BOURKE TO GODERICH. 485

[Enclosure to Minute No. 66/1831.]

RETURN shewing the Trade between this Port and New Zealand, from the 1st January to the 8th December, 1831.

Port of Sydney, New South Wales.

Account of Vessels Entered and Cleared.

Entered inwardly. Cleared outwardly.

<table>
<thead>
<tr>
<th>No.</th>
<th>Tons.</th>
<th>No.</th>
<th>Tons.</th>
</tr>
</thead>
<tbody>
<tr>
<td>44</td>
<td>5,257</td>
<td>56</td>
<td>5,261</td>
</tr>
</tbody>
</table>

Declared value of Imports as specified on the other side... £34,282 12 0
Declared value of Exports as specified on the other side... £30,760 2 9

Note.—This Amount includes the following Articles entered Outwards for New Zealand, but intended for the Whaling Trade, viz.:—Whaling Gear, £1,396; Casks, £4,885; £6,281.

IMORTS from New Zealand from the 1st Jany. to 8th Decr., 1831.

<table>
<thead>
<tr>
<th>Articles</th>
<th>Quantity</th>
<th>Declared Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flax</td>
<td>1,182 Tons</td>
<td>24,488 £ 0 0</td>
</tr>
<tr>
<td>Plank and Timber</td>
<td>277,600 feet</td>
<td>4,707 £ 0 0</td>
</tr>
<tr>
<td>Potatoes</td>
<td>51 Tons</td>
<td>131 £ 0 0</td>
</tr>
<tr>
<td>Pork</td>
<td>1 ton 6 Cwt.</td>
<td>48 £ 0 0</td>
</tr>
<tr>
<td>Oars</td>
<td>272</td>
<td>62 £ 0 0</td>
</tr>
<tr>
<td>Seal Skins</td>
<td>3,290</td>
<td>2,196 £ 0 0</td>
</tr>
<tr>
<td>Handsakes and Spars</td>
<td>507</td>
<td>777 £ 0 0</td>
</tr>
<tr>
<td>Whale Oil</td>
<td>45 tons</td>
<td>739 £ 0 0</td>
</tr>
<tr>
<td>Whale Bone</td>
<td>7 tons 13 Cwt.</td>
<td>1,023 £ 0 0</td>
</tr>
<tr>
<td>Trenails</td>
<td>101</td>
<td>10 £ 0 0</td>
</tr>
<tr>
<td>Articles being Cargo returned for want of Sale at the time, and Ship Stores</td>
<td>——</td>
<td>437 12 0</td>
</tr>
</tbody>
</table>

Total £34,282 12 0

EXPORTS to New Zealand from 1st Jany. to 8th Decr., 1831.

<table>
<thead>
<tr>
<th>Articles</th>
<th>Quantity</th>
<th>Declared Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gunpowder</td>
<td>61,453 pounds</td>
<td>3,230 10 0</td>
</tr>
<tr>
<td>Muskets</td>
<td>5,888</td>
<td>5,164 15 0</td>
</tr>
<tr>
<td>Cartouch boxes &amp; Flasks &amp; belts</td>
<td>256 0 0</td>
<td></td>
</tr>
<tr>
<td>Shot and balls</td>
<td>39 Cwt.</td>
<td>117 0 0</td>
</tr>
<tr>
<td>Flints</td>
<td>50,500</td>
<td>37 0 0</td>
</tr>
<tr>
<td>Hardware and Cutlery</td>
<td>Sundry packages</td>
<td>2,311 3 9</td>
</tr>
<tr>
<td>Spirits</td>
<td>9,670 Gallons</td>
<td>1,646 9 0</td>
</tr>
<tr>
<td>Tobacco</td>
<td>20,569 pounds</td>
<td>1,251 1 0</td>
</tr>
<tr>
<td>Horses</td>
<td>9</td>
<td>130 0 0</td>
</tr>
<tr>
<td>Horned Cattle</td>
<td>25</td>
<td>105 0 0</td>
</tr>
<tr>
<td>Sheep</td>
<td>162</td>
<td>90 0 0</td>
</tr>
<tr>
<td>Sundries, Consisting of Groceries, Provisions, Apparel, etc., for the use of the Missionaries and European Inhabitants</td>
<td>——</td>
<td>1,129 10 0</td>
</tr>
<tr>
<td>Whaling Gear and Casks</td>
<td>——</td>
<td>6,281 0 0</td>
</tr>
</tbody>
</table>

Total £30,760 2 9

Custom House, Sydney, 10th December, 1831.

JAS. BROWN, p. Coll’r.
BURMAN LANGA, Cont’r.

[Enclosure to Minute No. 66/1831.]

Copy of a Letter from the Attorney General to the Colonial Secretary, dated 12th December, 1831.

Sir, Attorney General’s Office, 12th December, 1831.

I have the honor to acknowledge the receipt of your Confidential Letter of the 8th instant, informing me that it is the intention of His Excellency the Governor to send a Confidential person to New Zealand for the purpose of protecting the British Interest, and of preventing as far as possible a Continuance of the Atrocities and Irregularities now committed by British Subjects in that Country; and by the direction of His Excellency requesting I would let you know for his Information...
Opinion re legal powers of resident.

In reply I have the honor to state for the information of His Excellency that, though the 4th Section of the 9th of Geo. 4th Chap. 28, gives the Supreme Courts of this Colony and of Van Diemen's Land respectively jurisdiction to try Offences Committed by British Subjects in New Zealand, I do not conceive it would authorise His Excellency to appoint any person to act in a Judicial or Magisterial Capacity in that Island, as it is not at present a Dependency of this Colony; however from that part of the above Section, which speaks of Offences Committed "by any British Subject sailing in or belonging to, or that shall have sailed or belonged to and have quitted any British Ship or Vessel to live in any part of said Islands, Countries or places, or that shall be there living," I Conceive that in Case informations are sworn in this Colony against any British Subject residing in New Zealand for any Crime Committed there, His Excellency might send to arrest such person in that Island, to be brought here for trial, and of Course I conceive might Authorise any person to arrest any Convict runaway from this Colony, who might be found living there.

[Enclosure No. 2.]

Viscount Goderich to Governor Bourke.

(Despatch No. 52, per ship Burrell.)

Sir, Downing Street, 24th Decemr., 1831.

I have to acknowledge the receipt of General Darling's Dispatch No. 47 of the 4th of June last, stating that the settlement at King George's Sound had been transferred to the Government of Western Australia, and communicating the circumstances attending the death of Captain Barker of the 39th Regiment, the late commandant at that place, whilst endeavouring to ascertain whether there was any communication between a Lake lately discovered by Captain Sturt and Gulf St. Vincent.

The praise, bestowed by General Darling and Governor Stirling on Captain Barker's zeal and attention to his duties, shews that he possessed merits of no ordinary kind; and it is impossible therefore for me not to regret exceedingly the untimely fate which has befallen this officer.

The Government order, which General Darling issued, appears to have been a proper testimony to the value of his Services; and I highly approve of his having adopted this mode of shewing to other officers that Services such as those performed by Captain Barker would always be duly appreciated. The Lives of such officers are too valuable to the public to be needlessly sacrificed, and I am therefore to request that you will impress most earnestly upon those whose duties are likely to bring them into contact with the Natives, that it is a duty, which they owe to the public no less than to themselves, to allow no consideration whatever to induce them to separate from their companions so as to be beyond the reach of assistance if treacherously attacked.
With respect to that part of General Darling's Dispatch, which relates to the employment which he had in view for Captain Barker at New Zealand, and the difficulty which he felt in supplying his place, it is not my intention at the present moment to offer any remark, although I shall shortly have to enter very fully upon that subject in replying to his Dispatch of the 13th April last.

I have, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 55, per ship Burrell.)

Sir, Downing Street, 27th December, 1831.

I transmit to you, herewith, the Copy of a letter from the Secretary to the Treasury together with the Extract, enclosed from the Comptrollers of Army Accounts; and I am to desire that you will give your early attention to the observations of the Comptrollers relative to the distribution of Convicts amongst the
Military and Civil Officers of the Settlement of New South Wales, the employment of Convicts in places of trust, and the occupation of Convicts in fabricating various articles for sale at Sydney for the benefit of their Masters.

The only part of the Report, on which I deem it necessary at present to convey to you any specific Instructions, is that which refers to the deductions proposed by the Comptrollers from the allowance drawn by officers for their regulated Civil Servants, at the same time that they had the Service of Convicts to whom Rations of Provisions were issued; and, upon this subject, I deem it right to desire that you will call upon all officers whether Civil or Military, who may have thus acted, to refund immediately what they have so improperly received. I have, &c.,

GODERICH.

[Enclosure.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 10th Decr., 1831.

I am commanded by the Lords Commrs. of H.M.'s Treasury to transmit to you the enclosed extract from a Report of the Comptrollers of Army Accounts, dated 31st Octr. last, relative to the distribution of Convicts amongst the Military and Civil officers of the Settlement of New South Wales, the employment of Convicts in places of trust, and the occupation of Convicts in fabricating various articles for sale at Sydney for the benefit of their Masters; and I am to request that you will move Viscount Goderich to give such directions on the above subject as he may deem expedient, and at the same time to favor My Lords with his opinion whether the Parties, therein referred to, should be called on to refund the value of the Provisions drawn by them for their regulated Civil Servants, and whether there are any circumstances attending the Civil Settlement at Port Macquarie, which would render it a matter of difficulty or very expensive to obtain persons for the Commissariat Service, who have not been Convicts.

I am, &c.,

J. STEWART.

[Sub-enclosure.]


"Having thus concluded our remarks on Mr. Bowerman's case, we shall draw your Lordships' attention to certain irregular practises at Port Macquarie, which have been disclosed in the Papers under our consideration.

"These will be classed under the Heads of Distribution of Convicts amongst the Military and Civil Officers of the Settlement; the employment of Convicts in charges of trust; and the occupation of Convicts in fabricating various articles for sale at Sydney for the benefit of their Masters.

"In regard to the distribution of Convicts at Port Macquarie amongst the officers appertaining to the Detachment of Troops stationed there, it appears that the Commandant of Port Macquarie had at one time 1,400 Convicts under his charge, some of whom were allotted to the officers above referred to, Mr. Bowerman..."
himself receiving three or four. This measure, which is said to have been approved of by the Local Authorities, is however in our opinion objectionable on two grounds, viz.: 1st. as Port Macquarrie and other Penal Settlements at New South Wales were established for the correction of the most notorious offenders sent out from this Country, or who had committed heinous offences in the Colony, it is obviously inconsistent with the great remedial design of such Establishments to allot any of those Criminals to Officers as Servants, which must have the effect of placing them on the same footing with less guilty convicts, and thus the beneficial influence of their heavier punishment as a warning to others must be lost. Secondly, we find, upon reference to the New South Wales Store accounts, that during a part at least of the period when the Transactions occurred, viz.: from April from April, 1825, to March, 1827, in addition to their Convict Servants, for whom of course Rations of provisions were drawn, the Officers of the Detachment of Troops stationed at Port Macquarrie, as well as Mr. Bowerman, the Commissariat Storekeeper Mr. Smith, and Mr. Jones, did actually draw provisions for the number of Civil Servants allowed by the Provision Warrant.

"Now it is clear that such of these Parties as employed Convict Servants, who are not only provisioned but clothed by the Public, could have no just claim whatever to draw provisions at the same time for their Civil Servants; and consequently the value of all Rations so issued, exceeding the Stoppage of 2s. 2d. per diem for each Ration, should we submit, be refunded by the Individuals who participated in such an irregular Indulgence.

"With the exception however of Mr. Bowerman, the names of the parties here alluded to are not stated, and we are thus precluded from furnishing your Lordships with an account of the Sums due under this head, which however we conclude may be furnished by the person in charge of the Commissariat Department in N. S. Wales.

"We recommend your Lordships to communicate with the Colonial Secretary of State on the subject of the abuse in the Distribution of Convicts as Officers' Servants at Port Macquarrie, to which we have now drawn your Lordships' attention, with a view that he may, in concert with your Lordships, give the necessary directions for the immediate discontinuance of the practice, not only at Port Macquarrie, but at all other Penal Settlements at New South Wales, where it may be found to prevail. We also suggest that Mr. Laidley be instructed to make out an account, shewing the names and Ranks of the parties, whether Military Officers or Civilians, who, at Port Macquarrie or any other Station in the Colony whether Penal or otherwise, have received or may still receive Convict Servants, and at the same time draw provisions for their regulated Civil Servants.

"The Account should likewise exhibit the number of Rations thus received, with their value, deducting in each case the Ration Stoppage of 2d. Mr. Laidley should moreover be enjoined to call upon the Commissariat Officers or other persons serving in the Department, whose names shall appear in the Account, to refund the Sums severally due from them. A Duplicate of this document should also be sent to your Lordships that, if any of the Military officers in question should have left the Station, they may be required to pay their proportions through the channel of the Secretary at War;
to enforce which Mr. Laidley should be directed to apply to the General Officer or other officer Commanding in Chief. Lastly, under this head, we recommend your Lordships to make a correspondent Communication to Lieut. General Darling. On the subject of employing Convicts at Port Macquarrie in subordinate situations in the Commissariat Department. We beg leave to remark that, considering the depraved character and dissolute habits of these Men, the employment of them in situations of Trust, such as inferior Clerks, and in the Issue of provisions from the Commissariat Magazines, and more particularly giving them unobstructed access to an article so alluring to a convict as Rum, and so scarce at Port Macquarrie, appears to us to be a very dangerous system. If necessarily employed at all in the Magazines, we submit that their occupation should be strictly confined to that of mere Labourers, and that they should be constantly Superintended in their work by some accredited person of the Commissariat Branch, on whose vigilance and probity a firm reliance can be placed. Correspondant Communications on this point should, we submit, be made to Lieut. Genl. Darling and Mr. Laidley, respecting the occupation of Convicts assigned to Military Officers at Port Macquarrie in Manufacturing articles for sale at Sydney for the benefit of their Masters. Our authority for noticing this subject is Mr. Jones; and therefore whatever is advanced by him will naturally be received by your Lordships with great caution; still, as he broadly makes the assertion, and as the practise, if it exists, is alike irregular and discreditable, we recommend that Lieut. Genl. Darling be directed to ascertain the fact; and, if it should appear that Mr. Jones' representation is true, that he be instructed to give immediate and peremptory orders for its discontinuance, not only at Port Macquarrie, but at every other station in the Colony, where similar practises may be found to prevail."

We have, &c.,
J. DRINKWATER.
W. L. HERRIES.

VISCOUNT GODERICHT TO GOVERNOR BOURKE.
(Despatch No. 56, per ship Burrell.)

Sir,
Downing Street, 28 December, 1831.

I have received General Darlig's Dispatch of the 14th of July last, No. 57, in answer to one which I had addressed to him on the subject of Mr. Walter Raymond's application for a Grant of Land.

I certainly should not have admitted the claim of this person to a Grant of Land upon the terms, which were in force prior to January last, had I been aware that the circumstances of his case differed so much from those, which were alleged by him; and I regret that General Darling did not with hold the grant, until he should have received further Instructions on the subject.

In the case of Mr. Kent, as well as in that of Mr. Gregory Blaxland, this department appears to have been equally deceived, as neither of the parties seem to have possessed the means, if they had the intention, of carrying their respective schemes into effect.
You will therefore consider yourself authorized to withhold from them any advantages in respect to Land, which the Regulations do not confer upon others, as it was in consideration alone of the benefits, which the Colony was to have derived from their exertions, and the expenditure of Capital commensurate with the magnitude of their undertakings that the extensive grants promised to them were to have been made. I have, &c.,

GODERICH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 4, per ship Prince Regent; acknowledged by Viscount Goderich, 5th May, 1832.)

My Lord,

Government House, 29th December, 1831.

I have the honor to enclose herewith a letter addressed to me by the Revd. Doctor Lang, with a request that I would transmit it to Your Lordship. It is in reply to a letter addressed to Your Lordship by the Commissioners for the Management of the Church and School Corporation, forwarded in Colonel Lindesay’s despatch of the 18th November, 1831, No. 4.

I have, &c.,

R. BOURKE.

[Enclosure.]

REVEREND J. D. LANG TO GOVERNOR BOURKE.

Sir,

Sydney, 26 December, 1831.

I do myself the honour to inform Your Excellency that, in consequence of a conversation with which I was honoured by my Lord Howick on the subject of the emigration of agricultural labourers to this Colony in the month of December last, I was induced to address a letter to the Right Honourable Lord Viscount

* Note 135.
Goderich, pointing out two sources of revenue immediately and directly available in this country for the furtherance and accomplishment of that important object. And as it appeared to me, on my return to New South Wales, that the scheme I had proposed to His Lordship was entirely practicable on the one hand, and that its adoption would in all probability prove conducive in a high degree to the welfare and prosperity of this Colony as well as of the mother-country on the other, I was induced to annex a copy of that letter to a pamphlet* lately published in Sydney, detailing the steps I had taken with a view to demonstrate the practicability of effecting an extensive emigration of the industrious classes from the mother-country to this Colony.

