr. Dunlop's full Salary will not commence until his arrival in the Colony, but half salary will be allowed to him from the date of his Embarkation.

I have, &c.,

Howick.

* Note f.
GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 41, per ship Sovereign.)

My Lord,

Government House, 27th April, 1831.

I regret that a pressure of Business has prevented my Delay in replying before the present moment to Sir George Murray's Despatch, dated the 12th August last, No. 72, transmitting Copy of a Correspondence, which had taken place with Mr. John Stephen, Junr., on the subject of his suspension from office, and requesting I would acquaint him whether any fresh matter had transpired in the Colony respecting that Individual.

I must confess my disappointment on finding that the proceedings with respect to Mr. Stephen were not immediately confirmed. I had presumed that the Minute of Council, transmitted with my Despatch of the 29th June, 1829, No. 81, afforded ample proof of Mr. Stephen's criminality, both as a Magistrate and as a Servant of the Government, and would furnish a sufficient reply to any appeal he could make either to Parliament or the Public.

I beg to enclose a Paper for Your Lordship's Information containing some "Remarks" on Mr. Stephen's letters, and pointing out certain particulars which it might be supposed from the correspondence had escaped observation; such for example, as will be seen on reference to Page 9,* of the Enclosure, which clearly shews that he had certified to a fact as a Magistrate, which he knew to be false. It may save time to instance the matter alluded to. On the 1st May, 1829, Mr. Stephen gave "Jane New a Certificate, stating she became free on the 27th of the preceding month. On the 5th of the same month, only four days after, he addressed a letter to her former Master, residing at Van Diemen's Land, requesting he would intercede with the Lieut. Governor of that Colony to obtain remission of her Sentence, as the period of her transportation would not expire till the month of April, 1831. This single fact would I conceive justify his dismissal from the Service, but there are others pointed out in the accompanying Paper, which shew his utter disregard of veracity. The last paragraph has reference to a letter written by Mr. Sydney Stephen to the Colonial Secretary on the 6th December, 1829, in which he terms the Conduct of his brother John, the immediate subject of this communication, as "dishonorable" and "ungrateful."

I request Your Lordship will be at the trouble of referring to my former Report,† which contains Copies of the letter to Jane New's Master above alluded to, as well as of the Certificate

* Note 81. † Note 82.
1831.
27 April.

Misconduct of
J. Stephen, jr.,
at Jersey;
and in New
South Wales.

It may not be out of place to mention here that, some time
after Mr. Stephen's arrival in this Colony, I received a com­
munication from the Lieut. Governor of Jersey, where it appears
he had formerly resided. The object was that proceedings might
be instituted against him in consequence of some transactions
during his residence at Jersey, but I was not informed of the
particulars. His Retreat having been discovered, he deter­
mined from that moment to leave the Colony. A pretty correct
judgement might be formed of his general character by his con­
duct here without reference to his former proceedings. It would be
sufficient to instance his intercourse with "Jane New," a Woman
of the most profligate Character, convicted of Shop-lifting, while
under transportation, and the abandonment of his Wife and
Children.

As my proceedings in the cases of certain officers of this
Government did not receive that countenance and support, which
I trust I shall be excused for thinking they had a claim to, it is
the more important that the confirmation of Mr. John Stephen's
dismissal should be publicly notified, in order to shew the deter­
mination of His Majesty's Government to support the local
authority in punishing vice and immorality.

I feel it to be my duty, while on this subject, to request Your
Lordship's early attention to the Report* on the Conduct of
Major Mitchell, the Surveyor General. His case was so fully
gone into in Council, and the various instances of his dis­
obedience of Orders, insubordination and marked disrespect to
the local Government, so fully detailed in the Minutes of its
proceedings, that I shall not take up Your Lordship's time by
dwelling on the subject in this place; but I earnestly submit to
Your Lordship that Major Mitchell's removal from the Civil
Service is indispensible to the proper Conduct of this Govern­
ment, as the means of preventing others, who, like him, might be
disposed to follow an ill example, when they could hope to do so
with impunity. His prompt dismissal would be an incalculable
advantage to the Service, inasmuch as the ground, which has
been lost, would be regained by that step, and it would tend
more than any other measure to reestablish the authority of the
local Government.

I have, &c.,
RA. DARLING.

* Note 83.
REMARKS on Mr. John Stephen's Answer* to the Five Charges which he deduces from the Proceedings of Council.

1. He denies that his answers to the Council were not relevant or direct, and remarks that, if such were the impression on the Governor, it is singular that no question was repeated, nor any explanation required of an answer given by him. It is a fact, however, that questions were repeated, and explanations asked for, although it was considered sufficient to enter a question only once on the Minutes.

2. He states that the Executive Council shew ignorance of the Colonial Law, which makes it imperative on Magistrates to grant Certificates of Freedom. The Law, to which he refers, authorises Magistrates to give a Certificate to satisfy a person about to hire a Servant, that he may do so without incurring any Fine; but this Law does not apply in Mr. Stephen's case; for the Certificate if given according to this Law would be from Mr. Stephen to himself.

3. He denies having held communications with Jane New after the escape from the Factory. He calls this a base assertion, but with Jane New, the Certificate of Freedom must have been given to her, after her escape from the Factory; and, if Mrs. Dixon and Mrs. New be identified as one and the same person, there can be no doubt whatever on the subject.

4. He states that as a Magistrate he was compelled by Law to grant a Certificate of Freedom, and that as Registrar of the Supreme Court there was scarcely a Day on which he was not required to grant such a Certificate. He adds that he had granted many dozens of such Certificates, and his conduct was never before questioned.

How far Mr. Stephen is borne out by facts in making this Statement will be seen by the enclosed Letters from Mr. Hely the Principal Superintendent of Convicts, and from Mr. Manning the present Registrar of the Supreme Court.

He says that he is surprised that any reference should have been made to the Document forwarded in proof of Mrs. New's conviction, as it was a false and mutilated Document contradicted by four Affidavits.

The Document alluded to was a Letter from the Colonial Secretary of Van Diemen's Land to the Colonial Secretary of New South Wales, dated the 26 September, 1827, stating that permission had been granted to Jane Henrie, alias Maria Wilkinson, to proceed with her Husband James New to Sydney. In the margin, it was stated that the prisoner was tried at Chester on the 27 of April, 1824, and had arrived at Hobart Town by the "Brothers" in 1825. The figure 4 in the date 1824 appears actually to have been written over an Erasure where the figure 2 had originally stood; and the name of the Ship was not correct, as Jane New had arrived in Van

* Note 84.
1831.
27 April.


Diemen's Land by a Ship named the Henry. The Document, however, was filed in the Supreme Court in the very State in which it was received by the Colonial Secretary, and an affidavit by him was founded upon it, to prove that Jane New was not free in March, 1829.

Of the four Affidavits produced by Mr. Stephen to contradict this Document, the first is by Mr. Carlisle, Surgeon in the Royal Navy, who states correctly that Jane Henrie alias Jane New was a Prisoner on board of the ship Henry, of which he was Surgeon Superintendent, but the rest of the Affidavit is not very creditable to him, nor to the framer of it. He states that he, "according to the best of the Deponent's recollection of the original Indents, believes the period of Jane New's Sentence to be almost expired," and "further apprehends that as a mistake has been made as to the Ship in which She arrived in the Colony, there may be also one as to the period at which She received her Sentence"!

The Second Affidavit is by Jane New herself, who Swears positively that She was tried at Chester on the 27 of April, 1822, and Sentenced to Transportation for 7 Years.

The third Affidavit is by James New, the husband who Swears that at the time of his Marriage he was informed at the Secretary's Office in Hobart Town that Jane New had then (July, 1826) only three Years to Serve before her Sentence would expire.

The fourth Affidavit is by James Horton, who States that he was present at the Trial of Jane New alias Maria Wilkinson at Chester in Spring 1822.

These of course are the Affidavits alluded to in Mr. Stephen's Certificate dated the 1st May, 1829, as Shewing that Jane New had become free on the 27th of the preceding Month. It is evident, however, that he himself did not put any confidence in those Affidavits, but that on the contrary he knew that Jane New was still a Prisoner, for, on the 5 of the same month, just four days after the date of his Certificate to Jane New, he addressed a Letter to a person named Officer, a Settler in Van Diemen's Land, with whom Jane New had formerly lived as a Servant, requesting of him to intercede with Lieutenant Governor Arthur for a remission of the remainder of Jane New's Sentence, which he states would not expire before the 27 April, 1831. It is remarkable that, notwithstanding this Letter, he now asserts that the Document proving that Jane New's Sentence would not expire till the 27 April, 1831, was false and mutilated, and contradicted by 4 affidavits. There was, as above shewn, an error in the Name of the Ship, but that was perfectly immaterial as to the period of her Sentence; and Mr. Stephen's Letter to Mr. Officer clearly proves that he knew the Document to be perfectly correct as to the date of Trial and the Sentence. It is therefore most extraordinary and scarcely credible that Mr. Stephen made an Affidavit, which was read by Mr. Wentworth in the Supreme Court on Saturday the 27 of June, charging the Colonial Secretary with having falsified the Document alluded to, and with having afterwards sworn that it was genuine, thus literally charging him with Forgery and Perjury. The late Solicitor General, who was present in Court, applied for a Copy of this Affidavit, in order that the full charge which it contained might be immediately refuted; but this was refused by the Court! and the Colonial Secretary had no means afforded him of contradicting the
Charge, excepting by filing an Information for a Libel against the Editor of the Monitor for having inserted in his Paper of 4th July, 1820, a very offensive paragraph on the subject.

In the mean time, the Colonial Secretary received from Mr. Burnett the Colonial Secretary at Van Diemen’s Land a Letter dated the 3rd August, 1829, of which and of its enclosure, the Annexed are Copies, containing a full acknowledgment of the error made in the original Document with respect to the Name of the Ship and Shewing most Satisfactorily the correctness of it in point of Date. The Certificate granted by Mr. Stephen is as follows, viz.: “I certify that the Bearer hereof Jane New became free on the 27th Ultimo as appears by affidavits filed in my office.” He now states that this was not a positive assertion of her being free, but only testifying the fact that certain Affidavits were in his possession on which her Claim to Freedom rested. This quibble is too absurd to merit any remark. The words of the Certificate are as positive as they could be, and the Letter from the Chief Justice before transmitted, as well as the annexed Letter from the present Registrar, clearly prove that there were no such Affidavits filed in Mr. Stephen’s Office as are referred to in his Certificate.