One of the sources of revenue, which I took the liberty to point out to His Lordship in the letter in question, was proposed to be derived from the gradual sale of the lands granted to the Church and School Corporation of New South Wales. The statements, I had made however on that subject, induced the Venerable the Archdeacon and two lay Commissioners of the Corporation to address a Letter to the late Acting Governor, with a view to its being transmitted to the Right Honourable Lord Viscount Goderich, containing a series of animadversions on my letter, and embodying what they conceived a vindication of the Corporation from the charges it preferred. I had the honour to receive a copy of that letter, which was dated the 18th November last on the 24th of the same month, two days after the vessel by which it was forwarded to England had sailed for London. Your Excellency will thus perceive that it was not in my power to avail myself of the opportunity, afforded by the sailing of that vessel, of forwarding anything to England in reply, and I trust therefore that Your Excellency will do me the favor to transmit this letter on the same subject to the Right Honourable the Secretary of State by the next vessel.

In their letter to His Excellency the late Acting Governor, the Commissioners, referring to the statements of my letter, admit that “it is not the first time they have heard such assertions and charges adduced against the Trustees of the Clergy and School Corporation,” while they intimate that, up to the date of their letter, they had uniformly neglected them, “because it was useless to attempt to contend with popular impressions, while the delusion was as its height.” Your Excellency will perceive whether this admission is not a positive and direct acknowledgment that the statements of my letter, in regard to the inefficiency, the expensiveness and the evil tendency of the Corporation, were merely the distant echo of the voice of the Colony.

In a subsequent passage, and in reference to my statement “that a seventh of the Territory of this Colony had been granted to the Corporation, on the understanding that the Government should be immediately and for ever relieved of the burden of supporting the Church and School Establishments,” the Commissioners assert “that no such engagement was ever contemplated.” In justification of my statement, however, I beg to refer to the first and last sections of the Charter of Incorporation, in the former of which, or rather in the preamble of the Charter, it is stated, “Whereas we have taken into our Royal consideration the necessity of making provision for the maintenance of religion and the education of

* Note 126.  † Note 136.
youth in our Colony of New South Wales, and for that purpose have thought proper to erect into one body politic and corporate, such persons as are hereinafter mentioned, and to vest in them and their Successors such lands and tenements as will be sufficient to make a provision for that purpose aforesaid." I beg leave to submit to Your Excellency that it is unquestionably evident from this preamble that His Majesty contemplated making a sufficient provision for the maintenance of religion and the education of youth, when He contemplated the establishment of the Corporation and the alienation of a seventh of the land. But the object of the Corporation and the understanding on which it was established are still more clearly developed in the last section of the Charter, in which His Majesty reserves to Himself and His Successors the right to appropriate its surplus revenue. And, in attestation of the fact that such was really the understanding of His Majesty's Government, the payment of all Salaries to the Colonial Episcopal Clergy and Schoolmasters was, immediately after the establishment of the Corporation, transferred to that body, which His Majesty's Government thus clearly held to be possessed of an Estate adequate to meet all future claims on its revenue.

But the Commissioners assert that, although a seventh of the land was granted to the Corporation, it was a seventh in extent only and not in value. The facts of the case, I beg to remind Your Excellency, are simply these: The Corporation was established in the year 1826. Of the Territory unlocated up to that period, it was entitled to receive a seventh in value, as well as in extent. This proportion it has accordingly received, wherever the territory then unlocated has been surveyed and apportioned. And, as Government had reserved a vast extent of valuable land in the districts of Hunter's River, Bathurst, Argyle and Illawarra, the four principal agricultural and pastoral districts of the Territory, which were then partly located, the Corporation received the said Government reserves, comprising an extent of territory amounting to one seventh, both in extent and value, of all the land in these important districts. But as the eligible land in the county of Cumberland, in which the towns of Sydney, Parramatta and Windsor are situated, but in which I beg leave to remind Your Excellency the proportion of land available for the purposes of agriculture and pasturage is very small in comparison with the whole extent of the county, had in great measure been located many years before the establishment of the Corporation, it was impossible in the nature of things that the Corporation, which could only have a prospective influence, could receive a seventh of that portion of the territory. The Commissioners acknowledge however that, even in that county, in which the progress of improvement and the comparative denseness of the population has imparted a high artificial value to the land, the Corporation has received 18,500 acres, including the glebe lands, a proportion which amounts to a fourteenth of the whole extent of the county, and which at present is much more valuable than the seventh would have been at its first settlement.

I beg therefore most respectfully to submit to Your Excellency that the distinction, which the Commissioners attempt to establish between extent and value, is in the case they refer to altogether unfounded in fact, and that, while their assertion "that one half of all the other land in the territory would not equal in value that of
one seventh of the land in the county of Cumberland " is entirely gratuitous and absolutely incredible, their reasoning on the subject merely amounts to this, that the Corporation has been hardly dealt with because, in addition to a seventh both in extent and value of all the agricultural and pastoral land in the other districts of the Territory, it has not also received a seventh of the town of Sydney and the district immediately adjoining, where, in consequence of the vast outlay of capital in the erection of buildings and the various other improvements of forty years, land has in one instance sold at £25 per hundred superficial feet. Such reasoning however I beg leave to submit to Your Excellency is altogether preposterous; for, if the industry and the outlay of the inhabitants of the county of Cumberland have created a real capital of one million sterling, in addition to the original and intrinsic value of the land, the Commissioners can have no shadow of right to complain, as they virtually do, that a seventh of that additional capital has not been given to the Corporation.

Of the value of that portion of the Territory, however, which they did receive agreeably to His Majesty's instructions, the Trustees of the Corporation must have entertained, up to the close of the year 1830, a very different idea from the one the Commissioners now endeavour to impress upon His Majesty's Government; otherwise they would surely not have conceived themselves warranted in incurring an outlay of upwards of £2,000 a year for the mere expense of management. In alluding to this branch of the Corporation expenditure a second time, I beg leave most respectfully to submit to Your Excellency whether the absolute inefficiency of the whole system for the due attainment of its proper and avowed object, the maintenance of religion in this Colony, is not evinced beyond the possibility of doubt by the simple and acknowledged fact that, while the Trustees of the Corporation were well aware that there were various extensive and populous districts of the Colony entirely destitute of the ordinances of religion, and that many able and zealous clergymen in England would have willingly accepted their invitation to dispense the ordinances of religion in these districts at salaries of £150 to £200 per annum, they could remain from month to month and from year to year to all appearance insensible to the spiritual wants of the Colony and expend, in salaries to Corporation-clerks, office keepers and Surveyors, the sum of £1,428 13s. 5d. per annum, a sum which constitutes only two items in the charges for the mere management of the Corporation during the year 1830, the said charges amounting altogether to the sum of £2,342 15s. 6d.

But the Commissioners assert that, although the Corporation had been established in the year 1826, the first grant* it received was not given till February, 1829. Not to remind Your Excellency, however, that land is in numberless instances held and improved in this Colony for a long series of years before the Deeds of Grant are in the possession of the occupant, I beg to inform Your Excellency that the Corporation land is still in the same waste and unimproved state of which it was in the year 1823, and that the existence and the frequent occurrence of such waste and unimproved land in the midst of tracts in a state of comparative cultivation constitute the great and serious evil of which the Colony complains. For although the Commissioners assert that the Corporation land would not

* Note 127.
have realised the sums they have expended, even if granted to private individuals, the assertion is as gratuitous on the one hand as it is irrelevant on the other, for, in the hands of the Corporation, that land has not only produced nothing comparatively, but has operated as a serious hindrance to the general improvement of the Colony; whereas, if it had been in the hands of private individuals, it would immediately have become productive to a very considerable extent and contributed greatly to the general advancement of the Colony.

In regard to the apparent discrepancy between my statement, that "the Corporation had borrowed from the Government at the rate of from £19,000 to £22,000 per annum for the maintenance of the Church and School Establishments of the Colony, and the statement of the Commissioners that the highest sum they had drawn from the Colonial Treasury in any one year was only £20,500," I beg to refer to their own printed abstract for the year they allude to. From that Document, it appears that, in addition to the sum of £20,500 drawn from the Colonial Treasury during the year 1829, there was a balance in the hands of the Corporation of money advanced by the Government during the preceding year to the amount of £1,288 9s. 9d., making a total amount of £21,788 9s. 9d.

The total expenditure of the Corporation during the year in question amounted to £22,895 4s. 2d.; but, as they had derived from the sale of the Orphan School and Glebe Lands, as well as from other sources, the sum of £3,066 5s. 4d., there was left in the hands of the Trustees a balance of £1,959 lis. 0s. 0d. on the 31 December, 1829.

In the conclusion of their letter, the Commissioners express themselves in the following manner in allusion to myself:—"Embarked in an undertaking in which he felt it impossible to succeed without degrading the Established Church in His Lordship's estimation, he has preferred charges against the Corporation in that loose style which bespeaks a man resolved at any rate to injure the object of his envy and dislike, with the blind animosity of a political partisan rather than with the scrupulous attention to truth and candour, becoming one who claims to bear a reverend and sacred character." In reference to this statement, I beg to inform Your Excellency that the undertaking in which I had embarked in leaving the Colony in August, 1830, and in which I had hazarded a voyage to England and risked all the little property I possessed, was embarked in to supply the want of an Academical Institution in Sydney to afford the youth of this Colony a liberal, efficient and economical education, a want which had long been universally acknowledged throughout the Colony, but which the Church and School Corporation, notwithstanding its vast resources and its highly superior facilities for the accomplishment of the object, had neglected to supply. Arriving in England with this object, I had scarce touched British ground when my ears were stunned with the loud and heartrending cry of distress from an unemployed and starving population, maddened by their necessities to acts of violence and crime; and, on arriving in London and ascertaining that His Majesty's Ministers were employed in devising ways and means for conveying a portion of that population to the waste lands of the Colonies, it immediately occurred to me that, in the Colony of New South Wales, there were sources of revenue directly available for that purpose to a very large amount in the crown allotments of Sydney and the lands granted to the Church and...
School Corporation, and that the raising of a revenue from these sources for such a purpose would prove a blessing of incalculably greater value to the Colony than was ever likely to result from the continuance of the Church and School Corporation. With these views was my Letter to my Lord Goderich written, and, in attestation of the fact as well as of my own sincerity in the matter in question, I have only to refer Your Excellency to the circumstance of my having since conducted, at very great personal inconvenience and expense, an expedition of one hundred and forty free emigrants to this Colony, solely with a view to demonstrate the practicability of effecting an extensive emigration of the industrious classes from the Mother-country to New South Wales without expense to either. And, from the successful issue of that expedition and the calculations into which it necessarily led me, I am confident that, if the plan I had the honour to submit to my Lord Goderich were carried into effect, not fewer than twenty thousand and upwards of the poor and unemployed but virtuous agricultural labourers of England might in the course of a few years be conveyed with their wives and families to New South Wales, without expense either to the Mother-Country or to this Colony. And when Your Excellency considers of what materials the population of this Colony has in great measure been formed for the last forty years, I can submit it to Your Excellency with entire confidence whether the introduction of such a population to amalgamate with the present inhabitants of the Colony, and to people and improve the extensive tracts of highly eligible land, which the Church and School Corporation has hitherto suffered to lie waste in all parts of the Territory, is not a consummation incomparably more desirable than the existence and continuance of that Institution.

In the passage above quoted, as well as in the whole course of their letter to His Excellency the Acting Governor, the Commissioners have evidently fallen into the palpable error of identifying the character and efficiency of the Episcopal Church in this Colony with the character and efficiency of the Corporation, and have therefore gratuitously accused me of cherishing a spirit of hostility towards the former, merely because I had recommended to the Right Honourable the Secretary of State for the Colonies the entire and immediate abolition of the latter. But, while I broadly disclaim every feeling of hostility towards the Episcopal Church in this Territory and towards any of its Ministers, and maintain that there is no evidence of such a feeling in my letter to my Lord Goderich, I have no hesitation in repeating what I asserted in that letter that the Corporation has evinced itself inefficient in its character, expensive in its management, and prejudicial in its tendency both to the Episcopal Church and the Colony at large.

In regard to the insinuation that "I felt it impossible to succeed in the accomplishment of my object without degrading the Established Church in His Lordship's estimation," I beg most explicitly to disavow every such feeling, every such intention. As I do not feel it requisite however to express my own sentiments in regard to the Spirit which that insinuation itself evidently breathes, I beg leave to subscribe myself with the highest deference and respect,

Your Excellency's very humble
And most Obedt. Servant,

John Dunmore Lang.
VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 58, per ship Burrell.)

30 Dec.

Sir,
Downing Street, 30 December, 1831.

I have received from a Lady, describing herself as the Widow Reus, a letter dated at Sydney in New South Wales on the 12th of November, 1830, which however did not reach this Office until the 5th of the present month. She states herself to be a Native of French Flanders, and to have arrived at Sydney from Batavia four years ago. She adds that she brought with her property amounting to £6,000 Sterling, with which she has built three houses. In order to become a landed Proprietor in the Colony, she desires to receive Letters of Naturalization, and to obtain land proportionate to her property.

You will ascertain the accuracy of this representation. Should it prove to be consistent with the real facts of the case, and should you perceive no objection to the measure which has not occurred to myself, you will propose to the Legislative Council the enactment of an Ordinance conferring on Madame Reus and her children the advantages of Natural born Subjects within the Colony.

She is probably not aware that Letters of Naturalization or of Denization, under the Great Seal of this Kingdom, would be attended with a very serious expense; and that such a Grant could scarcely be made in her absence, or, if so made, must be preceded by forms which it would be scarcely practicable for her to observe. At the same time, the permanent accession of such a Member to the Colonial Society, assuming her statements to be accurate, would not only be unobjectionable but advantageous.

I am, &c,
GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

The following despatches,* written in the year 1832, have been omitted:—

<table>
<thead>
<tr>
<th>Date</th>
<th>Number</th>
<th>Subject-matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>16th May</td>
<td>100</td>
<td>approving of six free and fifty-eight conditional pardons, reported by Governor Darling in his despatches, dated 20th October, 1831, and numbered 94 and 95.</td>
</tr>
<tr>
<td>12th September</td>
<td>125</td>
<td>approving of twelve pardons, reported by Governor Bourke in his despatch, dated 25th February, 1832, and numbered 21.</td>
</tr>
<tr>
<td>24th September</td>
<td>127</td>
<td>transmitting pardon for Joseph Wood.</td>
</tr>
<tr>
<td>25th September</td>
<td>128</td>
<td>acknowledging despatch, dated 23rd March, 1832, and numbered 41, and withholding pardon from William Galvin until eight years from the date of his conviction.</td>
</tr>
<tr>
<td>5th October</td>
<td>131</td>
<td>reducing sentence on Samuel Chesters from life to seven years.</td>
</tr>
<tr>
<td>30th October</td>
<td>136</td>
<td>transmitting free pardon for Sarah Hooker, and reducing sentence on John Cox from fourteen to seven years.</td>
</tr>
</tbody>
</table>

* Note 1.
The following despatches,* written in the year 1832, have been omitted:—

<table>
<thead>
<tr>
<th>Date</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>24th February</td>
<td>transmitting a letter from W. McNamara, soliciting indulgence for Henry Canny, convict.</td>
</tr>
<tr>
<td>12th April</td>
<td>authorising a conditional pardon for James Wood.</td>
</tr>
<tr>
<td>20th June</td>
<td>asking particulars of the fate of Thomas Black, convict.</td>
</tr>
<tr>
<td>1st October</td>
<td>suggesting a pardon or indulgences for Sylvester Thornton.</td>
</tr>
</tbody>
</table>

Assignments of Convicts.

During the year 1832, letters, which enclosed the assignments of convicts (not available) per the ships named, were written by under secretary Hay to Governor Bourke, with dates as under:

<table>
<thead>
<tr>
<th>Date of Letter</th>
<th>Ship's Name</th>
<th>No. of Convicts</th>
</tr>
</thead>
<tbody>
<tr>
<td>undated</td>
<td>Mangles</td>
<td>not available.</td>
</tr>
<tr>
<td>14th June</td>
<td>Fanny</td>
<td>106 Female.</td>
</tr>
<tr>
<td>15th June</td>
<td>do</td>
<td>do.</td>
</tr>
<tr>
<td>17th July</td>
<td>Fanny</td>
<td>106 Female.</td>
</tr>
<tr>
<td>22nd August</td>
<td>Mary</td>
<td>170 Male.</td>
</tr>
<tr>
<td>21st September</td>
<td>Camden</td>
<td>200 &quot;</td>
</tr>
<tr>
<td>14th November</td>
<td>Andromeda</td>
<td>186 &quot;</td>
</tr>
<tr>
<td>5th December</td>
<td>Diana</td>
<td>100 Female.</td>
</tr>
</tbody>
</table>

Governor Bourke to Secretary of State.

The following despatches,* written in the year 1832, have been omitted:—

<table>
<thead>
<tr>
<th>Dated</th>
<th>Despatch numbered.</th>
<th>Transmitting.</th>
</tr>
</thead>
<tbody>
<tr>
<td>6th February</td>
<td>15 return of property and effects of persons dying intestate.</td>
<td></td>
</tr>
<tr>
<td>8th February</td>
<td>20 annual return from superintendent of botanical garden.</td>
<td></td>
</tr>
<tr>
<td>8th February</td>
<td>21 return of crime and punishment for the year 1831.</td>
<td></td>
</tr>
<tr>
<td>9th February</td>
<td>24 petition from Thomas, Philip and Edward Cassidy re error in record of sentences.</td>
<td></td>
</tr>
<tr>
<td>27th February</td>
<td>27 conditional pardon granted to James McCoey.</td>
<td></td>
</tr>
<tr>
<td>28th February</td>
<td>31 twelve conditional pardons.</td>
<td></td>
</tr>
<tr>
<td>5th May</td>
<td>60 minutes of executive council for half-year to December, 1831.</td>
<td></td>
</tr>
<tr>
<td>6th May</td>
<td>62 return of pardons granted by Governor Darling.</td>
<td></td>
</tr>
<tr>
<td>23rd March</td>
<td>40 return of assigned servants and absconders.</td>
<td></td>
</tr>
<tr>
<td>5th May</td>
<td>60 minutes of executive council for half-year to December, 1831.</td>
<td></td>
</tr>
<tr>
<td>4th August</td>
<td>70 conditional pardon granted to Patrick Connolly.</td>
<td></td>
</tr>
<tr>
<td>7th August</td>
<td>79 return of property and effects of persons dying intestate.</td>
<td></td>
</tr>
<tr>
<td>22nd September</td>
<td>93 report from superintendent of botanical garden to 31st August.</td>
<td></td>
</tr>
<tr>
<td>22nd September</td>
<td>94 minutes of executive council for half-year to June, 1832.</td>
<td></td>
</tr>
<tr>
<td>22nd September</td>
<td>95 blue book for year 1831.</td>
<td></td>
</tr>
<tr>
<td>22nd September</td>
<td>98 thirty-five conditional pardons.</td>
<td></td>
</tr>
</tbody>
</table>

* Note 1.
GOVERNOR BOURKE TO UNDER SECRETARY OF STATE.

The following despatches,* written in the year 1832, have been omitted:

<table>
<thead>
<tr>
<th>Date</th>
<th>Transmitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>8th February</td>
<td>return of despatches written in the year 1831.</td>
</tr>
<tr>
<td>8th February</td>
<td>newspapers.</td>
</tr>
<tr>
<td>15th March</td>
<td>four copies of the &quot;New South Wales Almanack.&quot;</td>
</tr>
<tr>
<td>5th April</td>
<td>report on character of Joseph Woods, convict.</td>
</tr>
<tr>
<td>30th July</td>
<td>report on William Chadwick, convict.</td>
</tr>
<tr>
<td>5th August</td>
<td>report on H. Canny, convict.</td>
</tr>
<tr>
<td>8th September</td>
<td>recommendation for passage for wife of — Duggan, convict.</td>
</tr>
</tbody>
</table>

GOVERNOR BOURKE TO VISCOUNT GODERICHS.

(Despatch No. 5, per ship Prince Regent.)

My Lord, Government House, 1st January, 1832.

I have the honor to enclose for Your Lordship's inspection two letters, Marked No. 1 and 2, forwarded by Mr. E. S. Hall to me for transmission; No. 1 is in reply to Your Lordship's Despatch to Lieut. General Darling, No. 42, June 20th, 1831, the Subject of which was, according to Your Lordship's desire, Communicated to Mr. E. S. Hall.

I have, &c.,

BICH. BOURKE.

[Enclosures.]

[Copies of these letters, dated 8th and 12th December, 1831, are not available.]

GOVERNOR BOURKE TO VISCOUNT HOWICK.

(Despatch per ship Prince Regent.)

My Lord, Government House, 1st January, 1832.

I have the honor to transmit herewith a letter addressed to the Colonial Secretary by Mr. Moore, Crown Solicitor of New South Wales, in reply to a statement forwarded to Your Lordship by Doctor Card, and enclosed in Your Lordship's Despatch to Lieut. General Darling of the 3rd March, 1831.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO VISCOUNT HOWICK.

(Despatch per ship Prince Regent.)

My Lord, Government House, 1st January, 1832.

In reply to Your Lordship's Despatch to Lieut. General Darling of the 22d June, 1831, I have the honor to enclose
Copies of Statements received from Mr. Deputy Commissary General Laidley, and the Colonial Auditor of New South Wales, respecting a Loan of £5,000, made to the Commissariat from the Colonial Treasury.

I have, &c.,

RICH. Bourke.

[Enclosures.]

[Copies of these letters, dated 17th and 15th December, 1831, will be found in a volume in series II.]

GOVERNOR BOURKE TO VISCOUNT Goderich.

(Despatch No. 6, per ship Prince Regent; acknowledged by Viscount Goderich, 5th August, 1832.)

My Lord,

Government House, 2nd January, 1832.

I have the honor to forward for Your Lordship's inspection the accompanying letter, addressed to me by the Venble. the Archdeacon of New South Wales, upon the subject of his precedence in Council.

I have, &c.,

RICH. Bourke.

[Enclosure.]

ARCHDEACON BROUGHTON TO GOVERNOR BOURKE.

Sir,

Sydney, 22nd December, 1831.

Your Excellency having been pleased to intimate your intention of meeting the Executive Council this day for the first time since your assumption of the Government, I request permission previously to its assembling to lay before you the following observations:

At the period of my receiving the appointment which I have now the honor to hold, and until the close of the Administration of Lt. General Darling, the Archdeacon had precedence in the Colony by his Majesty's Command next in succession to the Chief Justice and in Council next below the Governor.

By your Excellency's Commission, it is directed that the officer next in Command of the forces shall be the senior member of Council, and shall thus take rank between the Chief Justice and the Archdeacon and above the latter.

I beg leave to disclaim any personal consideration in respectfully submitting my objections to this deprivation of a precedence, which was conferred not for the benefit of the Individual, but for the credit of the Established Church of which His Majesty is the earthly head.

It was I conceive as in some sort bearing a commission from the King in this his Ecclesiastical capacity, that the former high rank held by the Archdeacon was assigned to him; and, to secure him in possession of it, undoubtedly his office was erected by Patent under the Great Seal, and is conferred by Writ of Privy Seal. If the intention were not to secure to the Archdeacon a continuance of his precedence, I am at a loss to conceive the grounds upon which he is put to the great and even serious expence in obtaining his Patent of appointment, which, I beg with the utmost deference to
submit to the Right Honble. The Secretary of State, the Records of the Colonial Office will prove to have been incurred for that purpose by my predecessor and myself.

I would only in addition presume to request Your Excellency will represent to Lord Viscount Goderich, that it is not so much against the measure itself of changing in this instance the order of rank in the Executive Council that I would respectfully remonstrate, as against the precedent thereby established; because in this one instance, if a Commission under the Sign Manual may be preferred to a Writ of Privity Seal, the same may be done in any number of instances; and His Majesty's Gracious intentions in favor of the only ecclesiastical dignity existing here may be degrees be altogether frustrated.

I have therefore the honor to request that your Excellency will be pleased to submit these my representations to the Secretary of State with a view to the restoration of the Archdeacon of New South Wales to the rank originally assigned to him by His Majesty, next in succession to the Chief Justice of the Colony.

I have, &c.,

W. G. BROUGHTON.

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GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 7, per ship Prince Regent.)

My Lord, Government House, 3rd January, 1832.

In reply to Your Lordship's Despatch to Lieut. General Darling, No. 35, March 30th, 1831, I have the honor to State that, having Communicated on the Subject therein Contained with the Directors of the Australian Bank, and the Bank of New South Wales, they have both agreed to the publication of the Half Yearly Statements, as proposed by Your Lordship.

I have, &c.,

RICH. BOURKE.

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GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 8, per ship Prince Regent; acknowledged by Viscount Goderich, 10th May, 1832.)

My Lord, Government House, 4th January, 1832.

I have to communicate to Your Lordship the death of Mr. Charles Fraser,* Colonial Botanist of New South Wales. After due enquiry, I have not been able to find any Person in the Colony of Sufficient Science to Succeed him. Feeling that the utility and success of the Establishment must entirely depend upon the Competency of the person appointed to fill the Situation of Botanist, I beg respectfully to Suggest that Your Lordship instruct Mr. Brown* of the British Museum, our President of the Linnean Society, who, from his residence in the Colony Proposed nomination of successor by R. Brown.

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* Note 137.
1832.
4 Jan.
Salary proposed for botanist.

and his acquaintance with its Botany, is perfectly Competent to the task, to Submit to Your Lordship the name of a person qualified for this employment. Mr. Brown will I am sure feel great pleasure in obeying Your Lordship's Commands.

I further venture to hope that Your Lordship will please to Sanction the Continuance of the Salary at £200 per annum, to which it was raised in 1829, and the augmentation Sanctioned by the Despatch of Your Lordship's Predecessor, Under date the 10th April, 1830, No. 20. The Commissioners, who sat in London, in the appendix to their Report of the 1st of November, 1830, have returned the Salary at £150 only, being the rate at which it was paid in 1828, the accounts of that Year being the latest laid before them. It will not I am sure be possible to engage a Competent Person at a lower Salary than £200 a Year.

I have, &c,

RICH. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 9, per ship Prince Regent; acknowledged by Viscount Goderich, 6th May, 1832.)

6 Jan.

My Lord, Government House, 6th January, 1832.

I have the honor to enclose for Your Lordship's consideration a Memorial, forwarded to me for transmission by Mr. E. H. Hayes, Claiming a Grant of Land in this Colony.

I have, &c,

RICH. BOURKE.

[Enclosure.]

[A copy of this memorial, dated 3rd January, 1832, is not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 10, per ship Stirling Castle,)

11 Jan.

My Lord, Government House, 11th January, 1832.

With reference to Your Lordship's despatch of the 26th June, 1831, No. 3, animadverting on the Conduct of Mr. Moore the Crown Solicitor in this Colony, I have the honor to inform You that, having made enquiries on the subject Shortly after my arrival, I have every reason to believe that Mr. Moore has been very culpably neglectful on Several occasions. Being informed however by the present Attorney General that, since his arrival, Mr. Moore's Conduct had been more Satisfactory, and that he did not anticipate any difficulty in conducting the Crown business, if Mr. Moore continued to behave as he had done
lately, I sent for Mr. Moore and, acquainting him with the nature of Your Lordship's despatch, informed him that, if any well grounded complaint of his inattention to the duties of his office Should be again brought forward, I should be compelled to remove him from his employment. I have, &c.,

RICHD. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 11, per ship Stirling Castle.)

My Lord,
Government House, 11th January, 1832.

Having omitted to leave in Downing Street a Copy of the Minute of Instructions, dated June, 1831, in which were embodied the Commands and opinions of Your Lordship upon several matters of importance to this Colony, as Communicated to me at different times in Conversation, to which Minute Your Lordship was pleased to put Your Signature, I now beg leave to enclose a Copy, as it may be Convenient for reference in Your Lordship's office.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]
[A copy of this minute is not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 12, per ship Stirling Castle; acknowledged by Viscount Goderich, 7th May, 1832.)

My Lord,
Government House, 14th Jan'y., 1832.

I have the honor to transmit the enclosed letter addressed to Your Lordship by Dr. Bowman, Inspector of Colonial Hospitals. I believe the statement of his duties and Services to be quite correct. Dr. Bowman Seeks to be excused the payment of £150, which was Claimed by Lieut. General Darling in this way. In contemplation of an Authorised encrease of Salaries, Lieut. General Darling, in the Year 1827, made certain advances to all the Medical Officers to be refunded if the proposed augmentation should be disapproved by the Secretary of State. The augmentation was Sanctioned, but, its commencement being fixed for the 1st January, 1828, the advances of 1827 became repayable. The Medical Officers were accordingly called on to refund the Advances made to them respectively. With the exception of Dr. Bowman, they were all paid up. The latter Gentleman, upon an Urgent representation to Lieut. Genl. Darling, received permission, on the 19th January, 1829, to Suspend the repayment Until the pleasure of the Secretary of State Should be known.
504 HISTORICAL RECORDS OF AUSTRALIA.

1832.
14 Jan.

Request by J. Bowman for relief from refund of overpayment of salary.

upon any application he proposed to make for the continuance of his half pay as a Navy Surgeon. It is remarkable that this application Should have been held from the 19th January, 1829, to the 21st December, 1831, though Dr. Bowman appears to have been frequently reminded of the necessity of sending it forward. I have however thought it right to transmit it even at this late period, in consequence of Lieut. General Darling’s former promise to Dr. Bowman; and I shall not require payment of the £150 until I receive Your Lordship’s commands.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 13, per ship Stirling Castle.)

My Lord,

Government House, 14th January, 1832.

I have the honor to enclose the copy of a letter addressed by Deputy Commissary General Laidley to the Colonial Secretary, setting forth the exhausted state of the Military Chest and requesting the loan of £10,000 from the Colonial Treasury, with which I have complied.

In consequence of the large quantities of sperm oil and wool now shipping or lately shipped for England, Treasury Bills* are not in demand; and some time may elapse before the Deputy Commissary General can recruit the chest by their means.

With respect to the claims on the Colonial Government alluded to by the Deputy Commissary General, the accounts have not yet been laid before me, and I am therefore unable to state to what extent this Government may be liable.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

DEP. COMMISSARY-GENL. LAIDLEY TO COLONIAL SECRETARY MACLEAY.
(NO. 7.)

Sir,

Commissariat Office, Sydney, 4th January, 1832.

With reference to your letter of the 31st ultimo, acquainting me that no money can be advanced from the Colonial Treasury, as requested by the latter part of my communication to assistant military secretary, No. 150, on account of the Stores supplied for Colonial Service, I do myself the honor to state that the present exhausted state of the Military Chest is such as not to afford me the means of paying Warrants now in the office or the contractors for the last month. I have therefore the honor to solicit that His

* Note 138.
HAY TO BOURKE.

Excellency the Governor will do me the favor to direct that an immediate loan of £10,000 may be made to enable me to carry on the public service.

I will, to morrow, have the honor of submitting a Statement of the Expenditure, both on account of the Colonial Government, as well as for general Service for the years 1828, 1829, 1830 and 1831.

I have, &c.,

JAMES LAIDLEY, D.C.G.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 59, per ship John.)

Sir, Downing Street, 21st January, 1832.

His Majesty having been pleased to mitigate the Sentence passed upon Charles Bigg, who was convicted at the Quarter Sessions for the County of Middlesex in July, 1830, from fourteen to seven years’ transportation, and the Convict having been sent to New South Wales in the Ship “York” in September, 1830, I have to signify to you His Majesty’s Pleasure that you do grant to the said Charles Bigg his freedom at the expiration of seven years from the date of his Conviction.

I have, &c.,

GODERICH.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch marked “Private,” per ship John.)

My Dear Sir, Downing Street, 21 January, 1832.

The question of making an Establishment at New Zealand has lately been brought under Lord Goderich’s consideration, and I am inclined to think that, in consequence of the numerous run-away Convicts who resort to that quarter, as well as to prevent the outrages which have been committed by the Traders who occasionally touch there, it will be very proper that some person in the nature of a Resident should be appointed there by the British Government. I doubt very much the policy of sending any Troops there, or at least of doing so while the Military Force in the Australian Provinces is as low as at present. The expediency, however, of increasing the number of our Settlements must, independent of the considerations of expense, very much depend upon what may be required with a view to the future security and prosperity of our possessions in the Australian Seas. I am not at all satisfied that we have done right in abandoning the Settlement* at Western Port, which for a short time existed still less that the Colonial Government of New South Wales acted with due consideration in recommending that the Establishment at Raffles Bay should be abandoned. This measure seems to have been adopted far too hastily and upon very insufficient grounds. It will scarcely be judicious, I should think,

* Note 139.
to leave the whole of the Northern quarter of New Holland without an entrepot, to which the Malays may resort for the purposes of trade; Port Essington would perhaps prove the most eligible spot for this object.

I should be glad to hear from you upon these points when you have sufficient leisure to direct your attention to them.

I remain, &c.,

R. W. Hay.

Viscount Goderich to Governor Bourke.

(Despatch No. 60, per ship John; acknowledged by Governor Bourke, 4th January, 1833.)

22 Jan. Sir, Downing Street, 22nd January, 1832.

Free pardon to Application having been made to His Majesty's Government in favor of Samuel Marriott, who was convicted at the Summer Assizes at Leicester in 1817 of Horse Stealing and transported to New South Wales in the Ship “Neptune” in December of the same year under a Sentence of Transportation for Life, I am commanded by His Majesty to desire that this Prisoner may receive the benefit of a Free Pardon, provided his conduct in the Colony has been such as not to render him undeserving of this favour. I have, &c.,

Goderich.

Viscount Goderich to Governor Bourke.

(Despatch No. 61, per ship John.)


Despatch acknowledged. In reply to Sir George Murray's Dispatches Nos. 91 and 93 of the 8th and 10th November, 1830, on the subject of the Expenses incurred in defending certain actions in the Supreme Court of New South Wales.

Under the circumstances stated by General Darling, I fear it is hopeless to expect any advantage from the adoption of the measures directed by Sir George Murray for taxing the charges of the private Practitioners, to whose Assistance the Colonial Government were obliged to have recourse in the cases in question; and I have therefore to inform you that the expenses, which were originally incurred, will be allowed. I trust however that the legal appointments which have since been made will have so far increased the efficiency of the Law Departments of your Government, as to relieve it from the necessity of incurring any charges in future of a similar nature.

I have already had occasion to direct your attention to the conduct of Mr. Moore, the Crown Solicitor, as brought under
the notice of His Majesty’s Government by General Darling, and
I have to desire that you will report to me on the charge of
negligence alleged against him in the particular instances
referred to in the Dispatch to which I am now replying, as well
as with respect to those into which you were directed to enquire
by my Dispatch of the 26th of June last. I have, &c.,
GODERICH.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship John.)