5. Mr. Stephen denies his having refused to produce the affidavits to the Executive Council, but it surely is unnecessary to say more on this subject than merely to refer to the Minutes of the Council.

Mr. Stephen denies his having been instrumental to Jane New’s first escape, but there can be no doubt whatever on the subject after reading the Sheriff’s Letter of 28 March, 1829, of which a Copy has already been transmitted to The Secretary of State, stating Mr. Stephen’s very irregular and unauthorised interference with the Duty of the Sheriff on that occasion. He states indeed that his conduct on the occasion alluded to met with the approbation of the Judges, and a Letter of Mr. Justice Dowling, although dated 13 January, 1829, two months before the circumstance took place appears to be brought forward in proof of this approbation.

The general Certificate of good conduct given to Mr. Stephen by the three Judges and the Attorney General has no particular relation to this or any other case, and it appears, by Mr. Dowling’s Letter of the 24th December last, that his Letter of 13 January, 1829, was in answer to one from Mr. John Stephen, urging him to lay before the Governor in Council a Petition on behalf of Jane New after she had Sentence of Death recorded against her for Stealing out of a Shop.

He states that he was ordered by the Chief Justice to prepare an order of the Court for the detention of Jane New for the purpose of transmission to Van Diemen’s Land. This may be correct; but it is certain that, after the writing of the order, and putting it when signed into the hands of the Sheriff, the proper officer of the Court, it was not his duty to interfere further in the matter. He, however, took the order to the Colonial Secretary and desired to know how he was to dispose of Jane New, as the Court had ordered her to be returned to the Factory, and the Sheriff had refused, or at least did not consider that he was authorised to take Charge of her for that purpose.

The Sheriff’s Letter of 28 March, 1829, last completely contradicts this last Statement, which indeed was denied by Mr. Stephen on the day after it was made by him.
He states that he had to meet Mr. McLeay on that day on other
Business. If so, it was without any previous appointment with Mr.
McLeay, and certainly no other Business was entered upon by
Mr. Stephen during the Interview.

He says that, on his return to Court, he made out the order,
but this though immaterial is not correct, for he certainly had
previously made it out, and actually put it into the hands of the
Colonial Secretary.

He states that on going out of Court he saw Mrs. New surrounded
by Constables and bleeding at the head. This is positively contra­
dicted by the Under Sheriff, who saw her as she left the Court
House, and neither observed any marks of blood, nor heard of her
having been struck by a Constable or any other person. See Mr.
Macquoid's Letter of 22 December, 1830.

Mr. Stephen observes that the Remark Said to have been made by
"Mr. Stephen" of "New, take care of your Wife" was made by
his Brother and not by him, he being distinguished as Mr. John
Stephen, whilst his Brother as Senior is called Mr. Stephen. How
far Mr. John Stephen is borne out in this Statement is shewn by
the enclosed Letter from Mr. Sydney Stephen, dated 26th February,
1831, who positively denies knowing anything of the Transaction.
It appears from this Letter that it was not Mr. Sydney Stephen
who moved for a Writ of Habeas Corpus to bring Jane New from
the Factory as Stated in the Minutes of Council, but that, upon
his refusal to make such a Motion, Mr. Francis Stephen placed the
Brief and Fee which had been offered to him in the hands of Mr.
Wentworth.

Mr. John Stephen next complains of General Darling having
debarred him of the right of defending himself before a Competent
Tribunal a Court of Law, and annexes the Extract of a Letter
from the late Attorney General on this Subject. There is no doubt
that Mr. Stephen might have been prosecuted under the Colonial
Law for punishing persons who harbour Prisoners of the Crown,
but it was judged more expedient in consideration of his Situation
as a Magistrate and a Public Officer to give him an opportunity of
vindicating his Conduct before the Executive Council, rather than
to expose him in a Court of Justice.

He called The Secretary of State's attention to the "illegal Pro­
ceedings" of Captain Rossi in refusing to proceed with the case
when brought before him. The annexed Letter from Captain Rossi,
dated the 14th of February, 1831, most satisfactorily explains the
whole of that Gentleman's conduct on the occasion. It appears
that Captain Rossi informed him that it was vain for him to deny
his having lived with Jane New, as it was matter of notoriety that
such was the case, and that any affidavits he might make could
not rebut the Affidavits of the Constables with respect to his two
Certificates found together in a Woman's Pocket. If further proof
were required of the identity of Mrs. New and Mrs. Dixon, it might
easily be obtained, but the circumstance of Jane New being the
person who was concealed in the House of Amos Crisp until driven
from thence by the arrival of the Constables is perfectly notorious.
After leaving the House of Amos Crisp, she is said to have gone
to the Hut of a person employed on the Farm of Mr. Cordeaux in
the immediate Neighbourhood, and there obtained a Bonnet and
Shoes, which she had been obliged to leave in the hurry of her leaving Crisps, and from thence to the House of one Nathaniel Boon, a Settler in the District of Airds.

It is stated that she afterwards went to Vaucluse the Residence of Mr. William Wentworth, near the entrance of Port Jackson, for the purpose of embarking from thence with Mr. John Stephen; but, in consequence of the strict inspection of which Mr. Stephen complains, it was found impracticable to embark her, although in Boy's Clothes; and she therefore returned to Vaucluse, where she remained till the 6th of July following when she embarked on board of a Cutter called the Emma Kemp and went in her to New Zealand, where she remained until late in the last Year, when it is said that she returned to England by a Whaler. The fact of her having been some time at Vaucluse may be proved by calling upon Mr. Cole, who went to England soon afterwards, and who may be heard of by inquiring of Mr. Crook Surgeon in the Royal Navy, lately returned from hence, to whom Mr. Cole mentioned that he had seen Mrs. New at Vaucluse.

Mr. Stephen says that something besides a pure love of justice has dictated some of the proceedings against him. His insinuations are not unexpected; but they are not reconcileable with the Extract of his pretended letter from his wife, announcing the removal of the Governor and the Colonial Secretary and expressing regret on the occasion as she knew that both were his warm friends. The annexed copy of a letter from Mr. Sydney Stephen to the Colonial Secretary, dated December 6th, 1829, will sufficiently shew that gentleman’s opinion of the conduct of his brother Mr. John Stephen towards the Colonial Secretary, which he terms “dishonorable and ungrateful.”

[Sub-enclosure No. 1.]

Mr. Sydney Stephen to Colonial Secretary Macleay.

Sir, York Street, Sydney, 26th February, 1831.

Having seen a Pamphlet purporting to be “a report of certain proceedings against John Stephen, Junr., Esq., late Commissioner of Crown Lands, etc., and an appeal to the House of Commons respecting the same,” I deem it to be a duty I owe to myself to point out two errors contained in it, one an error in the report of the council, and another error in the statement of Mr. John Stephen, Junr.

The report of the Council states that the motion for a Writ of Habeas Corpus was made by me, which is a mistake. Mr. New employed my brother, Mr. Francis S. Stephen, who is an Attorney, to take the necessary proceedings for such a motion. He offered me a brief with a fee of 10 Guineas to make the motion, but I refused, because I was of opinion that the Governor had the power to revoke assignments, an opinion which I expressed to several persons at the time. On my refusal, the brief and the fee were placed in the hands of Mr. Wentworth.

I never took any part in the application for a Writ of Habeas Corpus, directly or indirectly.

The other error to which I allude is in the assertion of Mr. John Stephen, that I was the individual spoken of in the affidavit of a person named Cleme, where that person states, “Mr. Stephen suddenly appeared and said, ‘New take care of your wife.’” It was not I, and I know nothing of that transaction.

I was originally employed for Jane New to defend her on a charge of privately stealing in the dwelling house of Madame Reen, above the Value of £5. She was J. New by found guilty, as I conceive very properly and as I stated at the time to Mr. Henry S. Stephen, Shadforth, who was one of the jury. I did not move in arrest of judgment, though I knew at the time of the trial that the judges had held, in certain prosecutions.
conducted by me on behalf of the Crown, when Acting Solicitor General, that the Act under which She was tried ceased to be in force in the Colony, from the time that the Act of Mr. Peel repealing it was known here, which was before the Commission of the offence; as well because I did not agree in such a decision (which the late Attorney General would remember) as also because I thought it best for the Colony that She should suffer for the offence. Afterwards indeed I saw several affidavits, which made me think She might have been innocent, and I then submitted that point to the Court, upon which She was recommended to a Pardon.

In these facts to you, Sir, for the information of His Excellency the Governor, in the hope, that he will do me the justice to believe that I am not involved in this transaction.

I do not think it fair that I should have any suspicion excited against me of having assisted in that Woman's escape. I have refused to avail myself of the credit attached to a Barrister, of having urged a point of law successfully on behalf of a prisoner, and I refused a fee, both from a principle of duty. I think it hard to have such imputations believed, as well as to lose the credit which I consider I deserved, but which I was content to forego, and which I should not now have proclaimed, but for the Pamphlet referred to above.

I trust that in any future communication with the Secretary of State, should His Excellency ever have any on this subject, His Excellency would be pleased to notice the mistake of the Council and the erroneous statement of Mr. John Stephen.

I have, &c.

SYDNEY STEPHEN.

[The additional sub-enclosures are not available.]
Sydney, there would be much difficulty in finding persons competent to the Charge, who could spare time and would incur the Expense of Visiting them as would be necessary.

I now do myself the honor to enclose, for Your Lordship's information, a Comparative Statement of the Expense of the Office Establishment employed by the Trustees of the Corporation, and that of the present Commissioners. It will be seen that a saving of £695 a year has been effected, independent of the Travelling Expenses allowed the Clerical Trustees, attending the general Courts of the Corporation, which amounted to nearly £200 per Annun. I have much pleasure in assuring Your Lordship that the Archdeacon has evinced every desire to cooperate with the Government in keeping down the Expense by placing the office Establishment on the lowest possible Scale. As preparing the Accounts and Statements to be furnished by the Treasurer will occasion a considerable addition to the business of that Office, I have been induced to grant an increase of £25 to the Salary of the Clerk, who is to make up those Accounts, and who will now receive £250 a year, which, considering the duties he has to perform, there being no other Clerk in the Office, and the responsibility of his Situation, is only a moderate remuneration for his Services.