Sir,

Downing Street, 23 January, 1832.

I am directed by Viscount Goderich to acquaint you that
his Lordship has received an application from Mr. Potter
Macqueen “to be allowed to purchase from five to Ten Acres of
the Sea frontage below Dawes’ Battery, in the Harbour of Syd­
ney,” his object (as stated in his letter) in requesting to be
the Buyer of this now unoccupied and useless ground” being
“to erect Stores and Warehouses to the value of £3,000 Sterling.”
As the undertaking, which is proposed by Mr. Macqueen, is
one which the Secretary of State deems it well worth the while
of the Government to encourage, and as it appears to him that
the request is one which may be complied with in strict con­
formity with the Rules laid down regarding the disposal of the
Crown Lands, I am instructed by Lord Goderich to desire that you will cause a Survey to be made of the particular spot pointed out by Mr. Macqueen, and permit him to become the purchaser of the same at public Auction, if he be willing, as he states, to give for it the utmost value which it will fetch. This direction is of course conveyed to you upon the supposition that there are no particular objections, of which Lord Goderich may not be aware, to the alienation by the Crown of the ground in question, and you will also consider, in reference to the increased value which it may ultimately bear whether it may not be advisable, instead of selling the Land by Auction, to dispose of it upon Lease for a long term of years upon the same principle as Lands are granted upon Building Leases in this Country. You will understand, however, that, from the disappointment experienced by Mr. Macqueen in respect to some other Land for which he had applied for similar purposes, Lord Goderich would not wish that the Land in question should be refused to Mr. Macqueen unless there should be such powerful reasons for it as would satisfy any impartial or disinterested person of the propriety of such a decision.

I have, &c.,

R. W. HAY.
UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship John; acknowledged by Governor Bourke. 4th August, 1832.)

Sir,

Downing Street, 24 January, 1832.

I am directed by Viscount Goderich to transmit to you, for your Information, the Copy of a Letter from Mr. James Busby, Junr., who is just returned from the Continent with a collection of Cuttings from the best and most approved Vines. Mr. Busby having placed these plants at the disposal of the Colonial Government (with the exception of a few Duplicates which he has reserved for his own use) for the purposes mentioned in his Letter, they will be shipped by one of the earliest Convict Ships which may be dispatched for Sydney, and the object of my present communication is to request that the Packages containing these Plants, which are addressed to you, may be transferred to the Superintendent of the Government Garden with Instructions to be guided, in regard to the planting or disposal of the cuttings in question, by the directions which Mr. Busby will himself convey to him upon this subject.

I have, &c.,

R. W. Hay.

[Enclosure.]

MR. JAMES BUSBY TO VISCOUNT GODERICH.

My Lord,

London, 6th January, 1832.

Having occupied myself a good deal, during my residence in N. S. Wales, in endeavouring to promote the plantation of vineyards and the making of Wine in that Colony, I could not allow the opportunity afforded by my visit to Europe to pass without attempting to ascertain to what peculiarities of Climate, soil or Culture, the most celebrated Wine Provinces are indebted for the excellence of their respective products, and to make a collection of the different varieties of Vines cultivated in each. I have just returned to England after an absence of four months spent in pursuit of these objects in France and Spain, and the results of my journey have fully satisfied me that the opinion I have always entertained of their great importance was not exaggerated. My reason for troubling your Lordship on this subject, however, is the following:—

I had the good fortune to find in the Botanic Garden of Montpellier a collection of most of the varieties of Vines cultivated in France and in some other parts of Europe to the number of 437, and, on application to the Professor of Botany, he with the greatest liberality permitted me to take cuttings from the whole; I afterwards added to this collection 133 from the Royal Nursery of the Luxembourg at Paris, making in the whole 570 varieties of Vines, of all of which with two or three exceptions I obtained two cuttings. It is my wish to place this collection of Vines at the Disposal of H.M. Govt., for the purpose, should it be deemed expedient, of forming an experimental Garden at Sydney to prove their different qualities and propagate for general distribution those which may appear most suitable to the Climate.
GODERICH TO BOURKE.

As independently of the above, I have secured a competent quantity of all the most valuable varieties which I found cultivated in the best Wine districts of France and Spain, both for Wine and Raisins, it might at first sight appear superfluous to bestow attention on a collection which must include many of a very inferior description; but it is perhaps the most remarkable fact connected with the culture of the Vine that even a slight change of Climate or Soil produces a most material change in the qualities of its produce, and for this reason the best varieties of France and Spain may prove (as several of them have already proved) of no value in N. S. Wales, while on the other hand the most indifferent kinds may produce in that Climate the most valuable Wines.

For this reason I am of opinion that the establishment of an experimental Garden of Vines at Sydney could not fail to be of the highest value to the Colonies of N. S. Wales and V. D. Land, and subsequently to that of the C. of G. Hope also, while at the same time, being placed under the care of the Superintendent of the Govt. Garden, adjoining which there is abundance of vacant ground, it would add little to the present expense of that Establishment.

It is my intention also to place a part of the collection, I have made in the different parts of France and Spain which I have visited, in the Public Garden to be propagated for general distribution. I trust I may therefore be excused for requesting that your Lordship will give orders that the cases containing these Plants (those from France being now in London, and those from Spain being expected by the first arrivals from Cadiz and Malaga) may be received on board any of the Convict Ships about to sail, in order to secure their early and safe arrival in the Colony.

I have, &c,

JAMES BUSBY.

Viscount Goderich to Governor Bourke.

(Despatch No. 62, per ship John; acknowledged by Governor Bourke, 3rd November, 1832.

Sir,

Downing Street, 25 January, 1832.

I have received General Darling's Dispatch No. 53 of the 20th of June last, relative to the application of certain Magistrates, therein named, to be relieved from the damages awarded against them for Acts done in their magisterial duties; and I beg to acquaint you that, under the circumstances stated by General Darling and the view taken of the subject by the Executive Council, I am disposed to sanction the payment by the Colonial Government of the expenses in question; at the same time it is necessary that those, who are included in the commission of the Peace, should understand that, although the Government will consider it to be their duty to afford their support and protection to the persons undertaking to discharge these duties, yet that they must not expect in all cases to be relieved from the consequences of the errors into which they may fall either by inattention to, or ignorance of the provisions of the Law,
1832.
25 Jan.
Necessity for caution amongst magistrates.

Payment of costs of Revd. R. Mansfield and T. E. Wright.

Increase in number of stipendiary magistrates.

and I must therefore regret (although the Circular Letter, which the Council have recommended the Governor to address to the Magistrates upon this subject, may perhaps answer the same object) that Sir George Murray's Dispatch of the 16th of July, 1830, was not made public in the Colony, as a warning to the Magistrates to be more cautious than they hitherto have been in their decisions.

I have also to approve of the course adopted by General Darling for defraying the Expenses to which Mr. Mansfield and Captain Wright were respectively exposed by the prosecution and other legal proceedings instituted against them, it appearing in the one case that the party against whom the suit was brought had acted under the direction of the Government, and in the other that the party had not acted illegally nor contrary to his duty.

With reference to the recommendation of General Darling as to the propriety of augmenting the number of Stipendiary Magistrates so as to secure a more responsible class of persons to act in that Capacity, I have to acquaint you that I am not prepared at the present moment to sanction an addition of more than two Magistrates of this description to the present Establishment.

But I shall be ready to receive from you, and to give my best consideration to any distinct proposition, which you may bring forward with a view to encrease the present efficiency of the Local Magistracy, the more especially as, by the late reductions made by General Darling in the Constabulary force of the Colony, such an addition might be made to the number of Stipendiary Magistrates without that inconvenience to its Revenue which, but for the diminution of expense resulting from those Reductions, would have attended the encrease of Expenditure now proposed.

I have, &c.,
Goderich.

VISCOUNT GOWERICH TO GOVERNOR BOURKE.
(Despatch No. 63, per ship Lady Harewood; acknowledged by Governor Bourke, 2nd May, 1833.)

31 Jan.
Despatch acknowledged re outrages in New Zealand.

Sir,
Downing Street, 31st January, 1882.

I have received General Darling's despatch of the 13th of April last, No. 37, with its various enclosures, respecting the proceedings of the Master of the Brig "Elizabeth" with several other of His Majesty's Subjects at the Islands of New Zealand.

It is impossible to read, without shame and indignation, the details which these documents disclose. The unfortunate natives of New Zealand, unless some decisive measures of prevention be adopted, will, I fear, be shortly added to the number of those barbarous Tribes, who, in different parts of the Globe, have
fallen a sacrifice to their intercourse with civilized Men, who bear and disgrace the name of Christians, when, for mercenary purposes, the natives of Europe minister to the passions by which these savages are inflamed against each other, and introduce them to the knowledge of depraved acts and licentious gratifications of the most debased Inhabitants of our Great Cities; the inevitable consequence is a rapid decline of population preceded by every variety of suffering. Considering what is the character of a large part of the Population of New South Wales and Van Diemen’s Land, what opportunities of settling themselves in New Zealand are afforded them by the extensive intercourse which has recently been established; advertizing also to the conduct which has been pursued in those Islands by the Masters and Crews of British Vessels, and finding, from the letter of the Revd. Mr. Williams, that the work of depopulation is already proceeding fast, I cannot contemplate the too probable results without the deepest anxiety; there can be no more sacred duty than that of using every possible method to rescue the natives of those extensive Islands from the further evils which impend over them, and to deliver our own Country from the disgrace and crime of having either occasioned or tolerated such enormities.

With these views, I need scarcely say that the energy with which General Darling appears to have acted, both for the punishments and prevention of these atrocities, merits my warmest acknowledgments. I concur with him in the propriety of sending a Person to New Zealand in the character of Resident; But, as it does not appear advisable in the first instance to place a detachment of Troops, as proposed by General Darling, under the orders of the Resident, I am of opinion that a Civil rather than a Military Officer should be fixed upon for that duty. After the Resident shall have conciliated the good will of the native Chiefs and in some measure restored that confidence between them and British Subjects, which the bad faith of the latter has so unhappily interrupted, you will be better able to judge in what manner it will be practicable to support the authority of the Resident without exciting the jealousy or illwill of the Natives.

I have not failed to urge upon the Lords Commissioners of the Admiralty the extreme importance of His Majesty’s Ships of War being directed to put in at the principal Harbours of New Zealand, as frequently as possible, in order to support the authority of the Resident, and a communication from their Lordships, in reply, states that they have given instructions to Vice Admiral Sir John Gore upon the subject; the want of Legal
Authority to seize and confine Persons found in the commission of outrages on the Islands would be a very serious difficulty; if the natives of New Zealand had made any approach towards a settled form of Government; Were there any established system of Jurisprudence among them, however rude, their own Courts would claim and be entitled to the cognizance of all crimes committed within their territory. As matters stand, any measures of coercion and restraint, which the Resident may reasonably adopt, may be vindicated on the ground of necessity, even if they cannot be strictly defended as legal. Against the risk of any litigation on such grounds, the Resident must of course be indemnified, whenever he shall appear to have acted with upright intention and becoming circumspection.

General Darling’s despatch has for the first time made me acquainted with the existence of a traffic, equally strange and barbarous, in human Heads.* I am still at a loss to conjecture what the motive can be, which induces any one to make such a purchase, unless indeed the Heads be preserved in such a manner as to be regarded in the light of curiosities; yet, were this the case, it might be supposed that the demand would be so extremely inconsiderable, as scarcely to have afforded an adequate temptation to carry them away from the Island in the numbers mentioned, not only by General Darling, but by Mr. Williams and Mr. Gordon Browne. Be the inducement however what it may, the practice is utterly detestable and inhuman, and must, as Mr. Browne has remarked, afford the unhappy Islanders a new motive for the perpetration of Murders. As I presume that this traffic is carried on chiefly, if not exclusively, with New South Wales and Van Diemen’s Land, it may perhaps be effectually checked by Acts to be passed by the Governors and Legislative Councils, denouncing severe penalties against all persons engaged in it. Adverting to the brutalizing nature of the Offence and its inevitable tendency to encourage the Commission of Murder, I do not think that the punishment of transportation for 7 or 14 years would be either unmerited or so severe as to counteract the design of the Law; as it is important that similar measures should be pursued in the two Colonies, you will have the goodness to communicate fully on the subject with Colonel Arthur, who will exert his habitual zeal and humanity in concerting with yourself the most effectual remedy against so great an abuse.

It is with much regret that I find that the efforts of General Darling to bring to Justice the Master and Crew of the Brig “Elizabeth” were likely to prove unsuccessful; the opinion given by Mr. Moore the Crown Solicitor is not very intelligible;

* Note 78.
BOURKE TO GODERICH.

I conjecture his meaning to have been that the New Zealand Tribes, having been engaged in what must be regarded as legitimate warfare according to the usages of their own Country, could not with Justice or propriety be charged with murder, and, therefore, that the Master and Crew could not be charged as accessories to Murder, because the guilt of the principal is essential to the guilt of the necessary; supposing this reasoning to be just, still the Master and his Crew might have been prosecuted under the Foreign enlistment Act. But, if I rightly understand the case, they were, in fact, prosecuted for Murder. Yet, in his Letter of the 12 of April, Mr. Moore states that “he admitted Captain Stewart to bail to appear before the Supreme Court when called upon for Trial.” The statement is quite inexplicable; I can neither understand, how the Prosecutor himself should assume to act as a Magistrate by admitting a Prisoner to bail, nor why a Prisoner charged with such an Offence should have been admitted to Bail by any authority whatever. I regret to state that the whole proceeding for the conviction of the Offenders appears to me to have been conducted in an inefficient and discreditable manner, and you will have the goodness to institute the necessary enquiries to ascertain upon whom the censure justly falls, if, as there is too much reason to apprehend, the prosecution shall prove unsuccessful.

I am, &c.,

GODERICH.

(Governor Bourke to Viscount Goderich.

(Despatch No. 14, per ship Britannia; acknowledged by Viscount Goderich, 4th July, 1832.)

My Lord,

Government House, 5th February, 1832.

The Archdeacon of New South Wales has requested me to forward the enclosed letter for Your Lordship’s Consideration. The Bill,* to which the Archdeacon alludes, is one which I lately brought before the Legislative Council as Suggested by Your Lordship in Conversation in Downing Street last June; it fixes permanently the Salaries of the Governor and Judges to be paid out of the Customs.

The Sum, necessary to provide for the Maintenance of the Clergy of the Established Church for the Year 1832, amounts to about £10,800, of which a very Small part may be derived from the income of Lands Still held by the Church and School Corporation.

I have, &c.,

RICH. BOURKE.

1832. 31 Jan.

Expected failure to convict J. Stewart and crew.

Note 140.
ARCHDEACON BROUGHTON TO GOVERNOR BOURKE.

Sir,

Church Corporation House, 4th February, 1832.

The Bill "to provide for the payment of the Salary of the Governor of New South Wales out of the Revenues of the Customs" having passed the Legislative Council, I request permission to bring under Your Excellency's consideration the manner in which it appears to me that my interests as Archdeacon of the Colony are affected; and I consider it a duty to myself to accompany this representation with a request that the subject may be referred to the Right Honorable the Secretary of State.

The duties and privileges of the Archdeacon of New South Wales are pointed out in a Dispatch* addressed by Earl Bathurst to Governor Sir Thomas Brisbane. Mention by name is made therein only of my predecessor, the Reverend Mr. Scott; but, having been referred to this communication for my guidance, I consider it to contain the terms of the compact under which I accepted my appointment. More especially am I entitled to take this view of the question from its being secured to me by my Patent that I shall possess my office in as full a manner as it was possessed and enjoyed by the former Archdeacon.

I beg to refer Your Excellency to the 16th Paragraph of Earl Bathurst's Letter, which, after stating the amount of Salary attached to the Archdeaconry, goes on to provide "that each payment shall be effected in the same manner, and in the same currency and at the same rate of Exchange, in which the corresponding instalment of your own official Income may have been paid."

The received interpretation of this has been that in whatever manner the payment of the Governor's Salary might be fixed, the payment of the Archdeacon's should be secured in the same manner. So long as the appropriation of the Colonial Revenue rested with the Governor, this condition was of course fulfilled. But now that the appropriation is made dependent on an annual Vote of the Legislative Council, I should submit with much deference that the Governor's Salary, having been exempted from the operation of that vote, the Salary of the Archdeacon should also be exempted; for, as the payment of each is to be effected in the same manner, the one cannot consistently with this remain contingent, while the other is permanently fixed.

Entertaining this view of the subject, I might have felt myself justified in advancing a claim to have the payment of my Income regulated by the Bill which has recently passed the Council; but I was unwilling to urge any measure, which could embarrass Your Excellency's proceedings by giving rise to debate, or might seem to imply on my part any want of reliance on the disposition of His Majesty's Government to secure in some other equally effectual mode the advantage to which I consider myself entitled. I therefore took no other step than to request of Your Excellency, in presence of the Council, that my silence might not be construed into an abandonment of my claim. I have now most respectfully to request your recommendation to the Secretary of State that

* Note 141.
the payment of my Salary may be provided for out of some permanent fund at the disposal of His Majesty, until the Revenue arising from the Church and School Estates shall be sufficient to defray the expense of those Establishments.

I have, &c.

W. G. BROUGHTON.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 16, per ship Britannia.)

My Lord, Government House, 6 February, 1832.