I have the honor further to enclose copy of a letter from the Commissioners, requesting that a reasonable Allowance may be made to such of them as may be necessarily employed in inspecting the lands on any particular occasion. I have seen the Archdeacon on the Subject, and, being satisfied that the Expense will be inconsiderable, I have signified that an Allowance for the above purpose will be made unless Your Lordship should disapprove of it.

I have, &c.,

RA. DARLING.

[Enclosures.]

[Copies of these papers will be found in a volume in series VII.]

GOVERNOR DARLING TO VISCOUNT GODERICII.

(Despatch No. 48, per ship Craigievar.)

My Lord,

Government House, 29th April, 1831.

I have the honor to acquaint Your Lordship, in reference to Sir George Murray's Despatch dated the 26th of August last, No. 73, that every necessary arrangement has been made preparatory to delivering over the Coal Mines to the Australian Agricultural Company.

Being desirous of immediately breaking up the Government Establishment at Newcastle, which consists of Branches of the
Department of Works and of the Convict Department, I directed a Communication to be made to Sir Edward Parry, proposing that he should immediately take possession of the Coal Mines and offering at the same time to transfer such of the Government Buildings as might be necessary for the accommodation of the Company.

Your Lordship will perceive, by the enclosed Extract of Sir Edward Parry's reply, that he is not yet prepared to receive the Mines, and, considering the buildings to be at an inconvenient distance, he has declined taking them on the part of the Company. I shall however proceed according to my intention of breaking up the Government Establishment, retaining only such Men for the present as are attached to the Mines, who will of course be transferred to the Company with that Establishment.

I am aware that some inconvenience will be occasioned by discontinuing the Government Establishment; but the experiment may be worth Making, whether Contractors can be found who are Competent to undertake the repairs and erection of such Buildings as may be required.

As soon as the arrangement is completed, I shall do myself the honor to report for Your Lordship's information the extent of the reduction which may be made.

2nd. As I am now writing on the subject of the Australian Agricultural Company's concerns, I avail myself of the opportunity of acknowledging Sir George Murray's Despatch, No. 23, dated the 21st of April last Year with respect to the exchange of a portion of the Company's Grant at Port Stephen for Land to be selected elsewhere, and stating the Conditions under which the exchange would be permitted.

The Matter was submitted to the Executive Council, and the necessary communication was in Consequence Made to Sir Edward Parry, who has been authorised to Select other Land on the part of the Company to the extent pointed out in the Instructions I have received. When Sir Edward Parry shall have Selected the Land, and the arrangement is completed, I shall have the honor of reporting fully for Your Lordship's information.

I have, &c.,
RA. DARLING.

[Enclosure.]

EXTRACT from Sir Edward Parry's letter, dated Newcastle, 24th March, 1831.

"We are now employed in quarrying Stone Several Miles up the Hunter, for a foundation for the Engine, the intended Shaft having been Sunk as far as is practicable, till the Water is Cleared out."
We are at the same time constructing a blacksmith's shop, habitations for the workmen, and an inclined plane with a rail-road for conveying the coals to the sea; in all which operations, I am employing at great expense all the free labour I can procure.

"Notwithstanding these exertions, I cannot safely reckon upon having the company's works in full play in a less period than four or five months from this date; it being impossible to make sure, for two days together, of the work being carried steadily on by the free people principally employed upon it.

"The stock of coal now already raised at the government pit is equivalent to only three or four months' consumption. I would therefore suggest that it would be unsafe, as regards the supply to the public, to relinquish immediately the government works; from which in my opinion, not less than five or six months' supply should be raised (reckoning from this date) before the mines are turned over to the company, especially as that particular class of workmen will not be actually required for the company's works for about two months longer.

"His excellency may be assured that no exertion shall be wanting on my part to expedite our taking the whole business of the coal works into the company's hands; it being obviously of essential importance to the company's interests, to obtain with the least possible delay, some return for the large outlay they are at present incurring.

"In a few days I shall have the honor of proposing to you, what stores belonging to the government at this place I should wish to purchase for the use of the company."

Viscount Goderich to Governor Darling.

(A circular despatch per ship Margaret.)

Sir,

Downing Street, 12th May, 1831.

The determination of His Majesty's Government that the crown lands in the Australian colonies shall, in future, be disposed of by public sale only, renders necessary some alterations in the instructions, conveyed to you in Sir George Murray's circular despatch of the 1st of Nov. last, with a view to secure uniformity in the mode of disposing of the crown lands.

By that despatch, you were authorised to allot to soldiers, discharged from his Majesty's regiments serving to the eastward of the Cape, tracts of land in the following proportions:

- non commissioned officers: 200 acres
- rank and file: 100 acres

The course, adopted in order to preserve to officers of the army the privileges for which their services had previously qualified them, appears to me to be equally applicable to the case of the discharged soldiers; I have therefore to direct that free grants...
of Land shall not be made to these Soldiers, but that they, in common with other persons, shall purchase their land at the Public Sales; the following proportion of the purchase money being remitted to them, viz.:—

Non Commissioned Officers ........................................ £50
Rank and File ....................................................... 25

It is possible difficulties may arise in the execution of this arrangement from the ignorance or inexperience of the parties. In that case you will adopt such Regulations as you may judge best calculated to obviate the inconvenience, which may be experienced, taking care to give me full information upon the subject.

I am, &c.

GODERICH.

Viscount Goderich to Governor Darling.

(Despatch No. 39, per ship Mary to Hobart town.)

Sir,
Downing Street, 15th May, 1831.

I transmit to you herewith the Copy of a further Letter from the Revd. Dr. Lang upon the subject of the advance of £1,500, referred to in my Despatch of the 29th of March last, No. 34; and I have to desire that the above Sum of £1,500 may, in the event contemplated by him, be paid to the persons mentioned in his Letter, upon the same conditions as were prescribed in the case of himself.

I have, &c.

GODERICH.

[Enclosure.]

Revd. J. D. Lang to Viscount Howick.

My Lord,
Edinburgh, 3d May, 1831.

I do myself the honor to inform your Lordship that the Ship Stirling Castle of 350 Tons register, which I chartered for the conveyance of free emigrant Mechanics with their wives and children to New South Wales, on conditions which I had the honor to state to your Lordship in a former letter, will be ready to sail from the Port of Greenock about the 20th of this month, and that the Mechanics, who proceed by her to the Colony, are of the following descriptions, vizt.:—Engineers, Carpenters, Stonemasons, Blacksmiths, Bricklayers, Coopers and Plaisterers.

As the sum of £1,500 however, which your Lordship has authorised the Governor of New South Wales to advance from the Grant to the proposed College in Sydney for the payment of the Charter of the said Vessel, is payable on my arrival in the Colony, and as the Ship Owners have suggested to me that it would be satisfactory to them, were the said sum rendered payable to some other person or persons in the event of my decease before the Vessel’s arrival in
the Colony, I beg leave most respectfully to request that your Lordship will be pleased to order that, in the event of my Death during the voyage, the said sum of £1,500 may be payable on the same conditions and for the same purpose to the Revd. John McGarvie, A.M., and Thomas Barker, Esqr. of Sydney, or to the Survivor of them.

JOHN DUNMORE LANG.

GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 45, per ship Lady Harewood; acknowledged by Viscount Goderich, 23rd December, 1831.)

My Lord,

Government House, 25th May, 1831.

I have the honor to acquaint Your Lordship, in reference to my Despatch of the 29th of January last, No. 10, that His Majesty's Sloop Comet returned to this Port on the 23d inst., the whole of the people* (87 in Number) having been removed from Pitcairns Island to Otaheite, agreeably to the Instructions communicated to Captain Sandilands for that purpose.

I have further the honor to transmit, for Your Lordship's information, copy of a letter addressed to me by Captain Sandilands, which contains the particulars of his proceedings in carrying this Service into effect, and to acquaint Your Lordship that I have confirmed the agreement, which he entered into with Mr. Bicknell, for supplying the People taken to Otaheite with the Provisions Necessary to their Support for a period of Six Months, the Expense of which will be trifling, as the terms and Scale of Allowance are very moderate. I request Your Lordship's Authority for the Amount being Charged in the Public Accounts.

I beg to add that Captain Sandilands has informed me, that circumstances did not permit of his proceeding to Rotumah, and that he was consequently unable to act on the information received from the Honble. Captain Waldegrave of His Majesty's Ship Seringapatam as communicated in my Despatch of the 29th of January last.

I have, &c.,

RA. DARLING.

VISCOUNT GODERICH TO GOVERNOR DARLING.

(Despatch No. 40, per ship Mary to Hobart town.)

Sir,

Downing Street, 28th May, 1831.

With reference to my Despatch of the 22d of March last, No. 26, I have the honor to acquaint you that I have appointed the Revd. George Innes to be head Master of the School about Sydney.

* Note 8.
HISTORICAL RECORDS OF AUSTRALIA.

1831.
28 May.

Advance to Rev. G. Innes.
to be established at Sydney. His full salary will not commence until his arrival in the Colony, but half salary will be allowed to him from the date of his embarkation.

I have also to apprise you that the Agent has been directed to issue the sum of £150 to Mr. Innes to enable him to defray the expenses of his approaching voyage to New South Wales.

I am, &c,
GODERICH.

VISCOUNT HOWICK TO GOVERNOR DARLING.
(Despatch per ship Mary to Hobart town.)

31 May. Sir, Downing Street, 31 May, 1831.

Application by J. T. Rodd for land grant.
The Secretary of State having received from Mr. Rodd, late of the Surveyor General’s Department at New South Wales, a further application on the subject of Land, I am directed by Viscount Goderich, with reference to Mr. Hay’s Letter to you of the 12th of December, 1828, to transmit to you a Copy of Mr. Rodd’s second application and of the answer which has been returned to it.

I have, &c,
HOWICK.

[Enclosure No. 1.]

MR. J. T. RODD TO UNDER SECRETARY HAY.

Sir, Wollombi, New South Wales, 17 March, 1830.

Request for land grant by J. T. Rodd.

I have the honor to acknowledge the receipt of your letter dated 12 of Decr., 1828, and beg leave to request that you will be pleased to submit to the Right Honble. the Secretary of State for the Colonies the enclosed Memorial and other documents, which I confide will correct the misrepresentation that appears to have been transmitted home as regards the extent of Land I hold by Grant in this Colony.

In addition to the subject matter contained in my Memorial, I respectfully submit that, when I was appointed to the Surveying Department, every Assistant Surveyor was allowed a Reserve of Land without reference to his means; and I was informed by Major Goulburn, the Colonial Secretary, the same privilege would in course be extended to me, but which has never been done; neither have I received an additional grant in extension, but have confined myself to the cultivation and improvement of the land granted to me through the means I possessed before I was appointed to the Surveyor General’s Department.

Under all the circumstances of my unfortunate case, I respectfully request a Grant of the land, I now rent of the Government, under the existing Regulations, at £2 5s. per annum, containing 1,800 acres, and immediately adjoining my own farm, as laid down in the annexed plan.

I am, &c,
J. T. Rodd.
Viscount Howick to Mr. J. T. Rodd.

Sir, Downing Street, 31 May, 1831.

I have to acknowledge the receipt of your letter of the 17th of March, 1831, addressed to Mr. Hay, requesting under the circumstances of your case, as stated in that letter and in a former communication which you have addressed to this Department, that a Grant may be made to you of the land, which you now rent of the Government, consisting of 1,800 acres immediately adjoining your own farm.

Having submitted your application to the Secretary of State, I regret to acquaint you that his Lordship sees no ground for deciding on your case, otherwise than his Predecessor has done. It is stated, in the letter last received from you, that the grant of land, which you now hold, was made through the means you possessed before you were appointed to the Surveyor General’s Department, and that the additional Land for which you now apply is that to which you consider yourself entitled as an officer once belonging to that Department, a reserve, to the extent which you claim, and which was promised to you during the administration of Sir Thomas Brisbane, having been made in favor of every assistant Surveyor then employed in the Public Service, without regard to any pecuniary means which he may have possessed at the time such reserve was ordered. With reference to the above observation, Lord Goderich deems it right that you should be informed that such a practice was wholly unsanctioned by the Government at home, and that the Secretary of State cannot now recognize in your case the principle of granting Lands to Public Officers upon any other principle than that which applied to ordinary Settlers.

I am directed to add that your former and present application ought to have been transmitted through the Governor, and that no answer will in future be returned to any representations addressed by you to this Department, which do not come through that Channel according to the Regulations of which notice has been given in the Colony.

I am, &c.,

Howick.

Viscount Howick to Governor Darling.

(Despatch per ship Mary to Hobart town.)

Sir, Downing Street, 31 May, 1831.

I am directed by Viscount Goderich to transmit to you herewith, for your Information, the Copy of a Letter, which has been addressed by his Lordship’s desire to Mr. Windeyer, in answer to an application from that gentleman for an allotment of Land on the Woolloomooloo Estate for the purpose of erecting a residence thereon.

I have, &c.,

Howick.
1831.
31 May.

Letter acknowledged.

Viscount Howick to Mr. Charles Windeyer.

Sir, Downing Street, 31 May, 1831.

Lord Goderich has received, through the Attorney General of New South Wales, an application from you, dated 21 Decr., 1830, for an allotment of Land in the Woolloomooloo Estate with a view to the erection of a Residence thereon.

The Channel, through which you have transmitted your Petition, is not, as you must be aware, the regular one: All communications addressed to the Secretary of State by Persons residing in the Colony having been directed by a Public Notice to be forwarded in the first instance to the Governor, if the Parties addressing them wished to avoid the delay of their being sent back to the Colony for the Governor's Report. In the present case, however, the Secretary of State does not deem it necessary to adopt that course, as the Regulations, which have recently been established in respect to the disposal of all Lands belonging to the Crown by sale, have obliged the Secretary of State to decline at once acceding to all applications of the nature of that which you have transmitted.

The Secretary of State directs me to add that it will, of course, be in your power to purchase the land, which you are desirous of acquiring for the object mentioned in your letter, on application to the Governor in the manner pointed out by the Regulations, should he see no reason for-reserving it for public purposes.

I am, &c., Howick.

Governor Darling to Viscount Goderich.

(Despatch No. 47, per ship Lady Harewood; acknowledged by Viscount Goderich, 24th December, 1831.)

4 June.

My Lord, Government House, 4th June, 1831.

I have the honor to acquaint Your Lordship, in reference to my Despatch of the 31st of January last No. 13, that the Settlement of King George's Sound has been transferred to the Government* of Western Australia, and that the Troops and other Persons belonging to this Government have been withdrawn, and have arrived here. I beg to enclose, for Your Lordship's information, Copy of a letter which I have received from Lt. Governor Stirling on the Subject, in which he speaks of Captn. Barker 39th Regiment, the late Commandant of King George's Sound, the officer whom I informed Your Lordship in my Despatch of the 13th of April last, No. 37, it was my intention to employ as Resident at New Zealand.

I regret to inform Your Lordship that, after leaving King George's Sound, Captn. Barker was unfortunately killed by the Natives, when endeavouring to ascertain whether there was any Communication between Lake Alexandrina and Gulf St. Vincent. But I cannot better put Your Lordship in possession of that

* Note 86.
DARLING TO GODERICH.

Officer's Character, the Zeal and enterprise which distinguished the performance of his duties, and the loss which this Government has sustained by his death, than by transmitting to Your Lordship the accompanying Copy of a Government Order* which I issued on that occasion.

The death of Captain Barker has occasioned some embarrassment, as it is difficult to find a person qualified for the Situation I had intended to place him in at New Zealand. Captain Sturt, whose Services in exploring the Interior will bring him to Your Lordship’s recollection, had induced me to think of him even before Captain Barker for that Service; but I was anxious to reserve him for the pursuit of the object which he had so successfully commenced, having no doubt His Majesty's Government would be desirous of availing itself of his qualifications and talent for that particular Service. In addressing Your Lordship’s predecessor on the subject of Captain Sturt’s discoveries, I did not think it necessary to point out the danger which he incurred in making them, supposing it was sufficiently obvious, and that his Services would be duly appreciated. If not before adverted to, the fate of Captains Logan* and Barker will shew the personal hazard at which the important discoveries of Captain Sturt have been made.

I now beg to inform Your Lordship that it is my intention to employ Captain Sturt at New Zealand, should there be no objection on his part; and I propose immediately sending for him to Norfolk Island, where he is at present Stationed. It is an object to conciliate and keep the New Zealanders in good humour, and Captain Sturt’s disposition and Character give him the best Chance of succeeding with them.

I regret the delay which has taken place in this matter, but Your Lordship will see that it was unavoidable.

I have, &c.,
RA. DARLING.

[Enclosures.]

Copies of the letter, dated 4th March, 1831, and order, dated 23rd May, 1831, will be found in a volume in series III.]

GOVERNOR DARLING TO VISCOUNT GODERICH.

(My Lord, Government House, 6th June, 1831.)

I have the honor to transmit to Your Lordship, in pursuance of the intention expressed in my Despatch of the 31st February last, No. 17, Copies of two Government Orders which

* Note 87.
have been lately published, one Notifying the arrangement which
has been made for reducing the Scale of “Gratuities” to Con­
victs employed as Overseers, etc., from three Classes to two, the
other for employing Prisoners of the Crown in the situation of
ordinary Constables at a reduced rate of Pay; by which arrange­
ments a Saving to no inconsiderable Amount will accrue to the
Government, and the Service in both cases will be fully as well
provided for.

The object of the first Measure was to simplify the arrange­
ment, as well as to reduce the Expense. The Old Scale consisted
of three Classes: The first at 1s. 3d. a day, the Second at 10d.,
and the third at 6d.

The New Scale Consists of two Classes: the first at 1s. a day,
the latter at 8d.

Those formerly allowed 1s. 3d. will receive 1s. a day.

Those, who received 10d., are reduced to 8d., and Such, as
were Allowed 6d., will receive 8d.

2nd. With respect to the Second, the order relating to the
Constabulary, the object was to provide persons, who would per­
form the duties of ordinary Constables in a More efficient manner
than hitherto, and at a lower rate of Expense; and there is no
doubt that this has been effected by the incentive, which is held
out to good Conduct in the Shape of indulgences after certain
periods of service.

The ordinary Constables have hitherto received £41 a year.
Under the present System, they will be allowed £31 19s.

In the Month of March last, there were 43 District Constables,
and 142 Ordinary Constables employed. The pay of the former
was £51 14s. 6d. a year, which was then reduced to £41, the pay
of an Ordinary Constable, and 65 of the latter were discontinued,
so that the reduction of the Expense in this Case will exceed £3,000.

In addition to this, The Sum of £5,100, being the Amount of Fees
received during the year as Licenses to sell Spirits, has been
paid into the Military Chest, it having been provided by the
Act of Council,* passed last year, that all Fees received on that
account should be applied in aid of the Expense of the Police
Establishment. So that by these Arrangements His Majesty’s
Treasury, which has hitherto paid the whole Expense of the
Police, has been Saved upwards of £8,000.

The reduction of the Constabulary has been effected Solely
through the means of the augmentation of the Mounted Police,
as reported in my Despatch No. 17 of the present year above
referred to; and I beg to assure Your Lordship that no Measure
could be more effectual; it has given general satisfaction, as, by

* Note 38.
the judicious arrangements of the officer Charged with the Superintendence of that Establishment, every part of the Colony, even the most remote, enjoys a degree of tranquillity hitherto unknown.

I beg leave to add that, when some arrangements, which are in progress, have been carried into effect, I have no doubt that I shall be able to make a still further reduction of the Constabulary of the Districts. I shall have the honor of reporting fully when the Establishments alluded to have been finally determined.

I have, &c.,
RA. DARLING.

[Enclosures.]

[These orders, dated 20th and 23rd May, 1831, have been omitted as they are summarised in the despatch.]

GOVERNOR DARLING TO VISCOUNT HOWICK.
(Despatch per ship Lady Harewood.)

My Lord, Government House, 6th June, 1831.

In reference to Mr. Llay's letter of the 30th of November last, I have the honor to state for the information of Lord Viscount Goderich that Lt. Percy Simpson never held the appointment of Resident Magistrate at Portland Head. Mr. Simpson, being employed in the Road Department, and having a large number of Prisoners Under his Superintendence, a great proportion of whom were Working in Irons under Colonial Sentence, was Appointed a Magistrate, in order to enable him the better to Control the ill disposed Individuals he had to deal with. Mr. Simpson no doubt Acted in other Cases, when his time permitted, for the Convenience of the Neighbourhood, but he never received Pay or Allowances of any Kind as a Magistrate. He is no longer in that Situation. Having been lately declared Insolvent in the Supreme Court, it was considered proper to discontinue his name with some others under similar Circumstances, when the present Commission of the Peace was issued.