I avail myself of the present opportunity of a ship for England (although much occupied by the sitting of the Legislative Council) to bring briefly before your Lordship what has lately occurred here upon the subject of Jury Trials, in the hope that the application I am about to make may obtain your Lordship’s answer within the current year.

Finding upon my arrival that the substitution of Civil for Military Juries* in criminal cases continued to be much desired by the great majority of free People in the Colony, I endeavoured to ascertain whether such substitution was likely to endanger the due administration of Justice, or whether the Colony had attained that state of society, which would safely admit of forming Petit Juries for the trial of Criminal issues as is practised in England. Upon consulting with the Judges, I found them unanimous and strenuous in asserting the safety and propriety of trying such Issues by Civil Juries. Nearly the whole profession of the Law is of the same opinion and is joined by many of the best informed Persons, both in official and private Life.

On the other hand many Persons in the Councils, whose sentiments are entitled to great respect, are of a contrary opinion. It should however be recollected how the Councils are constituted and that until now it was believed that His Majesty’s Government as well as the local was adverse to the extension of the Jury System.

The result of my enquiries is a firm conviction that the substitution of Civil for Military Juries may be safely and beneficially effected.

Under this impression I was disposed at one time to have availed myself of your Lordship’s permission and to have proposed to the Legislative Council at the present sitting the extension of the form of Trial by Petit Juries in all criminal cases; but on reflection I deemed it prudent to defer the measure until next year, when, by the Institution of Circuit Courts throughout the Colony, it may be accomplished with less labor and inconvenience to the class of Inhabitants from which Jurors will be summoned. I thought it right also to prepare the council and the Public for these measures by adverting to them in a

* Note 142.
communication made to the Legislative Council upon opening the session. I beg leave to enclose a copy of that Paper observing that the Jury Bill* therein alluded to was passed on the 3d inst.

It now remains that I should request your Lordship to obtain the charter or order in Council under which Circuit Courts may be established. The Judges of the Supreme Court have long seen the necessity of some such Institution, and, by Rules of their own and by the Governor’s proclamation, have at times held adjourned sittings of their court in several parts of the Colony. These were forbidden by Sir George Murray’s Despatch of the 16th May, 1830 (No. 40), and there can be no doubt that Courts of Circuit, held under the authority of a Commission from the Executive Government, will be more regular and conformable to the British practise. The New South Wales act, 9th Geo. 4, Cap. 83, Sec. 13, enables His Majesty to institute such Courts. If your Lordship should think proper to recommend to his Majesty to institute them by Charter, it would afford a convenient opportunity for revising that which was granted in 1823,† by which the Chief Justice alone is appointed, and it has been omitted to confine the sittings of the Supreme Court to Sydney. The Puisne Judges have been added since that charter was issued.

But, by whatever Instrument the Courts may be instituted, I would recommend that it followed as nearly as may be the terms of the charter of Justice for the Cape of Good Hope, under which Circuit Courts were appointed in that Colony in 1828. By that charter, the Governor is empowered to divide the Colony into Districts, in each of which Circuit Courts shall be held twice in each year by one of the Judges of the Supreme Court, at such time and place as the Governor by Commission under the seal of the Colony shall appoint. In fixing the precise time, the convenience of the Public and of the Court would of course be consulted, and this arrangement I should think preferable to the suggestion of the Chief Justice Forbes, of whose Letter to me on the subject of these Circuit Courts I have the honor to enclose a copy.

The Chief Justice appears to entertain some doubt of there being a power vested in His Majesty to delegate to any local authority the right to fix the times and places at which Circuit Courts are to be held. The Law Officers of the Crown will doubtless clear up this point, if your Lordship should propose to act on my suggestion in preference to that of Chief Justice Forbes. I would just observe, however, that this very eminent Lawyer seems to entertain a very great jealousy of local authority, and to claim for his Court a total Exemption from

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* Note 143.  † Note 144.
that subordination to the Executive, which the Constitution of England has wisely provided. Upon this principle, the movements of the Court from place to place by Rules of its own were lately devised and executed, the Proclamation of the Governor being but an echo of the Rule of the Supreme Court.

If, on the other hand, it should be deemed expedient to institute the Circuit Courts in the manner proposed by the Chief Justice, I conceive that he has named the most convenient times of the year and the most suitable places for holding them. This at least is true for the present; but it will be advisable for local reasons at the expiration of two or three years to remove the Gaol and Court House from Bong Bong to a more central position in Camden, through which a new Road is designed to be carried. This is in itself some evidence of the propriety of leaving the arrangements of times and places to the local Executive.

With respect to the other suggestions in the Letter of the Chief Justice, as they relate to matters purely professional, I have no remark to make except that, on a careful perusal of them, the Crown Lawyers may perhaps see the expediency of defining by a new Charter some of the proceedings, which the Chief Justice proposes to regulate by Rule of the Supreme Court. They may also advise a power being left to the Governor to appoint the Attorney or Solicitor General to go as Circuit Judge on the illness or other necessary default of one of the Judges of the Supreme Court. The arrangement proposed by the Chief Justice is liable to this objection, that it will require the simultaneous operation of at least two of the Judges to accomplish it, a difficulty into which he appears to me to have fallen by desiring that the times of the Circuits should be fixed by some other means than the authority of the Local Government.

I have only further to add my earnest request that your Lordship will be pleased to take the subject of this Letter into your immediate consideration; in order that I may receive your Lordship's Commands before the meeting of the Legislative Council in the Month of January of the next year.

I annex the opinions given by Chief Justice Forbes and Mr. Therry, Commissioner of the Court of Requests, upon the expediency of extending the form of Trial by Petit Juries, and that of the three Judges recommending the institution of Circuit Courts.

I have, &c,

Richd. Bourke.

[Enclosures.]

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

* Note 145.
GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 17, per ship Britannia.)

My Lord, Government House, 6th Feb., 1832.

I have the honor to transmit a Table of Fees,* charged for preparing Title Deeds to Land granted by the Crown in this Colony, which, Under my instructions and by the advice of the Executive Council, has been lately adopted.

I have, &c,

RICH. BOURKE.

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GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 18, per ship Britannia; acknowledged by Viscount Goderich, 6th July, 1832.)

My Lord, Government House, 7th Feb., 1832.

I have the honor to transmit a Return of certain Grants of Land promised by Lieut. General Darling and Colonel Lindesay, but of which possession had not been given to the Parties previously to my arrival in the Colony. I have thought it right to refuse completing these Grants, conceiving that I am not authorised to dispose of Such allotments otherwise than by Sale. I would, however, observe that I have not come to this decision without Considerable reluctance, as I am aware the disappointment to Some of the Parties is Severe. I enclose Such papers as bear upon their case, Submitting to Your Lordship's judgment whether in any and what instances I may be permitted to relax the Regulations in favor of the Parties Concerned.

I have, &c,

RICH. BOURKE.

[Enclosure.]

List of Grants of Land, authorised by His Excellency General Darling, but not confirmed by His Excellency General Bourke.

1. A. C. Jones, 8 a. 0 r. 0 p.
A Double Suburban Allotment, recently laid out for the erection of Villas on Rushcutters Bay, about three miles from Sydney. Original application, dated 3rd June, 1830, for an Allotment on Woolloomooloo Hill was refused. Copy annexed and marked A. Original Authority to select an Allotment between Woolloomooloo Hill and Rushcutters Bay, dated 20th October, 1831, annexed and marked B. Authority to increase the quantity, dated 5th November, 1831; marked C. Description reported by Surveyor General in his Half Monthly Abstract for 1/15 November, 1831.

Decision of General Bourke.—“Refused, as I am of opinion the late Instructions of the Secretary of State prohibit any Grant of Crown Lands but on sale, unless under the circumstances set forth

* Note 146.
in Lord Goderich's letter of 9th January, 1831, none of which apply to this case. I will, however, refer the Application Home, with my recommendation that it be granted.

2. Female School of Industry, 1 a. 0 r. 30 p.

A Double Building Allotment recently laid out on the Parramatta Road, about half a mile from Sydney. Former Applications for Allotments at Parramatta upon which nothing decisive was done, dated 1st May, 1830, 14th February, 1831, 8th April, 1831, are annexed and marked D, E, F. Original Authority for Allotments near Sydney, dated 8th October, 1831, annexed and marked G. Description reported in Abstract for 1/15 November, 1831.

Decision of General Bourke.—"Refused for the reason given above. The Application shall, however, be referred home, with my earnest recommendation that it be granted."

3. Miss Panton, now Mrs. Craig, 40 a. 0 r. 0 p.

On the North Shore of Port Jackson, about a mile and a half from Sydney, selected in lieu of 640 Acres authorised as a Marriage Portion. Original Application dated 6th October, 1831, Original Authority to select 640 Acres dated 21st October, 1831, and proposal to take 40 Acres in lieu of 640 annexed and marked H, I, K. Description reported in Abstract for 15/30 November, 1831.

Decision of General Bourke.—"Refused for the reason stated above; but the Application shall be transmitted to the Secretary of State for his favorable Consideration."

4. Edmd. Lakeman, 0 a. 2 r. 0 p.

A Building Allotment in the Town of Parramatta. Original Authority dated 20th October, 1831, annexed and marked L. Description reported in Abstract for 31st December, 1831.

Decision of General Bourke.—"I cannot convert the permission to Select contained in General Darling's Memorandum of 20th October, 1831, into a Free Grant, or on Quit-rent. The Allotment may be put up to Sale under the present Regulations."

Colonial Secretary's Office, Sydney, New South Wales, 7th February, 1832.

[Sub-enclosures.]

[A] MAJOR INNES TO COLONIAL SECRETARY MACLEAY.

Sir, Sydney, 3rd June, 1830.

I do myself the honor to request that you will solicit His Excellency the Governor to bestow on me one of the allotments on Woolloomooloo Hill, to which indulgence I trust His Excellency will have the goodness to consider that the peculiar circumstances, which compelled me to retire from the Army, give me a more than ordinary claim to His Excellency's Consideration.

I have, &c,

ARCH'D C. INNES, late Major, Buffs.

[B] MEMORANDUM FOR THE COLONIAL SECRETARY.

Government House, 20th October, 1831.

LET Archibald C. Innes, Esqr., receive authority to Select one of the allotments of Ground, between Woolloomooloo Hill and Rushcutters Bay.

RA. DARLING.
[C] Memorandum for the Colonial Secretary.

Government House, 5th November, 1831.

His Excellency General Darling having given authority, under date the 20th October, 1831, to Archibald C. Innes, Esqr., to Select one of the allotments of Ground between Woolloomooloo Hill and Rush Cutters Bay, I hereby, in consequence of the smallness of these allotments, do sanction that Gentleman to receive an additional allotment of Ground in the same Quarter, adjoining the first.

P. Lindesay, Acting Governor.

[D] MR. E. LOCKYER TO COLONIAL SECRETARY MACLEAY.

Sir,

Parramatta, 1st May, 1830:

I have the Honor on behalf of the other Trustees of the "School of Industry" in Parramatta to request the favor of His Excellency the Governor's granting to that Institution a Town Allotment of a vacant piece of Land, situated between the Agricultural Garden and the Bridge, bounden on the North by the Gaol, and on the South by the River, it being the intention of the Trustees, should His Excellency be pleased to grant their request, to exchange the said Allotment for a piece of ground next adjoining the Building of the "School of Industry," which it is necessary to obtain for the convenience of that Institution.

I have, &c.,

ED. LOCKYER.

[E] Reverend S. Marsden to Colonial Secretary Macleay.

(Private.)

Dear Sir,

Parramatta, 14th Febry., 1831.

Some time ago Captain Dumaresq told me that the Governor would give an Allotment of Ground to the "School of Industry," which we could sell, towards the payment of the debts owing by the Committee, if I could point out one. I have been looking out ever since for one. I am informed that the Governor has given three allotments, one to Major Lockyer, one to Capt'n Wright, and one to a Mr. Smith, all lying together, opposite to the old Military Barracks at Parramatta. There is one more allotment adjoining to these; it may contain about 30 or 40 Rods of Ground; it lies between the Government House and the Public Wharf. I am told a person intends to apply for it, but I think the School has the first Claim. The person, who I am informed wants it, has no claim whatever for such a favor. I think it would sell being on the side of the River.

Something must be done relative to the School and the sooner the better, before we get too much involved. I have a very great dislike to Debts, "owe no man anything" is a doctrine I much approve. Should any application be made for the Allotment of Ground in question, perhaps you will remember the School.

Captain Dumaresq will inform you what the Governor said to him on the Subject. Unless we can reduce our Debt to the Bank, the School must be given up, as it is daily increasing.

I remain, &c.,

SAML. MARSDEN.
BOURKE TO GODERICH.

[F] REVEREND S. MARSDEN TO COLONIAL SECRETARY MACLEAY. 1832.

(Private.)

Dear Sir,

Parramatta, 8th April, 1831.

Requests for Mr. Grose, I am informed, claims the Wharf and the Steps where the people land, and half the Boat House, and says it belongs to him, and that he has Sir Thos. Brisbane's authority to possess it. I mentioned to the Governor, when he was at Parramatta, that I wish one allotment of Land for the "School of Industry," for I was apprehensive it might be granted to some person who had no particular claim upon Government. His Excellency did not object to my request, if there was the quantity of Ground I stated.

I trust you will bear it in mind. I am sure Grose has no particular claim upon the Government, so as to have preference to the "School of Industry."

If he has got legal claim to this Ground, there is something very mysterious in it, which I cannot comprehend. I never heard until now that Sir Thomas Brisbane gave him the Wharf at Parramatta as his private property. Perhaps you will inquire about it that, if it be so, I may look out for some other Ground. I want the Principal of the Money reducing, which is owing to the Bank on account of the "School of Industry."

I am not satisfied with having my name to so large a Sum as £600 in the Bank account against the School, and the sooner our responsibility is reduced, the more easy I shall be in my mind.

I remain, &c.

SAMUEL MARSDEN.


Government House, 8th October, 1831.

It appearing that the School of Industry is much encumbered with Debt, owing to the expenses which have been necessarily incurred in providing for the Branch of that Institution which has been recently established at Parramatta, and, as it is a matter of the first importance in the present State of this Colony that individuals of the lower Classes should receive every possible assistance in obtaining a Suitable Education for their Children, it has been deemed proper under these circumstances to grant, for the benefit of the above Schools, two of the Building allotments at the place known as the "Military Garden" on the Parramatta Road.

Let a communication be made to the Archdeacon, the Colonial Secretary, and the Reverend Mr. Marsden, informing them of the above, with my request that they will be so good as to select two allotments of Ground at the place pointed out, and further undertake to appropriate, or dispose of the allotments so to be selected, as shall appear to them most advantageous to the Institution, for the benefit of which they are interested.

RA. DARLING.

[H] MRS. CRAIG TO COLONIAL SECRETARY MACLEAY.

Sydney, 6th October, 1831.

Sir,

As I understand Grants of Land have been given to Ladies on their Marriage in this Colony, may I request that His Excellency the Governor will be graciously pleased to extend the like indulgence to me. I was married on the 27th ultimo.

I remain, &c.

MRS. CRAIG, late MARY PANTON, at Mrs. Panton's, Fort Street.
1832.
7 Feb.
Order for land grant to M. Craig.

[This was on the usual printed form dated 21st October, 1831.]

[This was a printed copy of the government order re land grants, dated 19th August, 1829.]

Sir, Sydney, 18th November, 1831.
I have the honor of your letter of the 16th in answer to mine of the 5th Instant.
With reference to these, I would again beg leave to describe the Spot I have now selected. It is bounded on the South by William Blue's, on the East by a line running North from William Blue's east boundary, on the North by part of Berry and Wollstonecroft's, and West by a line to include (40) forty acres or such portion more or less as to you may seem proper.
I may here be allowed to bring to your notice, in determining the quantity, that by far the greatest portion of the Land on that Spot consists of Rocks, and the whole is cut off from Water frontage.
I have, &c,
MARY CRAIG.

Government House, 20th October, 1831.
LET Mr. Thomas Henry Burner and Edward Lakeman receive authority to select a Town Allotment each at Parramatta.
RA. DARLING.

Governor Bourke to Viscount Goderich.
(Despatch No. 19, per ship Britannia; acknowledged by Viscount Goderich, 9th August, 1832.)
My Lord, Government House, 7th Feb., 1832.
I have been requested by Mr. John Cogill, a very respectable Settler, to forward his application for a Grant of 4,000 Acres of Land, his pretensions to which are Set forth in the accompanying Letter. I have only to add that Mr. Cogill has already received a Grant of 2,560 Acres, and that he holds in addition 9,600 Acres of his own Selection, the whole or any part of which he may purchase at the rate of five shillings an Acre, if he shall signify his intention to this effect by the first of next month. I believe the Statements in Mr. Cogill's letter are correct.
I have, &c,
RICH. BOURKE.
[Enclosure.]
[A copy of this application is not available.]

* Note 147.
GOVERNOR BOURKE TO VISCONT GODERICH.
(Despach No. 22, per ship Britannia.)

My Lord, Government House, 8th Febly., 1832.
I do Myself the honor to transmit for Your Lordship's information, Conformably to the Instructions Contained in the Earl Bathurst's Despatch, dated 23rd February, 1825, No. 20, a Return of the Lands granted by Lieut. General Darling during the past Year.

I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[This return will be found in a volume in series II.]