I have, &c.,
RA. DARLING.

GOVERNOR DARLING TO VISCOUNT HOWICK.
(Despatch per ship Lady Harewood.)

My Lord, Government House, 7th June, 1831.

I have the honor to inform Your Lordship, in reference to Mr. Hay's Letter of the 7th of April last, that a very laborious revision of the Commissariat Establishment has lately taken place, as reported* by the present opportunity to the Lords

* Note 89.
Governor Darling to Viscount Howick.

(Despatch per ship Lady Harewood.)

My Lord,

Government House, 9th June, 1831.

With reference to my Despatches No. 47/1829 and 38* of the present Year, transmitting Captain Sturt's Journals and Reports of the Expeditions Undertaken by him with a view to Explore the Interior of this Country, I have now the honor to forward a Map prepared by that Officer, shewing the route pursued by him on the two occasions in question.

I have, &c.,

RA. DARLING.

[Enclosure.]

[A copy of this map will be found in the volume of charts and plans.]

Governor Darling to Viscount Goderich.

(Despatch marked "Separate," per ship Lady Harewood; acknowledged by Viscount Goderich, 15th December, 1831.)

My Lord,

Government House, 10th June, 1831.

Having adverted in my late Despatches to the circumstance of some of the Civil Officers having been declared Insolvent, and more especially in my letter to Mr. Hay of the 22nd February last, in which I mentioned the case of Captain Wilson, the Director of Works, as tending to bring discredit on the Public Service and to interfere with the proper Discharge of his Duty; I was in consequence induced to bring the Matter under the consideration of the Executive Council, where it underwent a long and patient Investigation. Captain Wilson was first called on by letter to reply to certain questions which were stated in writing, but, his answers not being satisfactory, he was subsequently examined in person before the Council.

The result of the Investigation is contained in the annexed Resolutions of the Council, which explain the view taken of the case, and will I presume be sufficient to enable Your Lordship to judge of Captain Wilson's Conduct.

It will be seen by the Resolutions that his having involved himself to so large an amount, his debts being about 4,000£, though he has been but a short time in the Colony, has been

* Note 90.
animadverted on as evincing great imprudence on his part, and that the Council has further remarked on the circumstance of his having availed himself of the Persons employed under him to endorse his Bills, which could not fail to weaken the influence which it was necessary he should have preserved unimpaired as the Head of a Department. There are other matters which have been remarked on by the Council, but which I shall not take up Your Lordship’s time in entering upon in this place, as they are stated in the Resolutions of the Council.

Should Your Lordship wish to be more particularly informed of Captain Wilson’s Case, I would beg leave to point out that the whole of the Proceedings upon it will be found in the Minutes of Council which will be made up and forwarded with as little delay as possible after the end of the present month.

I have, &c,

RA. DARLING.

P.S.—In order to bring the subject of this Communication more fully under Your Lordship’s notice, I beg that reference may be made to my Despatch of the 23rd September last, No. 58.

[Enclosure.]
considerable deficiency, within so short a period after his arrival in the Colony, proves the existence of great imprudence and mismanagement on the part of Captain Wilson.

2nd. That Captain Wilson’s Conduct in involving two persons employed in his Department has been highly reprehensible, as depriving him of the Control it is indispensable he should have over his subordinate officers; but there is no reason to believe that, at the time he allowed them to contract engagements for him, he had any apprehension of their being called upon to make any actual payment on his account.

3rd. That whether Captain Wilson’s Conduct in mortgaging a Property, for which he had not paid, be justifiable or not, depends entirely upon the faith to be put in the Statement of Mr. McDonald, from whom the Estate was purchased, against the positive statement of Captain Wilson and the Affidavit of his Nephew, who declare that McDonald gave his assent to the Mortgage in question; and it is fair to add that Mr. McDonald was very recently a convict, and is now holding a Conditional Pardon.

4th. That, although it is admitted by Captain Wilson that Furniture to the amount of £50 purchased upon Credit, and yet unpaid for, was included in the Bill of Sale given by him as security for his debt to Mr. Lamb, the Council are not of opinion that this was done with any fraudulent intention.

5th. From the replies returned by Captain Wilson to the various Queries addressed to him, it appears that his agricultural Live and dead stock was sold by the Sheriff under a Warrant of Attorney to satisfy the Claims of particular Creditors, and that a preference was intended to be given to one Creditor especially to the amount of £200. The Council consider such a Proceeding having been taken in the contemplation of immediate Insolvency to be exceedingly reprehensible; but, as the entire transaction has been set aside by the Supreme Court as illegal, they do not consider it necessary to enter more fully into the circumstance.

6th. In conclusion, the Council very much regret that Captain Wilson should not have kept such accounts as might have enabled him to afford satisfactory information of the Causes which, in so short a time, have occasioned so great a deficiency as appears by the Schedules of his Debts and Assets.

E. DEAS THOMSON,
Clerk of Council.
GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 50, per ship Lady Harewood.)

My Lord, Government House, 11th June, 1831.

With reference to the Instructions contained in Sir George Murray's Despatch No. 54, dated 6th July, 1830, I have the honor to forward herewith two of the Returns therein called for. One shewing the Number of Convicts in the Colony on the 1st January and 1st of July in the Years 1826, 1827 and 1828, the other, the Number of Applications for Female Convicts as Servants, etc., in the years 1827 and 1828.

The Return intended to Shew "the Expense of the Department of the Superintendent of Convicts, including the Expense for Building," etc., has been furnished by the Deputy Commissary General; but it appears to be so little calculated to answer the object required, and is so Voluminous and Complicated, occupying 85 Sheets of Paper, that it would be Useless to forward it in its present Shape. I regret extremely the delay which has thus been occasioned in Complying with the orders received; But the Statement shall be immediately revised and transmitted by the next opportunity, in a form which I trust will prove Satisfactory to Your Lordship.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

RETURN of the number of Applications from Settlers and others for Female Convicts as Servants in the Years 1827 and 1828, Stating the number of Applications Complied with, and how many Convicts were assigned, also the number of Applications rejected in each Year.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Applications made.</th>
<th>Number of Applications Complied with.</th>
<th>Number of Applications not Complied with.</th>
<th>Number of Women Applied for.</th>
<th>Number of Women assigned.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1827</td>
<td>1,140</td>
<td>955</td>
<td>188</td>
<td>1,204</td>
<td>985</td>
</tr>
<tr>
<td>1828</td>
<td>1,047</td>
<td>953</td>
<td>94</td>
<td>1,097</td>
<td>997</td>
</tr>
</tbody>
</table>

N.B.—No Application is rejected if made in the prescribed form where the applicant is eligible to become the Assignee of a Female Convict.

More Women arrived in the Colony during the above Years than the necessary wants of eligible applicants required; Consequently there was at all times a Superabundant number of Assignable Females in the Establishment.

For the Committee of Management,

M. ANDERSON.

Female Factory, Parramatta, 12th May, 1831.

A Copy.—ALEX. McLEAY, Colonial Secretary.
[Enclosure No. 2.]

RETURN of the Number of Convicts in the Colony of New South Wales on the 1st January and 1st July in each Year from 1826 to 1828 both inclusive, stating the Number assigned as Servants and the Number not assigned, distinguishing those kept at Work as a Punishment, from those waiting for Masters, distinguishing also the Males from the Females.

<table>
<thead>
<tr>
<th>Years</th>
<th>Dates</th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td>1826</td>
<td>1st January</td>
<td>Estimated at 10,000, but no accurate Returns during that Period.</td>
<td>88</td>
</tr>
<tr>
<td></td>
<td>1st July</td>
<td>880</td>
<td>90</td>
</tr>
<tr>
<td>1827</td>
<td>1st January</td>
<td>11,737</td>
<td>2,279</td>
</tr>
<tr>
<td></td>
<td>1st July</td>
<td>11,583</td>
<td>2,330</td>
</tr>
<tr>
<td>1828</td>
<td>1st January</td>
<td>11,937</td>
<td>2,235</td>
</tr>
<tr>
<td></td>
<td>1st July</td>
<td>11,933</td>
<td>2,018</td>
</tr>
</tbody>
</table>

Note.—The number of Males stated in the Column "In the Ordinary Service of Government" may be considered as having been necessarily employed, or, excepting in 1827, and then only for a short period, it cannot be said that there were Men waiting for Masters.

Princl. Supdt. of Convts. Office, Sydney, 10th June, 1821.

[Enclosure No. 2.]

RETURN of the Number of Convicts in the Colony of New South Wales on the 1st January and 1st July in each Year from 1826 to 1828 both inclusive, stating the Number assigned as Servants and the Number not assigned, distinguishing those kept at Work as a Punishment, from those waiting for Masters, distinguishing also the Males from the Females.

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Note.—The number of Males stated in the Column "In the Ordinary Service of Government" may be considered as having been necessarily employed, or, excepting in 1827, and then only for a short period, it cannot be said that there were Men waiting for Masters.

Princl. Supdt. of Convts. Office, Sydney, 10th June, 1821.

Note.—The Number of Females "Awaiting Masters" arises from the circumstances of the greater portion being old, feeble, or otherwise incapacitated from becoming Servants.

FRED. A. HILY.
[Enclosure No. 3.]

MR. F. A. HELY TO COLONIAL SECRETARY MACLEAY.

Sir, Princl. Supdt. of Convicts' Office, 6th July, 1831.

In returning to you the Duplicate of the Return transmitted to you with my Letter of the 16th Ultimo No. 31/392, I have the honor to acquaint you, with reference to your observation as to the difference in the Number of Convicts appearing therein, and that shown by the Census last taken, that the Return in question was made up from a different Source, and without any reference whatever to the Census taken in 1828. By the Census taken that year, the Number of Convicts was:

- Males ............. 14,155, and
- Females ............. 1,513, making

a Total of 15,668, whereas the Number appears to have been 18,348; but, as I believe it was at the time estimated that omissions had occurred in taking the Census of about 2,000 Persons in consequence of the Inaccuracy of the Returns made by many of the Settlers, and the omission of Runaway Convicts in the Bush, and others not having fixed Places of Residence, the Numbers stated in the Return furnished by me may be assumed to agree with the Census.