GOVERNOR BOURKE TO VISCONT GODERICH.
(Despach No. 23, per ship Britannia.)

My Lord, Government House, 9th Febly., 1832.
In continuation of the Subject of Lieut. General Darling's Despatch of the 13th of June, 1831 (No. 51), I have with the honor to enclose a general State of the account of the Colonial Agent with the Government of New South Wales, from the 1st January, 1826, to 31 Decr., 1830, by which it appears that Mr. Barnard holds on the latter day a Balance of no less a sum than twelve thousand and twenty three pounds, Sixteen Shillings and three pence three farthings.

I annex to the General State, a letter from the Auditor General of this Colony.

As it appears from the account that Mr. Barnard has received, in two several payments, the Sum of thirteen thousand pounds, Advances from His Majesty's Treasury on account of the Colony, I have to request that Your Lordship will be pleased to intimate to the Lords Commissioners the expediency of immediately calling upon Mr. Barnard to pay to the Treasury his disposable Balance in discharge of these advances.

I have, &c.,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. W. LITHGOW TO COLONIAL SECRETARY MACLEAY.

I have the honor to acknowledge the Receipt of your Letters Nos. 371 and 372 of 15th instant, forwarding Accounts Current of E. Barnard, Esquire, Colonial Agent, for the year 1830, and for the first quarter of the year 1831, and requiring me to report thereon.

In reply, I have the honor to acquaint you, that, on inspecting these accounts, which are unaccompanied by Vouchers, the only point which seems to require remark is, that the Balance in the Colonial Agent's hands on the first and last day of the Periods

Report by W. Lithgow re accounts of E. Barnard.
comprised in each Account is not given; though, as will be seen by the enclosed general state of his Account from 1st January, 1826, to 31st December, 1830, the said balance must, on the 1st January, 1831, have amounted to Twelve thousand and Twenty three pounds, sixteen shillings and four pence three farthings.

The payments into his hands, in the first quarter of the present year, nearly correspond with the Disbursements made by him in the same period.

I have, &c.,

WILLM. LITHGOW, Aud. Genl.

A true Copy:—WM. LITHGOW.

[Enclosure No. 2.]

Summary of accounts.

[These accounts detailed receipts by the colonial agent, during the years 1826-1830, amounting to £45,944 4s. 4½d., and expenditure amounting to £41,992 13s. 3d. With the balance in hand (£8,072 5s. 3½d.) on the 31st December, 1825, the balance in hand on the 31st December, 1830, was £12,023 16s. 4½d.]

Viscount Goderich to Governor Bourke.
(Despatch No. 64, per ship Lady Harewood.)

Sir, Downing Street, 20 Febry., 1832.

With reference to my despatch No. 9 of the 4th August last, I beg to acquaint you that the Expenditure, which was incurred in removing the People from Pitcairns Island to Otaheite, will be defrayed out of the Military Chest and not out of the Revenues of New South Wales, the resources of the Empire being more properly chargeable with services of this nature. The necessary directions will, accordingly, be given by the Lords Commissioners of the Treasury to the Officer in Charge of the Military Chest at New South Wales.

I am, &c.,

GODERICH.

Viscount Goderich to Governor Bourke.
(Despatch No. 65, per ship Lady Harewood.)

Sir, Downing Street, 21st February, 1832.

With reference to Sir George Murray's Dispatch No. 96 of the 15th November, 1830, addressed to General Darling, in which he was informed that a Roman Catholic Clergyman, in addition to Mr. Dowling, would be sent out to New South Wales, I now beg to acquaint you that I have nominated the Revd. J. McEncroe to the vacancy in question. Mr. McEncroe has proceeded to the Colony in the "Southworth" Convict Ship, and, as he is not aware of my having selected him for this appointment, you will, on the receipt of this Dispatch, apprise him of it, intimating to him at the same time that I have felt great
satisfaction in being enabled thus early to comply with the strong application which I had received in his favor from the Revd. Dr. Murray.

Mr. McEncroe will of course be placed in respect to Salary upon the same footing as Mr. Dowling, to whom you were directed to issue £150 per Annum. I have, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch marked “Private and Confidential,” per ship Lady Harwood; acknowledged by Governor Bourke, 18th September, 1832.)

Dear Sir,

Downing Street, 21st February, 1832.

My Dispatch of this day’s date notifies to you the appointment of the Revd. Mr. McEncroe to the Establishment of Roman Catholic Clergymen at New South Wales. The difficulty of finding a proper person to officiate there, who could successfully contend against Mr. Therry,* has hitherto prevented His Majesty’s Government from carrying into effect the object adverted to in Sir George Murray’s Dispatch of the 15th of November, 1830; but, from the character which has been given to me of Mr. McEncroe by the Revd. Dr. Murray, the Roman Catholic Archbishop of Dublin, and by Mr. Plunkett, the Solicitor General of New South Wales (whose Letter I enclose), I am induced to hope that Mr. McEncroe’s Influence over the Roman Catholic Population of the Colony will be as great as that possessed by Mr. Therry, whilst it will be used in a manner less obnoxious to the Clergy of the Established Church than that to which the latter person has applied it.

You will perceive that I have not fixed Mr. McEncroe’s Seniority with reference to that of Mr. Dowling, and I have deemed it the more necessary to abstain from doing this, as it is not improbable that the present Establishment of Roman Catholic Priests may be enlarged; and it would, in that case, be desirable, before I placed at its head one of the Roman Catholic Clergymen now employed in New South Wales, that I should learn from you whether they possess sufficient weight and authority with their flock to justify such a selection, and which of them would be best qualified for the purpose; You will therefore be good enough, as soon as Mr. McEncroe shall have exercised his functions sufficiently long to enable you to form an opinion upon the subject, to report to me, confidentially, on the respective merits of the two Clergymen in question.

I remain, &c.,

GODERICH.

* Note 148.
MR. J. H. PLUNKETT TO VISCOUNT GODERICH.

My Lord.

Cove of Cork, 21 Jany., 1832.

I think it right to make known to your Lordship that the person, for whom passages in the Southworth were ordered at the Navy Office, and intending to come to N. S. Wales as my Clerk, has declined to come. This circumstance leaves space enough in the Vessel, and I regret I was not aware of it in sufficient time to give notice of it at the Colonial Office that the place might be disposed of to others; but, as I did not know that he changed his mind until yesterday, I had not the opportunity of giving such notice. The Revd. John McEncroe, a R.C. Clergyman who had intended to apply to H.M. Govt. for a passage to N. S. Wales, requested that I would allocate to him one of the places assigned to the Clerk already alluded to, being prepared to embark on the very short notice. I beg leave to inform your Lordship that I have acceded to his request on being satisfied of his being a very respectable Clergyman, prudent in the discharge of his duties in this Country, and never mixing himself with any of its political parties. He has the strongest recommendations from some of the Dignitaries of his Church and produced a Certificate of having taken the oath of Allegiance. If there were sufficient time, I should have waited the approbation of your Lordship. Under the circumstances, I trust your Lordship will consider that I have acted right. The Vessel is just about to sail.

I have, &c,

JOHN H. PLUNKETT.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 66, per ship Lady Harewood.)

Sir, Downing Street, 22d February, 1832.

I beg to call your attention to Earl Bathurst's Dispatch No. 30 of the 14th December, 1825, no report having been received from the Superintendent of the Government Garden at New South Wales since that transmitted with General Darling's Dispatch of the 11th January, 1828. I have to desire that you will intimate to the Superintendent the expectation of His Majesty's Government that the half-yearly reports, which he was directed to make to the Governor, should be regularly prepared for the purpose of being transmitted to this Country, and that I hope to be relieved from the necessity of repeating the Instructions which have been already sent out to the Colony upon this subject.

I have, &c,

GODERICH.
My Lord,

Government House, 22d February, 1832.

I thought it right to communicate to the Chief Justice and Judges of the Supreme Court Your Lordship's despatch of the 27th September, 1831, No. 25, in which your Lordship notices that the Judges, in their letter of 31st December, 1830, to Lt. Genl. Darling, expressing an opinion in favour of the establishment of Circuit Courts in this Colony, had not alleged any reason in support of it. In the enclosed copy of a Letter from the Judges addressed to me on this occasion, your Lordship will find their reasons given at length and some explanation of the cause of their former omission.

With regard to the comparative expence to the Public Revenue of Circuit Courts and Trials at Sydney of Criminal Issues from the distant Counties, of which mention is made in the Judge's letter, I have the honor to state that, in the year ending the 28th November, 1831, there were ninety criminal Issues from the Districts of Maitland, Bathurst and Argyle tried at Sydney, at an expence in allowances to Witnesses alone of £1,805 0s. 8d. I have reason to believe that the expence of half yearly Circuits to those three Districts, together with allowances to witnesses attending there, will not amount to that sum.

I trust the reasons now adduced will satisfy your Lordship of Expediency of the immediate Institution of Circuit Courts. In my despatch of the 6th inst. (No. 16), I have stated to your Lordship at some length the manner in which I would recommend this Establishment to be effected, and I annexed a Letter of the Chief Justice going fully into the details of the proposed measure.

In the same Despatch, I laid before your Lordship the opinion I had formed of the expediency of substituting Civil for Military Jurors, after having communicated with many of those Persons, whom I thought best acquainted with the subject; and I annexed the written opinion of the Chief Justice and Commissioner Therry. Your Lordship is already in possession of the arguments against the measure in the Letter* from Members of Council forwarded by General Darling in the last year. An accession to this side of the question is to be found in the opinion of the Colonial Treasurer, who has lately been placed in Council. There is however nothing new in Mr. Riddell's argument. The *onus probandi certainly rests with those, who oppose an Institution, so reverenced by Englishmen and so approved by experience as Trial by Jury. I think they have failed in proof; and, from what I have observed and learned

* Note 149.
since my arrival, I have come to the conclusion that it is no longer necessary to try criminal issues in New South Wales by seven Military or Naval Officers.*

With reference to the expense of Military Jurors, it may be right to acquaint your Lordship that, in the last year, they amounted for attendance and travelling charges to £1,032 19s. 9d.

I have, &c.,

RICHARD BOURKE.

[Enclosure.]

[A copy of this letter, dated 17th February, 1832, will be found in a volume in series IV.]

VISCOUNT GODERICHT TO GOVERNOR BOURKE.
(Despatch No. 67, per ship Lady Harewood.)

Sir,

Downing Street, 24 Feby., 1832.

I have received a Dispatch from Lieutenant Governor Arthur, by which it appears that the Chief Justice of Van Diemen's Land had declined making any order respecting a Soldier sentenced to the Punishment of Transportation by a General Court Martial held in that Colony, in consequence of not having received any notification from the Secretary of State touching such offender, according to the 19th Section of the Mutiny Act.

As a similar case of difficulty may arise, if it has not already occurred, in the Colony under your Government, I transmit herewith the necessary Instructions addressed to the Chief Justice for his guidance in respect to any Military Offenders, who may be sentenced to transportation in pursuance of the Statute before mentioned.

To supersede however the necessity of the Secretary of State repeating annually this Instruction to the Chief Justice, it is the Intention of His Majesty's Government, when the time for passing the next Mutiny Bill arrives, to modify the clause in question, so that Military Prisoners may be disposed of in the same manner as those Convicts who may be transported under Colonial Sentences.

I have, &c.,

GODERICHT.

[Enclosure.]

VISCOUNT GODERICH TO THE CHIEF JUSTICE OR OTHER JUDGE OF THE SUPREME COURT.

Sir,

Downing Street, 31st January, 1832.

The Statute, 1st William 4, c. 15, S. 19, Provides “that, whenever any Sentence of Transportation, heretofore or hereafter passed by any Court Martial held in the East Indies or in any part of His Majesty's Foreign Dominions, is to be carried into execution, or when sentence of Death has been, or shall as

* Note 142.
GODERICH TO BOURKE.

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GODERICH TO BOURKE.

1832.

24 Feb.

Instructions to judges re military offenders.

atters, be commuted to Transportation, the same shall be notified
by the Officer commanding in Chief His Majesty's Forces at the
Presidency or Station, or in his absence by the Adjutant General for
the time being, to some Judge of one of the Supreme Courts of
Judicature in the East Indies or Chief Justice or some other Judge
as the case may be in any part of His Majesty's Foreign Do-
momains, who shall make order for the transportation or immediate
Custody of such Offender in such manner and to or in such place
as shall be specified in any directions given to such Chief Justice
or Judge, in relation to any such Offender by one of His Majesty's
Principal Secretaries of State, and the necessary proceedings shall
be taken according to such order for the transportation or imme-
diate Custody of such Offender; and all Acts in force in such place,
touching other Offenders to be transported, shall in all respects
apply as well to the Offender himself so to be transported as to all
other persons whatsoever therein concerned."

With reference to the preceding enactment, I am to instruct you
that, in all cases therein mentioned, you do make Order for the trans-
portation of such Offender to Norfolk Island or to any place to
which Offenders sentenced to Transportation in due course of Law
in the Courts of Criminal Jurisdiction in New South Wales are
usually sent.

I am, &c.,

GODERICH.

VISCONT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 68, per ship Lady Harewood; acknowledged by
Governor Bourke, 19th August, 1832.)

Sir,

Downing Street, 24th February, 1832.

I have received General Darling's Dispatch No. 75 of the
16th September last, enclosing a further application from Mr.
Cotton, Collector of Customs at New South Wales, respecting
a Grant of Land and Building allotment which he claims in
consequence of other Civil Servants who left England after
him, having been accorded not only a maximum grant but like-
wise a Town allotment.

Mr. Cotton does not mention the names of the Gentlemen
who have been admitted to this Indulgence; and, as I am not
aware of having authorized any such grants to be made, subse-
sequently to the adoption of the new Regulations, you will be good
enough to report to me under what circumstances they have
been departed from in the cases referred to, acquainting Mr. Refusal of
Cotton that I cannot alter the decision, which has been com-
municated to General Darling, in answer to Mr. Cotton's
former application.

In reply to the observations of General Darling as to the
dearness of House rent, etc., I have to acquaint you that, with-
out meaning to deny the importance of Officers of the Govern-
ment possessing Houses of their own in lieu of paying an
exorbitant rent for those they may occupy, I see no more reason
for making them a present of the ground on which they may
1832.

24 Feb.

Ability of officers to purchase land.

Refusal of town allotment for J. Bowman.

25 Feb.

Inability to grant J. T. Morisset transfer from Norfolk Island.

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 69, per ship Lady Harewood.)

Sir, Downing Street, 25th February, 1832.

I have received General Darling’s Dispatch No. 69 of the 26th of August, enclosing an application from Lieutenant Colonel Morisset to be placed in a situation less irksome and disagreeable to him than that which he now occupies as Commandant at Norfolk Island.

However much I may regret the disappointment of any expectations entertained by Colonel Morisset in regard to the Appointment which he now fills, I have no means at present of complying with his request to be provided with another Office. Colonel Morisset should be reminded that it was at his own solicitation that he was appointed to his present command, and that the experience, acquired by him in the Management of Convicts of the description of these placed at Norfolk Island, was the chief ground for accepting his Services as Commandant of that Island.

As it appears that General Darling has already pointed out to Colonel Morisset the proper course for him to pursue in furtherance of his wish to sell his Commission, it is not necessary that I should advert to that part of his Communication.

I have, &c.,

GODERICH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 26, per ship Surry; acknowledged by Viscount Goderich, 17th August, 1832.)

My Lord, Government House, 25th Feby., 1832.

With reference to my Despatch of the 9th February, No. 23, upon the Subject of the balances in the hands of the Colonial Agent, I have now to inform Your Lordship that, by letters lately received from Mr. Barnard, I find that the Sums of five hundred pounds, and twelve hundred pounds, have been

Letter of credit given by E. Barnard.
paid into his hands on account of Mr. Dutton, a resident of New South Wales, for which he has given letters of Credit on the Treasurer of the Colony. By the same Mail, I received Mr. Barnard's account for the Second quarter of the Year 1831, in which as usual the balance in his hands is not returned.

I am not aware of the Authority under which the Agent receives Money in London, giving orders for the Amount on the Treasurer in Sydney; but the practice may lead to Considerable inconvenience, if it be not restrained within certain limits. It is not probable that in future the agent will be required to expend any large Sums on account of the Colony, and therefore his receipts on this account may with great propriety be curtailed, and with the less apprehension of inconvenience, as I understand that Money may be remitted here in the Same way through the House of Heries, Farquhar and Co. of London, Corresponding with the Bank of Australia in Sydney. I would add that, from any information I can obtain here, it does not appear that Mr. Barnard has entered into any Security.

I have, &c,

RICH. BOURKE.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 70, per ship Lady Harewood.)

Sir,
Downing Street, 26th February, 1832.

I have received General Darling's Despatch No. 74 of the 14th September last, reporting that the practice of granting Land as marriage portions had been discontinued in consequence of the Instructions lately received by him with respect to the disposal of Land, And I have the pleasure to acquaint you that the suspension of this Indulgence is approved.

I have, &c,
GODERICH.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.
(Despatch per ship Lady Harewood.)

Sir,
Downing Street, 26 February, 1832.

With reference to my Letter of the 24th Ultimo, I have now the honor of enclosing herewith, as received from Mr. Bushy, descriptive Lists of the Vines collected by him in France which are shipped in the "Lady Harewood," Convict Ship, also a printed Catalogue of the Royal Nursery of the Luxemburg and particulars of the contents of each case in which the Plants are packed.