I have, &c.,

FREDK. A. HELY.

A Copy:—ALEX. MCLEAY.

GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 51, per ship Eamont; acknowledged by Viscount Goderich, 6th March, 1832.)

My Lord, Government House, 13th June, 1831.

Having referred to the Auditor General for his examination and report the accounts which accompanied the letter from the Colonial Agent, of which the enclosed is a Copy, I do Myself the honor to transmit for Your Lordship's information a Copy of Mr. Lithgow's report, together with a "general State" prepared by him of Mr. Barnard's Account for the Years 1826, 1827, 1828 and 1829, by which it will be seen that the Auditor General Supposes there was a Balance of £14,205 5s. 1d. in the hands of the Colonial Agent at the end of the year 1829.

Your Lordship will perceive by the Report that, from the want of the necessary information, the Auditor is not enabled positively to determine the Balance in Mr. Barnard's hands, and it is therefore to be presumed that he is in error in supposing him to be in possession of so large a Sum.

*Marginal note.—Return of Convicts in the Colony, 1st Jan'y. and 1st July in 1826-7 and 8.
HISTORICAL RECORDS OF AUSTRALIA.

I beg Your Lordship's attention to the suggestion of the Auditor that the Accounts of Van Diemen's Land may be kept totally distinct from those of this Government, and a Moiety or some other reasonable portion of the Agent's Salary may be charged against the Government of Van Diemen's Land.

I have, &c.

[Enclosures.] RA. DARLING.

[Copies of these letters will be found in a volume in series II.]

GOVERNOR DARLING TO VISCOUNT HOWICK.

(Despatch per ship Eamont.)

My Lord,

Government House, 13th June, 1831.

I have been honored with Mr. Hay's Letter of the 5th October last, transmitting Copy of a Letter addressed to me by Mr. Wilmot Horton on the 2nd November, 1827, Conveying Instructions for extending the Grant of 2,000 Acres of land originally made to Mr. Icely, and requesting I would report to the Secretary of State why these Instructions had not been carried into effect.

I now beg to State in explanation that, Mr. Icely having received an additional Grant of 360 Acres Subject to Quit Rent, by which his original Grant was increased to 2,560 Acres, and having also been allowed to rent with a view to purchase 9,600 Acres, which at first he declined or rather did not immediately avail himself of, though he subsequently did so, I appear to have thought it unnecessary to communicate with him on the receipt of Mr. Horton's Letter, as will be seen in reference to that Letter* which, in order to prevent any misconception of my Motives, I have been induced to return herewith, with the Notes made on it at the moment. One is in Pencil to the following effect:—"I shall say nothing at present respecting Mr. Icely's additional Grant." The other Note was Written in Ink, being an observation on a part of the Letter to which it immediately refers.

At this distance of time, I can only suppose, as Mr. Icely had already received Authority for a larger quantity of land than directed by the Secretary of State, though not exactly in the same proportions, that I must have thought it unnecessary to communicate with him at the moment on the Subject, and Mr. W. Horton's Letter was put away as Your Lordship now sees it, and, as regarding Mr. Icely, was forgotten.

As I am apprehensive from Mr. Hay's Letter of the 5th of October last, to which I am now replying, that I may be supposed improperly to have withheld from Mr. Icely the Additional Grant, which it was the intention of Mr. W. Horton he should

* Note 91.
receive, I have lately extended his Grant “on the Quit rent System” to the quantity ordered by Mr. Horton, so that he now holds about 15,000 Acres.

Wishing to understand whether Mr. Icely considered himself aggrieved by my proceedings, though aware I had on all occasions treated him with every possible attention, which I have much pleasure in stating his conduct has always merited, I desired the Colonial Secretary to write to him in order to ascertain the fact, and I beg to enclose for Lord Goderich’s information a Copy of Mr. Icely’s reply. I have, &c.,

[Enclosures.]

Copies of these two letters are not available.

Governor Darling to Viscount Howick.

(Despatch per ship Eamont.)

My Lord,

Government House, 14th June, 1831.

I beg leave, in reference to the Communications* lately made to the Secretary of State respecting the Conduct of Major Mitchell, to transmit for Lord Goderich’s information the accompanying Extract of a Letter,* which I have received from Lt. Governor Arthur, of whom I was induced to enquire whether the Surveyor General in that Colony would, consistently with the necessary attention to his other more important duties, undertake the Superintendence of the Road Department, and what arrangements he had made in this respect? Your Lordship will perceive that, even at Van Diemen’s Land, the Scale of which and of the Survey Department employed there bears hardly any proportion to this Colony, Lt. Governor Arthur is of opinion that the Surveyor General’s Superintending the Roads would be impracticable. He expresses himself as follows, Viz.:—“But, as to Superintending the operation of making the Roads, he can only do so to the injury of the Public Service and to the inconvenience of the Community. There is, I am sure, abundant employment for the Surveyor General without devoting any part of his time to Road Making.”

I have thought it the more necessary to put Your Lordship in possession of Lt. Governor Arthur’s Sentiments on this point, Understanding that Major Mitchell entertains an expectation, either from the Report† of the Parliamentary Commissioners or some other Channel, that his Control is to be still more Widely extended, in order as it may be presumed to add to the powers of the “high and independent Office” which he supposes himself to hold.

There were one or two points in Major Mitchell’s representations lately transmitted, which, being much occupied at the time,
HISTORICAL RECORDS OF AUSTRALIA.

1831.
14 June.
Remarks by
T. L. Mitchell
re land.

Temporary
arrangements
for disposal
of land.

Inability to
fulfil royal
instructions.

Time occupied
in location of
settlers.

I did not think it necessary to enter into at any length. One was
the delay which takes place before Settlers can obtain possession
of their Land, and another the variety of arrangements which
had been resorted to with respect to the disposal of Land, the
large quantity that Settlers had obtained with a view to pur-
chase, while no Land had been put up for Sale according to the
King's Instructions.

These points are all very simple and easily replied to. The
propositions of the Council for the disposal of the vacant Lands
were transmitted to the Secretary of State so far back as the
Month of August, 1828, and a decision on the Subject was
expected in the ordinary course of Communication. An Arrange-
ment was Consequently made to meet the current demands or
applications for Land; But, as the decision did not arrive as
was expected, and it was apprehended that continuing to act for
any great length of time on the first arrangement might prove
inconvenient, should the propositions of the Council not be
adopted by His Majesty's Government, other expedients were
resorted to. As to Land being sold according to the King's In-
structions* of the Year 1825, I have only to remark that it has
never been practicable to this moment. The Commissioners, with
Major Mitchell at their head, were a Mere dead Letter. When
he was empowered to Act Solely, he then gave in a Scheme for
disposing of the Lands, but which was totally inconsistent with
the Instructions. I need only add in proof of this that no report
of any Parish, much less of any County, has ever been received
from Major Mitchell, as being Surveyed and Valued, So as to
be notified for Sale according to the King's Instructions.

Major Mitchell has stated that on an average it is more than
five Months before Settlers are put in possession of their Land.
This may be true, as I never thought of making any such Cal-
culation, knowing that no unnecessary delay ever took place. It
is not however correct as far as relates to New Settlers, whose
Applications it has always been made a point to expedite the
moment they are Sent in; and the order is given for their loca-
tion, as soon as the Surveyor General reports that their Selection
is unobjectionable. I might add that no New Settler, who has
made an unobjectionable Selection, has ever been delayed so
long in obtaining possession of his Land, as now must neces-
sarily be the case under the Instructions of January last, which
have just been received.

I have felt it necessary to put Your Lordship in possession
of this explanation, that you may the better Understand Major
Mitchell's temper and disposition. I am at present engaged with

* Note 92.
the arrangements necessary for carrying the New Instructions for the disposal of Land into effect, and I hope by an early opportunity to be able to transmit a Copy of the Regulations which it is proposed to adopt for the Consideration of Lord Viscount Goderich. I have, &c.,

RA. DARLING.

Viscount Goderich to Governor Darling.

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

Sir,

Downing Street, 15th June, 1831.

In my despatch, marked "Separate," of the 15th of March last, I acquainted you with the considerations which had induced me to recommend to His Majesty to relieve you in the Government of New South Wales. I have now the honor to acquaint you that the King has been pleased to appoint Major General Bourke as your Successor. The ship, in which General Bourke proposes to proceed to the Colony, is appointed to sail early in July next, so that he may be expected to reach Sydney shortly after the arrival of this communication.

I am, &c,

GODERICH.

Viscount Goderich to Governor Darling.

(Despatch No. 41, per ship Margaret.)

Sir,

Downing Street, 19th June, 1831.

I have received your Dispatch No. 68 of the 10th of November last, enclosing a Memorial from Mr. Harris complaining of a breach of faith on the part of the Colonial Government of New South Wales, during the administration of Sir Thomas Brisbane, in respect to an agreement which was entered into with him for superintending the construction of certain Works which were then in progress in the Colony.

I request that you will inform Mr. Harris that there are so many difficulties opposed to my entering upon an investigation of his claim (which is purely one for a Court of Law to decide) that I must decline any interference, leaving it to him to obtain redress for any supposed infraction of the conditions, on which he undertook the superintendence of the Works in question, by bringing his case before the regular Tribunals of the Colony, as was recommended to him in the first instance by the Colonial Government.

Mr. Harris has transmitted with his Memorial three Books of Plans, specifications, etc., which, as he may require, I herewith enclose for the purpose of being returned to him.

I have, &c.,

GODERICH.
1831.
20 June.

Viscount Goderich to Governor Darling.
(Despatch No. 42, per ship Margaret.)

Sir, Downing Street, 20th June, 1831.

I have the honor to acknowledge the receipt of your Despatch No. 74 of the 21st December last, reporting on that part of Mr. Hall's Letter to Sir George Murray, in which he charges you with an intention to deprive him of certain Land therein referred to; and I have, in consequence of the Information communicated by the Surveyor General and by the Assistant Surveyor, who was appointed to measure the Land in question with other Grants adjoining, to desire that you will acquaint Mr. Hall that he appears to have so completely misrepresented the facts of the case that His Majesty's Government will not in future listen to any complaints, which may be sent home by him of a similar nature, which shall not be accompanied by the most satisfactory evidence of the accuracy of his Statements. I have, &c.,

Goderich.

Governor Darling to Viscount Goderich.
(Despatch No. 53, per ship Eamont; acknowledged by Viscount Goderich, 25th January, 1832.)

My Lord, Government House, 20th June, 1831.

Having felt it necessary to bring under the consideration of the Executive Council the cases, which are stated in the accompanying Minute of its Proceedings, one of which relates to Mr. Reid and another to Mr. Simpson, Magistrates of the Territory, who have appealed to the protection of the Government against the proceedings of two Individuals, one of whom has been awarded Damages for certain Acts done by them in their Magisterial Capacity; I request Your Lordship will be pleased to refer to the Minute, as the best means of being informed of the facts of the respective cases, and of the view taken of the Subject generally by the Council, which is placed in the clearest light.

Your Lordship will perceive that I did not omit to bring Sir G. Murray's Despatch of the 10th July, 1830, No. 62, under the consideration of the Council, being immediately connected with the Subject of the cases in question, and that, after full and mature consideration of the Instructions it contain, the Council still felt it necessary that the Government should relieve the Magistrates from the pecuniary responsibility they had incurred. It may be proper to apprise Your Lordship that, had the Government not done so, these Gentlemen would both have been immediately thrown into Jail, as neither of them possessed
the means of satisfying the demands against them. Mr. Simpson, who is no longer a Magistrate, subsequently to the occurrence in question, claimed the benefit of the Insolvent Act; and Mr. Reid had been obliged to leave his Farm and was residing at Newcastle, when he acted on the occasion alluded to Solely to prevent delay, the Magistrate, who does the business (gratuitously) at that Station, being absent at the moment.

I beg further to state my opinion, and in doing so I am fully impressed with the necessity of imposing the strictest economy, that the Establishment of Stipendiary Magistrates in this Colony is not Sufficient, and that the want of officers of this Class adds in a variety of ways, which are not immediately Seen, to Expenses far beyond the amount of the Salary they would receive. It will be seen on reference how disproportionate the Establishment here is to that of the Cape of Good Hope and other Settlements, while, from the Character of this, no place can more require an efficient Magistracy. It might further be observed that the weight of Business, which is thrown on the Government (which renders the employment of additional Clerks indispensable) by having recourse to the assistance of anyone who can be prevailed on to Act as matter of favor, is very burdensome, as Such Persons never perform the duty with the same degree of attention as a Stipendiary Magistrate, who feels the necessity of informing himself and is careful not to incur pecuniary responsibility or Censure.

I am further quite Satisfied, if the Magistrates who Act gratuitously are to be made responsible in a pecuniary point of view for their proceedings, that they will not Act. Some have expressed a wish to be excused from Acting and have only Continued as a matter of favor, while Several of the Settlers and Inhabitants of Sydney have declined the Appointment, by which it will be seen that the Situation of Magistrate is not So highly prized as may be supposed at Home.

Annexed to the aforesaid cases in the Minute of Council, are those of the Editor of the Sydney Gazette and of Captain Wright, late Commandant at Norfolk Island. Those are also fully explained in the Minute. The former was prosecuted for publishing the Governor’s reply* to a public Address, presented by the principal Inhabitants of the Colony, as a Means of counteracting the foul aspersions which had been cast on his Character. The Editor in this case published the “Reply” to the Address as matter of course, all communications on the part of the Government being made public through the medium of his Paper.

* Note 94.
Your Lordship has already decided that Captain Wright was fully and honorably acquitted of the Charges brought against him by Messrs. Wentworth and Hall, which appeared in the Sydney Monitor. The case now alluded to was another attempt on the part of those Individuals to recommence proceedings against that officer; but the Court, aware of their motives, immediately dismissed the case. Captain Wright, however, in meeting it, incurred an Expense of £17 18s. 8d., from which he has prayed to be relieved, and which the Council has recommended on the grounds stated in the enclosed Minute. I have, &c.

RA. DARLING.

Extract from Minute No. 20, of the Proceedings of the Executive Council, on the 27th April, 1831.

Present:—His Excellency the Governor; The Venble. the Archdeacon; The Honble. the Col. Secretary; The Honble. Colonel Lindesay.

His Excellency the Governor presented for the Consideration of the Council applications to the Government, on the part of James Reid, Esqr., and Percy Simpson, Esqr., Justices of the Peace, to be relieved from the Consequences with which they are threatened, arising out of the discharge of their Magisterial duties, together with the Several documents explanatory of their respective cases, of which the following is an Abstract, "Vizt.":

1st. In the Case of Mr. Reid, it appears that a free Woman named Ann Canny threatens to bring an Action against him for false imprisonment, having been sentenced by Mr. Reid (who was called upon to act at Newcastle during the temporary absence of the regular Magistrate) as a Vagrant, and living in a State of Adultery, for three Months to the 3d Class of the Female Factory, as a house of correction. Roger Therry, Esqr. who, in the absence of an Attorney and Solicitor General, has been employed to defend this Case, states it as his opinion that it is inexpedient to proceed to trial. The Magistrate he considers has Manifestly exceeded his jurisdiction, as the facts disclosed in the deposition do not appear sufficiently Strong to Warrant even a Commitment to a house of Correction. Under these circumstances, he recommends that Ampends Should be tendered to this Woman to the extent of £15 or even £20, as, in the event of an Action, she may not only be Awarded damages to that, and even to a large Amount, but also very heavy Costs would be incurred.

2nd. In the Case of Mr. Simpson, it appears that one Cokely, a Convict whose Sentence had expired, was brought before him, and, having been Considered as a Convict illegally at large, was sentenced to be punished, for which punishment an Action was brought against him in the Supreme Court, and a Verdict awarded for the Plaintiff of £10 damages, with Costs, amounting after being taxed to £70 10s. Mr. Simpson observes that Cokely admitted his being a runaway, and his Companon Murphy, who suffered the same punishment, was Subsequently found to be a runaway from an Iron Gang. He also considered himself borne out in the course
pursued by the Colonial Laws, which would have been the case, had Cokely become free. Subsequently to the passing of the Act of Council, dated the 12th May, 1830, which provides that Prisoners, who have Absconded, tho' their original Sentence may have expired, shall be liable to Serve the time of their Absence, and to be dealt with in all respects during that time as transported felons.

His Excellency the Governor also laid before the Council a Despatch* from the Right Honble. the Secretary of State, directing that, in order to guard the public against losses and to render the Magistrates more Cautious in their proceedings, they should be held responsible for any Acts undertaken by them in their Magisterial capacity, which may not be in strict Conformity with the Law.

Upon a lengthened and very deliberate Consideration of these cases, the Council were of opinion that it would be Scarcely possible for them to arrive at a perfectly Satisfactory decision. If they were to be guided by a mere Abstract desire to Save expenditure, they must, according to the letter of the Secretary of State's instructions, adjudge the damages and Costs to be defrayed by the Magistrates, who are principals in these transactions; and they are Sensible that, in recommending a departure from these instructions, it behoves them to Act with the more reserve, inasmuch as they are aware that other Similar Actions are now depending, which, in the probable event of adverse Verdicts, may entail a Charge on the public through the precedent now to be established. At the same time, judging according to their acquaintance with the State of this Colony, and from Circumstances, which cannot possibly be appreciated by any who are not locally and familiarly acquainted with it, they must express a persuasion that the expenses in question ought not to fall upon the Magistrates. They cannot but be aware that the Government of this Colony is, by the Circumstances of its Situation, necessitated to include in the Commission of the Peace persons who, without any intended disrespect to them, must be admitted not to be in point of property able to Sustain without inconvenience the effect of a Verdict against them, on Account of their Magisterial Acts. The Magistrates are moreover placed in Circumstances of much risk and hardship, to which no parallel exists in England, from the great Multitude of Crimes and misdemeanors, brought under their Cognizance through the vicious character of the population, and in consequence of their being invested with a Summary jurisdiction, which, as being applicable to one part of the Community and to none besides, becomes in its administration a Subject of much perplexity. In discriminating the persons who are amenable to that jurisdiction from those who are within the ordinary operation of the Law, the most Careful and experienced judgment is liable to err, while, in Consequence of the thinly-peopled state of the Country, the Magistrates are Cut off from the possibility of mutual Consultation; and few individuals among them enjoy the advantage of being able to rectify their own first impressions by a reference to the opinion of others. Under these circumstances, the Council must entertain Strong doubts of the justice of any recommendation, whereby, for a venial error in judgment, the expense of damages and Costs should be thrown upon the Magistrates, the effect of which they are fully aware would be Seriously to embarrass the Fathers of

* Marginal note.—16th July, 1830, No. 62.
large families, to deprive the public of their Services, and to induce, throughout the most respectable portion of the Community, a disinclination to act in the Commission of the Peace. On the other hand, they are fully aware how necessary it is not to encourage, by too great facility in relieving the Magistrates from the consequence of their errors, a spirit of inattention and carelessness in deciding upon the cases brought before them. They are therefore of opinion:

First, that the principle laid down in the Secretary of State's letter above alluded to, however just in the Mother Country, cannot be applied in all its strictness in this colony.

Secondly, that the expenses of the trial of Mr. Percy Simpson should be defrayed by Government.

Thirdly, that, as the case of Mr. Reid has not yet proceeded to trial, the sum of £20 should in the first instance be granted with a view to enable his Attorney to compromise the suit; or, if that cannot be accomplished, that the same sum should be paid into court previous to the trial, in satisfaction of damages and costs.

Fourthly, that His Excellency the Governor be recommended to address a circular letter to the Magistrates, pointing out to them the heavy expense incurred by the public in consequence of the verdicts pronounced against their decisions, recommending them in every case attentively to weigh and consider the provisions of the law under which they may direct the infliction of any sentence; and informing them that the Government will not feel itself justified in relieving them from the pecuniary consequences of any suits in which it shall appear that, by due care, caution and attention on their part, they might have avoided those misconceptions which have laid them open to actions for damages.

2nd. His Excellency the Governor laid before the Council the bill of costs, amounting to Sixty Eight pounds, Seventeen Shillings and twopenny, in the case of "The King at the prosecution of W. C. Wentworth, Esqr., against the Rev. Ralph Mansfield, Editor of the Sydney Gazette," for a libel in publishing the reply* of the Governor to an address presented to him by certain of the inhabitants of the colony; and His Excellency requested the opinion of the Council, whether, as Mr. Mansfield had merely acted in this case under the orders of Government, he should not be relieved from the whole of the expenses to which he had thus been subjected, namely, the above amount of the costs of his defence, and ten pounds, being the fine awarded by the court.