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

[Enclosures.]

[Copies of these papers are not available.]
Viscount Goderich to Governor Bourke.
(A circular despatch per ship Lady Harewood.)

Downing Street, 27 Feb., 1832.

SIR,

The Lords Commissioners of the Treasury have represented to me the inconvenience to which they are subjected in examining the accounts of Public Officers in His Majesty's Colonies, when despatches from the Secretary of State for this Department are referred to in support of particular items, and are not annexed in copy to the papers under consideration. I have therefore to desire that, whenever in future any account of expenditure of public money shall be transmitted by you to me or to the Lords of the Treasury, you will support the account by transmitting attested copies of my despatches or extracts of so much of them as contain the requisite authority.

I am, &c.,

Goderich.

Governor Bourke to Viscount Goderich.
(Despatch No. 28, per ship Surry.)

Government House, 27th February, 1832.

My Lord,

I have to acknowledge the receipt of Your Lordship's letter of the 28th Sept., 1831, No. 26, informing me that the Commissioners of Emigration would take measures for sending to this Colony eight hundred Females from the Agricultural Counties of England, and desiring me to be prepared to pay for the passage of each the sum of eight pounds, and to make arrangements for their reception in the Colony.

In reply, I have the honor to acquaint Your Lordship that the Sum of £6,400 will be ready to meet the expense whenever the Women arrive, and that measures are in progress for procuring their engagement in the families of Settlers, at such rate of Wages as the price of Labor in the Colony, at the time of their arrival, Shall enable them to obtain. Any further arrangement I have not been able to make, as Your Lordship has not informed me whether these Women are to come out under Conditions, or altogether free to dispose of their labor to the best advantage.

In compliance with the Suggestions, Contained in Your Lordship's despatch of the 23d January, 1831, No. 19, I brought under the Consideration of the Executive Council on the 22d December last the expediency of providing funds for the encouragement of Emigration from Great Britain to this Colony by means of a
Charge on the assignment of Convict Servants to the Settlers, and by a tax on Convicts holding Tickets of Leave. The Council were of opinion that neither of those measures would be expedient in the present State of the Colony. I enclose the Minute of Council on the Subject.

With respect to the means that this Colony can yield towards the rendering it more accessible to Emigrants from Great Britain, I think Your Lordship may count upon an annual payment of ten thousand pounds at the least for the next three years, derivable from the revenue of Crown Lands. If the Sale of Land Should proceed with Spirit, of which however I have some doubt, the Sums might be taken Still higher.

I beg leave to add that the arrangements for the reception of Emigrants, required by Your Lordship’s Despatches of the 23d January, No. 29, and 9th of July, 1831, No. 6, have been some time made, as the annexed Return will show; and I imagine that any Mechanic or Laborer, Male or Female, of good Character and industrious habits, will find upon arrival the means of Speedy and profitable employment.

I have, &c,

RICHD. BOURKE.

[Enclosure.]

Extract from Minute No. 66 of the proceedings of the Executive Council on the 22nd December, 1831, relative to a proposed tax on Convicts.

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

In reference to the proceedings on the 23rd August last, the Council resumed the consideration of that part of the Despatch of the Right Honorable the Secretary of State, which proposes, as a means of providing funds for the introduction of free labourers into this Colony, a tax upon Convicts, as well in private service as holding Tickets of leave.

The Council having maturely considered the subject were of opinion that, under the present distressed circumstances of the Colony, a tax on assigned Servants was inexpedient, more especially as the Settlers in general have very large arrears to pay up both for the rent and purchase of land, which are now in progress of collection.

With respect to the proposed tax on Convicts holding tickets of leave, the Council were also of opinion that any tax upon free labour, which is already so high in this Colony, would be impolitic and inexpedient, while it would tend to operate injuriously on the Convicts by diminishing the boon which is held out to them for good conduct.

A true Extract:—E. DEAS THOMSON, Clk., Col.
HISTORICAL RECORDS OF AUSTRALIA.

Governor Bourke to Hon. J. Stewart.

(Despatch per ship Surry.)

Sir,

Government House, 27th Feb., 1832.

I have the honor to forward, for the information of the Lords Commissioners of His Majesty's Treasury, a letter from Mr. Hely, Principal Superintendent of Convicts in the Colony, praying that the Surcharge of £66 13s. 4d. directed, by Your letter of the 10th last, to be placed on his pay, may be suspended for the present, and that their Lordships may be pleased to remit it. In recommending a Compliance with this request, I have to State that Mr. Hely discharges very respectably a large Share of public business with a very moderate Salary, And that I have reason to believe that it will Seriously inconvenience him to pay the Amount now Claimed.

I have, &c.,

RICH. BOURKE.

[Enclosure.]

[A copy of this letter is not available.]

Viscount Goderich to Governor Bourke.

(A circular despatch per ship Lady Harewood.)

Sir,

Downing Street, 28th February, 1832.

I have the honor to transmit to you the Copy of a letter addressed by Mr. Stewart to this Department, by direction of the Lords Commissioners of the Treasury, in which he specifies various Accounts and Returns which will be required by their Lordships, in order that they may have periodically laid before them a distinct and comprehensive view of the whole expense which is incurred in our Colonial Establishments.

In calling for these Returns and Accounts, their Lordships entertain a confident expectation that they shall arrive at such a knowledge of the actual state of the Colonial Finances and Resources as may enable them to exercise a prompt control over the whole expenditure of the Colonial Government. For the more perfect attainment of this object, their Lordships would be desirous of receiving Quarterly Returns, under the several heads, which are enumerated in their letter; but, as it is understood that, in Colonies having Colonial Legislatures, the Accounts are usually made up at the end of the year, it may be sufficient in those cases if they are transmitted annually, as soon as possible after the termination of the year.

I need not point out to you of how much importance it is that the information, which is required by the Treasury, should be furnished with that promptitude and punctuality which the occasion demands; and you will not fail, therefore, to impress
upon those Officers of your Government, whose duty it is to comply with these Instructions, that any remissness or neglect in this respect will be visited with the marked displeasure of His Majesty's Government.

You will observe in Mr. Stewart's letter, under the head of "Disbursements," that Returns are required of the Pay of the General Staff, Ordinary Military Allowances and Contingencies, Commissariat Charges, Barrack Charges, and Expenditure for Military Works; but, as more accurate information can be obtained by their Lordships with regard to this Class of Expenditure from the Officers under their immediate Control, it will not be necessary to include in the Returns to be furnished by the Officers of your Government any Military Expenditure which is defrayed from the Funds of Great Britain.

As the Accounts of the Colonial Revenue and Expenditure, which are required by this Despatch, are intended for the exclusive use of the Lords Commissioners of the Treasury, you will not allow any delay to take place, in consequence of this requisition, in forwarding, as heretofore, the Annual Blue Book of your Government for the information of this Department.

I have, &c.,

[Enclosure.]

GODERICH.

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers. 17th October, 1831.

I am commanded by the Lords Commissioners of His Majesty's Treasury to acquaint you, for the information of Viscount Goderich with reference to your letter of the 30th of December last, that My Lords have had under their consideration the various Accounts and Returns that will be required in order to their having of accounts periodically laid before them complete information as to the Financial condition of the Colonies, and the expence of each separately, and have given directions to the several Departments in this Country to prepare and furnish various Accounts relating to the several branches of the Service under their control, in addition to which, My Lords are of opinion that the following Statements should be furnished by the several Colonial Governments, viz.:

1st. Regular Revenue arising from local Taxes and Duties, distinguishing the amount of Collections under each head, and the arrears of preceding years, from the receipts of the current year.
2nd. Revenue derived from Monopolies in the hands of the Government, and from Rents or other proceeds of Crown Property.
3rd. Casual Revenue and Incidental Receipts, including Judicial Fines and Forfeitures, Escheats, and other similar Droits of the Crown, and recoveries of Debts from Individuals.
4th. Repayments of Colonial Advances, or other Receipts on account of that description.
5th. Receipts in aid of Revenue, including Loans raised, Drafts on Account of Parliamentary Grants, or other Advances from the
1832. Funds of this Country, Issues of Paper Currency, and Deposits from the Courts of Law, or otherwise, which may be for a time available for the purposes of the Colonial Government.

6ly. Deposits not so available.

Disbursements.

1st. Civil Charges regularly authorised by His Majesty’s Government, or by Acts of Local Legislatures, which have received His Majesty’s Assent, classed under the heads of Salaries, and of Incidental and Contingent Charges, specifying the amount expended, under each head for each Public Department, and including Judicial and Ecclesiastical Establishments paid by the Government.

2ndly. Supplementary Civil Charges, comprising any Salaries or Contingent Charges which may not have been regularly sanctioned by His Majesty’s Government, specifying the Department and Service for which they may have been incurred, and whether such sanction has been applied for.

3ly. Military Charges, if defrayed from Colonial Funds, and not paid by Officers accounting to the Military Departments in this Country under the heads of Regimental Pay, and Subsistence of local Corps or Militia.

Pay of General Staff, special Colonial Allowances to Officers or Men.

Ordinary Military Allowances or Contingencies.

Commissariat Charges, Barrack Charges, Expenditure for Military Works.

4thly. Advances for the Colonial Service (to be subsequently repaid or accounted for to the Colonial Authorities) including remittances to Agents.

5ly. Advances from the Colonial Funds to the Military Chests, or otherwise, for Services to be accounted for by the Officers to whom the advances are made to their respective Departments in this Country.

6ly. Repayment of Loans or Advances in aid of Revenue, and payments for Interest thereon, Paper Currency cancelled or other Debts liquidated.

7ly. Repayments of Deposits.

8th. Special and particular Services not attaching to the ordinary Colonial Establishments, such as Indian Presents, the expenditure for liberated Africans in Sierra Leone, and, in the cases of New South Wales, Van Diemen’s Land, and Bermuda, the Charges for the Maintenance, Clothing and Lodging the Convicts, and for Establishments connected with their immediate superintendence and management, any Sums received for their Labour being stated by way of deduction from the Gross amount of the Expenditure.

My Lords advert to the variations in the charges defrayed from Revenues at the disposal of the Colonial Governments, comprising in some instances Expenses of a Public Nature which in others are provided for by separate and special Rates not levied, or accounted for by the Officers of Government, would further wish to receive the best Returns, that can be obtained from the Colonial Government, of the produce and appropriation of all such Dues or Tolls as are levied or applied by Local Municipal Bodies or Officers, or as may have been imposed by Law for any Specific purposes, including Legislative provision for Ecclesiastical, Scholastic or Charitable Establishments.
I am further to acquaint you that My Lords are desirous that these several Returns and Statements should be made out and furnished Quarterly, and that they should comprise not only the Revenue and Expenditure and other Financial Transactions of those Colonies of which the Revenues are at the immediate disposal of the Crown, but also of those Colonies where the Revenues are appropriated by and accounted for to Local Legislative Assemblies.

My Lords therefore request, in the event of its being found that the Statistical Returns referred to in your said Letter do not afford the means of preparing such Quarterly Statement, that you will move Viscount Goderich to transmit without loss of time such directions to the Governors of the respective Colonies as will ensure the regular and punctual transmission to My Lords (immediately after the expiration of each Quarter from the commencement of the year 1832) of specific Returns from every Colony, under each of the heads before enumerated.

My Lords also wish that the Quarterly Returns in those Cases where the Revenues are at the disposal of the Crown should be accompanied by a short Abstract of the transactions of the Treasurer or other Officer accountable to My Lords for the application of the Colonial Funds, shewing the amount of his Receipts and Disbursements during the corresponding period, and the Balances in hand or available at the commencement and end of it.

Although My Lords are of opinion that it is very desirable to obtain these Returns and Statements Quarterly, They are aware that in some Cases the Colonial Financial Returns are made up Annually, and that it may be difficult to obtain them more frequently from Colonies having Colonial Legislatures than once in each year; My Lords would wish however to obtain them Quarterly in all practicable cases.

My Lords will hereafter determine on what Department the Duty of collecting and arranging or consolidating those various Accounts and Returns should devolve, in order to My Lords having submitted to them that distinct and comprehensive view of the whole Expense attending upon the Colonies, separately and collectively, which is the object of the Suggestion of the Commissioners of Enquiry.

I am, &c,

J. STEWART.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(A circular despatch per ship Lady Harwood.)

Sir,

Downing Street, 28 Feb'y., 1832.

In consequence of a representation which has been received from the Postmaster General, I am directed by Lord Goderich to request that you will give particular directions that nothing may be forwarded by the Bags, which convey the public despatches from your Government, except letters addressed to persons belonging to the Colonial Department, and such as are on public Service. All despatches and letters for the Colonial Department should be addressed either to the Secretary of State or to one of the Under Secretaries.

I have, &c,

R. W. HAY.
GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 29, per ship Surry; acknowledged by Viscount Goderich, 22nd March, 1833.)

My Lord,

Government House, 28th Feby., 1832.

I have the honor to enclose for Your Lordship's Consideration the Copy of a letter from Mr. Steele, Agent to the house of Messrs. Ferguson and Co. of Calcutta, under date 31st December, 1831, requiring payment of £513 1s. 0d. principal and £697 15s. 4d. Interest, total £1,210 16s. 4d., Claimed under the following Circumstances:

On the 31 March, 1802, Governor King leased to Mr. John Palmer three Acres and thirty two Rods of the Government Demesne for five Years, the lease Containing a promise of renewal every five Years, Until twenty one Years Should be expired; See a Copy of Lease Sent herewith.

On the 16th September, 1814, Governor Macquarie, through his Secretary Mr. John Thomas Campbell, addressed Mr. Walker, Agent to the House of Ferguson and Co. of Calcutta, to whom Palmer had assigned his Lease, Claiming possession for the Crown of the Land in question, on the Score of its not being in the power of Governor King to grant a Lease for a longer term than five Years, and giving Mr. Walker notice to Surrender the premises on the 31st March, 1815, Governor Macquarie at the Same time agreeing to grant a piece of Land of equal extent near the Town of Sydney, to which the Materials of certain Buildings erected by Mr. Palmer at a Considerable Expense might be removed, and also offering a "handsome" grant of land in the interior as a further Compensation for the trouble he might be put to.

To this it appears that Mr. Walker objected, and proposed that the Buildings Should be Valued by himself, and also by the Government, and the mean of the two Valuations paid to him. This was accordingly done, and the Sum fixed at £513 1s. to be paid over, if His Majesty's Government Should pronounce the Condition of renewal, Contained in Governor King's Lease to Palmer, to be Valid, Governor Macquarie at the same time protesting against the Validity of that instrument as being altogether beyond the power of Governor King to grant, and in absolute violation of the King's Commands, See Governor Macquarie's Despatch,* No. 7, October 14th, 1814, and Enclosures Marked A, B and G.

To this, no reply Seems to have been received during Governor Macquarie's residence in the Colony; but the buildings,
which had been Valued, were pulled down, and that portion of

the Land on which they Stood was resumed. Some part of the

Land about one Acre, on which a large Windmill of Stone was

built, was Still left in the Lessee's possession, as stated by Gov-


1823.

eror Macquarie in the last paragraph but one of his Despatch of

the 7th of October, 1814, and up to this day has not been re-

sumed by any of his Successors in this Government.

On the 19th February, 1825, Mr. Wentworth, on the part of

Mr. Walker, Claimed payment of £513 Is., the Valuation Set

on the Buildings pulled down by Governor Macquarie, and also

Interest on that Sum from the 19th December, 1814, at the rate

of 8 per Cent.

Sir Thomas Brisbane, on the 10th August, 1825, declined to

pay the amount, unless the Commands of Earl Bathurst Should

be received to that effect. These Commands were requested in

Sir Thos. Brisbane's Despatch* to Earl Bathurst, written in the

latter end of the Year 1825, but of which no Copy is to be found

here, and to which no reply has been received.

Here the matter appears to have rested Until the present

Application.

It is necessary that I should now State to Your Lordship in

what way this Government, or rather the Governor of the Colony

is interested in the decision of this Claim. Governor Macquarie,
in his Despatch of the 7th October already mentioned, has

Shewn how the occupation of these three Acres of Land by any

other Person than the Governor becomes a perfect nuisance to

the latter. The occupation by Palmer's assignee of the large

Mill, and the Acre left Unresumed in 1815, is as great a Nuis-

ance to the Governor of this day, as the occupation of the whole

could have been to Governor Macquarie. Your Lordship will be

able to judge of this by inspecting the accompanying Sketch of

the Ground, and observing the position† of the Government House

with respect to the Mill and plot of ground colored in red, which

is the part not resumed by Governor Macquarie, that which he

resumed and on which he built the Celebrated Stables‡ being
done in green.

I am confident that I shall, in execution of Your Lordship's

instruction delivered before I left London, Shortly have to lay

before You the expediency of building a Government House

within this demesne on a site near to the Stables. A New

House must be built, as this, which I now inhabit, is extremely

inconvenient, Subject to bad smells, Old and irreparable. I

know of no position near Sydney so good as that of the present

* Note 150. † Note 151.
Government grounds. By giving up the Water frontage* immediately opposite the old House, a Sum of Money may be obtained Sufficient to build the New One, while the best part of the Demesne will be brought Still nearer the Stone Mill and remaining part of the Land formerly leased to Palmer.