Upon this case, the Council deemed it sufficient to remark that Mr. Wentworth, instead of being satisfied, as in justice and propriety he should have been, with transmitting his representations against the Governor to the Secretary of State through the ordinary official channel, caused them to be printed in an office in Sydney in a pamphlet of very libellous character. This, as he is understood to allege, was designed for circulation in England only; but it unquestionably found its way to the public notice here, and became the subject of much notoriety and observation. This led to the address above alluded to, containing some strong observations on the conduct and motives of Mr. Wentworth, and the publication of the Governor's answer to that address, although containing no

*Note 94.
Stronger remarks than the circumstances fully warranted, was the subject of the action brought by Mr. Wentworth against the government printer for libel. The council are of opinion that the editor of a newspaper was morally justified in publishing a comment provoked by such a proceeding, and that the government under whose direction it took place should secure him from damages by paying the expenses attendant on this prosecution.

3. His Excellency the Governor laid before the council a letter from Captain Thomas Wright of the 39th regiment, enclosing a bill amounting to seventeen pounds, eighteen shillings and eight pence, which had been furnished to him by Mr. Norton, solicitor of Sydney, for opposing a rule to show cause why a criminal information should not be filed against him for an illegal punishment, whilst commandant at Norfolk Island in 1827. It appears that this rule was refused by the judges and the proceedings dismissed. Captain Wright observes upon the impossibility of avoiding these expensive and malicious prosecutions, which, though the parties may be fruitless in their attempts to criminate, do from their nature (being criminal informations in which the costs are allowed) become very oppressive, and therefore requests that His Excellency will sanction the payment of the expenses incurred.

The council, having fully considered the subject, were of opinion that, as the result of the proceedings proved that Captain Wright had not acted illegally, nor in any way contrary to his duty, in the matter in question, he was entitled to be reimbursed for the expenses to which he had thereby been subjected, and it being also extremely important to show that officers under similar circumstances will be protected by the government in the faithful discharge of the arduous and unpleasant duties which devolve upon them in this colony.

A true extract:—E. Deas Thomson, Clk., Col.

Viscount Goderich to Governor Darling.

(Despatch No. 43, per ship Margaret.)

Sir,

Downing Street, 21st June, 1831.

With reference to my despatch of the 22d of March last, No. 26, I have the honor to acquaint you that I have appointed the Revd. Robert Forrest to be head master* of the grammar school, about to be established at Parramatta. His full salary of one hundred pounds per annum will not commence until his arrival in the colony, but half salary will be allowed to him from the date of his embarkation.

I have also to apprise you that the agent has been directed to issue the sum of £150 to Mr. Forrest to enable him to defray the expenses of his approaching voyage to New South Wales.

I am, &c.,

Goderich.

* Note 95.
Viscount Howick to Governor Darling.

(Despacht per ship Margaret: acknowledged by Governor Bourke, 8th January, 1832.)

Sir, Downing Street, 22d June, 1831.

I am directed by Viscount Goderich to call your attention to the enclosed report, dated 27th of May last, from the Comptroller of Army Accounts to the Lords Commissioners of His Majesty's Treasury, wherein they notice the receipt of £5,000 into the Military Chest at New South Wales as a Loan from the Colonial Treasurer to the Commissariat Department, to be repaid when required; and I am directed by Lord Goderich to desire that you will furnish their Lordships with the Information respecting these Loans and respecting any future advances of the same nature, which the Comptrollers in their report have suggested.

I have, &c.,

[Enclosure.]

LETTER TO LORDS COMMISSIONERS OF TREASURY.

My Lords, Comptroller's Office, 27th May, 1831.

With reference to our report No. 393 of 27th ultimo, returning Cash accounts of D.C.G. Laidley for the service at New South Wales from 25th August to 24th October, 1829, we now return those for the succeeding period from 25th October to 24th December, 1829; in doing which, we have to notice the receipt of £5,000 into the Military Chest as a Loan from the Colonial Treasurer to the Commissariat Department, to be repaid when required.

We have in former accounts from this station observed Loans between the Commissariat and the Colonial Treasury, as well as with the Bank of New South Wales, respecting which we are not in possession of any particular information.

With regard to the present Loan to Commissary, it may be remarked that the whole Expenditure from the Chest for the two months to 24th December was little more than £31,000, whilst the Balance in the Chest on the 24th October was (in round numbers) £26,000, and the proceeds of the Bills upon your Lordships for the single month of November £6,000, making together a sum of £32,000. We do not, therefore, see the necessity for this Loan of £5,000 from the Colonial Treasurer on 3rd December, more especially as the amount received for Bills in December was £17,000, leaving a Balance in hand on 24th Decr. of upwards of £45,000, including of course the £5,000 borrowed and £20,000 in British Money received from England on the 1st December.

Having adverted to our report No. 901 of 18th March, 1829, relative to Colonial Bank Paper being employed in New South Wales in payment on the Public Account, we think it would be desirable in the present case to call the attention of the Lt. General Commanding to these Loans, desiring him to afford Your Lordships every Information in his power respecting them, especially as regards the description of Money or Paper in which the advances and repayment are required to be effected, and, with reference to the frequent occurrence of these Loans, to state to Your Lordships his opinion as to their necessity or expediency, particularly as
regards transactions of this nature with the Bank of New South Wales (which if we are not mistaken is merely a private Establishment). It will be proper at the same time, we submit, to make a communication thereon to the Commissary in charge, noticing to him the means he apparently had (as above shewn) of meeting the demands of the Service without such a Loan, and directing him to acquaint Your Lordships with the reasons for which it took place, the Coins or Currency in which it was made by the Colonial Treasurer and may have been since repaid from the Military Chest, with any other explanation he may think necessary for Your Lordships' satisfaction.

We have, &c.,

H. DRINKWATER.
W. HERRIES.

GOVERNOR DARLING TO VISCOUNT GODERICH.

(Despatch No. 54, per ship Eamont.) My Lord,

Government House, 22d June, 1831.

Major Mitchell the Surveyor General having urged that Copies of the Letter, which he has addressed to the local Government on the Subject of the “reprimand,”* as he terms it, which was conveyed to him by direction of Sir George Murray in Consequence of the inaccuracy of the Maps produced in the Supreme Court in the Action Wardell versus Thorpe, should be transmitted to Your Lordship, I now do myself the honor to forward Copies of Major Mitchell’s Letters accordingly.

It was not my intention to have troubled Your Lordship’s predecessor or Yourself with these documents, nor am I aware what advantage Major Mitchell can hope to derive from their being brought under Your Lordship’s Notice; but, as he has repeatedly desired it, I must beg Your attention to his letter of the 22d April, 1830, in particular, as furnishing a further proof of the improper Style of his official Correspondence, on which it has lately been my painful duty pointedly to remark.

In order to satisfy Your Lordship that no advantage was taken of the opportunity of communicating Sir George Murray’s Sentiments to the Surveyor General to indulge in observations, which could in any degree hurt Major Mitchell’s feelings, I beg to enclose a Copy of the Colonial Secretary’s letter to him on the occasion alluded to.

I have, &c.,

RA. DARLING.

[Enclosure No. 1.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General’s Office, 9th March, 1830.

I have the honor to acknowledge the receipt of your Letter of the 4th instant, No. 30/248, informing me “that, in the Case of the Action of Wardell against Thorpe, which the latter met for the purpose of ascertaining a right of Road through the Petersham Estate, it appears that the proceedings of the Attorney and Solicitor General were grounded on the assumed accuracy of Documents.*  

[Note 96.]

* Note 96.
furnished from my Office, and that their failure to obtain a verdict arose from the production before the Court of a Map from the Same, allowed to be of superior Authenticity, and that you are therefore directed by His Excellency the Governor, at the suggestion of the Executive Council, to apprise me of this Circumstance, in order that I may see the necessity of every document, which may be required for Official or other purposes, being Carefully examined previous to being sent from my Office."

I beg leave to state, however, for His Excellency the Governor's information, that, although I was present during the whole of the proceedings, under a Subpoena on the part of Warden Compelling me to bring all documents into Court, I am, nevertheless, unconscious up to this moment that any such Circumstance occurred in the Case. I trust I may therefore be permitted to request, in justice to myself, that His Excellency will be pleased to point out more particularly how any blame attaches to me respecting the result, for it has always been my endeavour to supply, from the defective documents left in this Office by my Predecessors, such only as are accurate, and I am moreover very anxious to know in what manner it may be in my power to pay particular attention to the suggestion of His Excellency and the Executive Council.

I have, &c,

T. L. MITCHELL, Sr. Genl.

[Enclosure No. 2.]

SURVEYOR-GENERAL MITCHELL TO COLONIAL SECRETARY MACLEAY.

Sir, Surveyor General's Office, Sydney, 22nd April, 1830.

I had the honor to receive your reply of the 10th April, No. 30/450 to my Letter dated 9th March, in which I requested to be informed more particularly in what way blame attached to me respecting the result of the Action "Wardell v. Thorpe." and in what manner it was intended by the Governor and Executive Council that I should pay more attention than I now do to the preparation of Documents sent from this Office.

In this reply, you are pleased to State that the Evident want of examination (query by whom?) of the first documents is probably a sufficient answer to both my enquiries, and point out, with respect to the second, the expediency of employing some of the younger branches of my Department in Correcting and expunging the Errors left by my predecessor. To which I would observe that the Supposed Errors are discrepancies in Original and Authentic Maps, and that I am hereby required to set the recently arrived Surveyors about Correcting what may appear at first Sight errors, and expunging what one document Contains to render it Conformable to the rest, in order to prevent the production of papers manifestly (query apparently?) Inaccurate or self Contradictory.

It certainly appears from one of the Extracts furnished me (vizi., from a Communication of the Law Officers, dated 24th July, 1829) that these Gentlemen were misled by the documents transmitted to them from this Office. But I think it equally plain, from the other Extracts, that these Gentlemen ought not to have been misled by them, but, on the Contrary, that they might have derived a clear insight into the real state of the question.

The Solicitor General states that the most ancient Map Contained no trace of the road in question, from which it would appear probable that there was no road when this Map was Constructed.