If, by payment of the Money now Claimed, an immediate Surrender of the Mill and ground as yet Unresumed were obtained, I would recommend to Your Lordship to procure it, leaving the Validity of Governor King's Lease out of the question. Not indeed that I imagine the Title of Palmer's Representative can be upheld, but the Courts and Juries of the Colony have a great leaning towards long possession as against the Crown. Mr. Steele, the Agent to Messrs. Ferguson, is now proceeding to London to prosecute this Claim before Your Lordship, and I have some reason to believe, an offer of the principal Sum demanded, or, if his claim be thought an equitable one, of the principal and interest, would Secure the quiet Surrender of the Land in question.

I have to add that Mr. Steele has made a demand for a Grant of this Land under the provisions of a Proclamation† of General Darling; but, as the Land in question is Specially excepted from the benefit of that Proclamation, his employers can have no title under it, and I shall not trouble Your Lordship by detailing the particulars.

I have, &c,

RICHD. BOURKE.

[Enclosure No. 1.]

MR. T. STEELE TO COLONIAL SECRETARY MACLEAY.

Sir,

Sydney, 21st December, 1831.

As Agent for Messrs. Ferguson and Co., of Calcutta, I beg you will be pleased to submit to His Excellency the Governor a claim which they have on the Government of this Colony for the Sum of £513 3s., being the amount of the Valuation of a Windmill and Bakehouse, which formerly stood on an allotment of ground, situated on the west side of "Farm Cove," leased by Governor King to Mr. John Palmer, which were removed, at the request of Governor Macquarie, by Mr. William Walker, then acting for the above Parties, on the express understanding that the Sum now sought should be received for them, should the Lease be admitted valid for the period of 21 years, as appears from the enclosed Copy of a Letter from Mr. John Thomas Campbell, then Secretary to Government, to Mr. Walker, dated the 19th day of December, 1814. As it does not appear that any informality exists in this Lease to render it otherwise, I trust His Excellency will be pleased to authorise payment thereof, which with Interest will now amount to the Sum of £1,210 16s. 4d. I have, &c,

THOMAS STEELE.

* Note 152. † Note 153.
BOURKE TO GODERICH.

[Sub-enclosure.]

STATEMENT OF CLAIM.

Amount of Valuation of a Windmill and Bakehouse, £ s. d.

by Manning, Lucas, Bolton and Legg, Mechanics, on the part of the Proprietors

Do. by Bean, Bradley and Vandercour on the part of Government

Statement of claim.

541 6 6

479 15 6

The Mean is

513 1 0

Interest from 19th Decr., 1814, to this date—17 years

2 days at 8 pr. Cent.

£1,026 2 0

697 15 4

B.E.

£1,210 16 4

Sydney, 21st December, 1831.

THOMAS STEELE, Agent for Messrs. Ferguson and Co.

[Enclosure No. 2 A.]

[A copy of the deed of lease will be found on page 342, volume VIII.]

[Enclosure No. 2 B.]

[This was a copy of secretary Campbell's letter dated 26th September, 1814; see page 348 et seq., volume VIII.]

[Enclosure No. 2 C.]

SECRETARY CAMPBELL TO MR. W. WALKER.

Sir,

Secretary's Office, Sydney, 19th Decemr., 1814.

I have it in command to acknowledge the receipt of your letter of the 28th ultimo, which, with its enclosed valuation of Windmill and a House and Bakery Situated in the Government Domain, was submitted without loss of time to His Excellency the Governor.

Herewith you will now receive a new valuation of the above house and Bakery made on the 17th Instant by the subscribing persons, James Bean, Samuel Bradley, and James Vendercour, making their value £479 15s. 6d.

In the event of His Majesty's Ministers authorising the confirmation of the conditional Lease made by Governor King of the ground on which those Buildings are erected, the Governor will direct payment to be made for the said House and Bakery, agreeably to the suggestion contained in your letter now under Answer, viz., by a mean between the valuation transmitted by you, and that which I now enclose.

His Excellency however desires to remind you, that the Buildings in question must be entirely removed on or before the 31st of March next ensuing agreeably to a Communication already made you.

I have, &c.,

JNO. THOMAS CAMPBELL.
1832. 28 Feb.


Necessity for chaplain at Norfolk island.

Substitution of clergymen for catechists.

Inability to forward full reply to statements re Jury system.

GOVERNOR BOURKE TO VISCONT GODERICHT.

(My Lord, Government House, 28th Feb., 1832.)

In forwarding the accompanying duplicate, the Report of the Venble. the Archdeacon of New South Wales (the original having been taken charge of by Lieut. General Darling on his leaving the Colony), I have no observation to make on its Contents, further than that I entirely concur in opinion with the Archdeacon, as to the Absolute necessity of Stationing a Minister of Religion at Norfolk Island. It is in truth a place where the Zeal and Devotion of an Active Missionary would find ample room for employment. It is filled with the worst Criminals, sent from hence, and as yet nothing but Severity has been attempted to effect their reformation. The Same observations apply to Moreton Bay, but I do not press an appointment there so Strongly, as Circumstances may, I think, induce me to recommend to Your Lordship to abandon that Station before long.

I agree also, with the Archdeacon, upon the advantage of Substituting educated Clergymen for Catechists at the Same rate of Salary and allowances. I have, &c.,

RICHD. BOURKE.

[Enclosure.]

[A copy of this letter, dated 29th September, 1831, will be found in a volume in series VII.]

GOVERNOR BOURKE TO VISCOUNT HOWICK.

(My dear Lord, Sydney, 28 February, 1832.)

Although I cannot at this moment forward the reply I proposed, I beg leave to acknowledge the receipt of your Lordship's letter of the 24th August last, enclosing the observations of Mr. Busby upon the extension of the Jury system in this Colony. I had hoped by this opportunity to have sent you full and complete answers to Mr. Busby's remarks, from the pen of Chief Justice Forbes who desired particularly to be allowed to reply to them. Both his time and mine have been so taken up in Council, since your Lordship's letter reached me, and the circumstance of the ship, which conveys this, having undertaken her voyage rather sooner than I expected, have prevented the preparation of the Reply in time for this mail. By the next which may be despatched in a week or so, I hope to forward it. Your Lordship is right in supposing I left England with a strong bias
in my mind towards the adoption of the Jury system to as great an extent as circumstances will permit. Since my arrival, I have not been able to discover why Military Jurors should still be continued to try the few criminal Issues for which Civil Jurors are not declared capable. Sir George Murray, in his despatch 7th April, 1830, admitted that necessity alone can justify the continuance of Military Juries, and, anxious to avoid the imputation of partiality on their part, desires that in criminal Trials where any member of the Executive Govt. or Naval or Military Officer is concerned, a Civil Jury may be resorted to. The law has been lately framed accordingly. The occurrence of Trial for Libel gave rise to this Instruction, and the Secretary of State probably contemplated a repetition of such trials when he issued it. Now these are trials of rather a difficult nature, and it may be inferred that, if a common Jury be equal to dispose of them, to the same description of Persons may safely be confided the trial of Felonies and misdemeanours. The 9 Geo. 4, Cap. 83 authorizes the Trial of Civil Issues by a common Jury, upon application of either party with consent of the Court. In practice, I understand the Court never refuses; it follows therefore that civil Issues involving any amount of property, and difficult criminal cases in which the bias of popular feeling is most to be apprehended, are triable by Civil Juries, whilst the law reserves for a Military Jury those cases with which, for the most part, popular feeling and prejudice and what is called the anomalous state of Society in this Colony are the most likely to interfere. There appears therefore no sufficient reason founded upon any alleged incompetency or disqualification in the Jurors for longer refusing to comply with the general desire of the community for extending the application of common Juries.

When I state the desire is general, I do not mean to deny that there is a strong party in the Colony opposed, not indeed to trial by Jury, but to the admission of any Person as a Juror who did not arrive in the Colony in a free condition. It is no answer to these persons to tell them that the law of England does not exclude from the Jury List persons, who have received a Pardon or endured the sentence of the Law for certain offences. The envy and ill will, which have been engendered by the competition offered by these Persons in the pursuit of wealth by the free Settlers, and the success, which has attended the efforts of the former, will not permit the latter to see that wealthy Emancipists have as great an Interest as themselves in putting down robbery and violence, and promoting the due administration of criminal justice. These jealous feelings are however confined to a set more powerful by the possession of large grants of Crown
1832.  
38 Feb.  
Opposition of members of council to emancipists as jurors.  

HISTORICAL RECORDS OF AUSTRALIA.  

lands, than by reputation, talents or numbers; the smaller Settlers, and nearly all who have been born in the Colony, feel no repugnance to the admission of Emancipists on Juries, and call loudly for the abolition of what is called the Military Commission.

It has happened that, of the seven Colonists whom the Secretary of State has placed in the Legislative Council, five are the principal opponents of the Emancipists and of Trial by Jury, if any of that Class are to be allowed to sit as Jurors. The Civil Servants in the Council, yielding probably to what has hitherto seemed to be the inclination both of the home and local Government, have for the most part expressed a similar opinion. Some of them are, however, not unwilling to reconsider the question, and I have little doubt of carrying it thro’ the Council next year, constituted as it is, if, by obtaining the order in Council for the institution of Circuit Courts, all difficulties on this score are removed. The notice,* which I gave on opening the Council last month, has paved the way for the introduction of the measure next year without any great opposition. I enclose a copy of the paper to which I allude and send a few others which may be useful.

I must now say a few words on the Land Question, connected as it is with the means of facilitating the introduction of free Emigrants from England. Upon my arrival, I found the Landed Interest in a great ferment and preparing all sorts of Petitions and Manifestos against the late Land Regulations. Upon looking into the matter, I thought I could perceive that there was more uneasiness felt on account of the short time allowed to the great Landholders to pay up their arrears, than on account of the change in the terms upon which Land is in future to be obtained. The debtors of the Crown were in truth taken by surprise, and about 130 persons were called upon to pay above £50,000 by the 30th day of June next. It was impossible they could do so, and the members of Council, who had advised this order, expressed their belief that it could not be complied with, but that it would have the effect of procuring the surrender of considerable portions of land, which it might be convenient to have in hand to dispose of to newcomers. This appeared to me to savour of injustice to our old friends, and, with only one dissentient voice, the Executive Council agreed to receive payment by 3 instalments, on the 31st March, 1832, 33 and 34. From this source, I can reckon on the annual receipt for three years of about from ten to fifteen thousand pounds, which may be applied to the promotion of Emigration from Great Britain, independently of what sums may be received by the sale of land within that period. The opposition to the new Land Regulation is nearly subsided.

* Note 154.
GODERICH TO BOURKE.

and an end is put, as I believe for ever, to remonstrances or petitions against it.

We shall be quite ready and thankful to receive the women from the agricultural Counties, if they are young and of good characters and industrious habits. I sincerely hope the selection has been made with care.

I had anticipated your Lordship's application for a copy of the Minute of Instructions, received from Lord Goderich in conversation in London, having forwarded it in duplicate by the late opportunities. I take great blame to myself for not having left a copy in Downing Street. I am proceeding in execution of those instructions by the appropriation of the Revenues by the Legislative Council, as the accompanying abstracts exhibit, and other measures which these Instructions direct. As yet every thing is going on very smoothly, and I have reason to hope that confidence is in great measure restored, animosity subsided, and a foundation laid for future peace and goodwill.

I have given your Lordship these details as I know your anxiety on the Land and Emigration subjects. I have not written to Lord Goderich so fully as I could have wished, but the truth is I find I have more to do than I can well get through. I hope, however, that this excess of work will diminish.

I can hardly express how much I am mortified by the recall of the Solicitor General.* He is the only useful lawyer whom the Crown has sent into this Colony for many years. I wish it were possible still to retain him.

I have had under my consideration the manner in which it has been usual to obtain supplies of Stores from this Country for the various public services for which they are required in the Crown Colonies, and it has appeared to me that the system, under which these Stores are supplied, needs regulation. It seems to have been customary for the Officer at the head of the Department for the service of which the Stores are required to forward a requisition for them to the Governor, who transmits it to the Agents for the Colony in this Country, by whom it is submitted to the Secretary of State with a request that he may be authorized to send out the articles. On the Agent receiving the authority of the Secretary of State, they are sent out accordingly.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(A circular despatch per ship Lady Harewood.)

Sir, Downing Street, 1 March, 1832.

I have had under my consideration the manner in which it has been usual to obtain supplies of Stores from this Country for the various public services for which they are required in the Crown Colonies, and it has appeared to me that the system, under which these Stores are supplied, needs regulation. It seems to have been customary for the Officer at the head of the Department for the service of which the Stores are required to forward a requisition for them to the Governor, who transmits it to the Agents for the Colony in this Country, by whom it is submitted to the Secretary of State with a request that he may be authorized to send out the articles. On the Agent receiving the authority of the Secretary of State, they are sent out accordingly.

1 March, 1832.

28 Feb.

* Note 156.
The Secretary of State, however, in the generality of cases, can have but little means of forming an opinion upon the propriety of supplying the articles enumerated in the Requisition, or whether it is really necessary that they should be supplied in the quantities and of the qualities specified; neither is it likely that this Department should be enabled to judge whether any want of care or frugality in the custody and use of public Stores has given occasion to the necessity in question, assuming it to exist. It is not often that there is any appearance of the Requisitions having undergone any especial scrutiny at the hands of the Governor, and thus the whole security for economy in this part of the Public Service seems to resolve itself into the responsibility of the Officers making the requisition. But whatever confidence may be due to the Officers at the head of the Departments in the Colonies, it is needless to observe that the motives of every such Officer to ensure the safe custody and economical use of the public property, entrusted to the Department over which he presides, will be materially weakened if he possess an unbounded facility of replacing to an indefinite extent all articles which may be spoilt, lost, wasted or stolen. His Estimates, of what is originally required for the execution of particular services, ought also to be subjected to strict revision and control.

I am therefore to acquaint you that the authority of the Secretary of State will be refused in future for the furnishing any supplies upon requisitions which shall not be submitted to him in conformity with the following Regulations:

First. There must be noted upon the Requisition the despatch from the Secretary of State or other document constituting the authority under which the expenditure involved in the Requisition is incurred; or, if no authority for the Expenditure has been yet obtained, a reference must be noted to the despatch from the Governor to the Secretary of State in which the circumstances requiring the Expenditure are explained and the authority applied for. When authority has neither been obtained or asked for, the Requisition must be noted as a "Requisition for the current supply of an Established and Customary Service"; and it is only when the Requisition can be strictly so designated, that the Governor should consider himself dispensed from applying for the special authority of the Secretary of State.

Second. No Requisition must be made to replace Articles spoilt or worn out, until a Board of Survey consisting of not less than three Public Officers, of whom the Chief Secretary to Government shall be President, have been holden upon the spoilt or worn out articles, the certificate of which Board, to the effect
that the Articles in question are unserviceable and necessary to be replaced, must accompany the requisition. The Officer at the head of the Department must, at the same time, be debited in his store accounts with the unserviceable articles, and the Board of survey must give the necessary directions for having them sold by Public Auction, whenever the quantity accumulated shall render such sale expedient. The Board must recite the directions, thus given in their Report; and they must also specify the time when the Stores under Survey were supplied, the period for which Stores of the like description may be reasonably expected to last, if properly taken care of, the causes to which they attribute the state in which the stores are found, and the causes to which they attribute the waste, loss, or destruction in other ways of those which are wanting.

Third. A Board similarly constituted to the above must be assembled to consider every requisition for articles not required like the above to replace others of a similar description; and this Board, taking into consideration the purposes to which the articles are to be applied, will correct or reduce the Requisition, as they may think proper, in order to bring it into conformity with the real necessities of the Public Service, and with strict economy in providing for them. They will fully set forth in their Report the reasons and the information by which their judgment shall have been guided, and this Report must be appended to the Requisition as altered or approved by them.

Fourth. The Governor will be expected to revise the Requisitions and Reports of the Boards; he will direct the Boards to reassemble and reconsider their Reports, should he see cause to object to them and, when the Requisitions are finally adjusted and transmitted to this Country, he will report the opinion which he shall have formed upon them.

I am, &c.,
GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(A circular despatch per ship Clyde.)

Sir,

Downing Street, 1 March, 1832.

I have the honor to transmit to you an Extract of a letter from Mr. Stewart, enclosing, by command of the Lords Commissioners of the Treasury, the copy of a letter which has been addressed to all Officers in Command on Foreign Stations, prohibiting them from increasing salaries or allowances, or authorizing any Public Expenditure without previous sanction. I am to desire that you will strictly adhere to their Lordships’ instructions
1832.
1 March.

Liability of governor for unauthorised expenditure.

in this respect, and you will not fail to observe that it is their Lordships' intention to give effect to the Provisions of the Act, 1 and 2 Geo. 4, C. 121, S. 20,* by making the Governors or Persons administering the Government at Foreign Stations responsible for all the Expenditure they may sanction without authority.

I am, &c.,

GODERICH.

[Enclosure No. 1.]

HON. J. STEWART TO UNDER SECRETARY HAY.

Sir,

Treasury Chambers, 23 July, 1829.

I am commanded by the Lords Comrs. of the Treasury to call your special attention to their Lordships' Circular letter of 30 Novr., 1821, and to acquaint you that so many improper and unauthorised issues still continue to be made under the authority of Officers in Command, contrary to the Royal Warrants, the directions and instructions of this Board, and other established Regulations, that my Lords will feel it their duty to give a more extensive effect to the 20 Sect. of the Act 1 and 2, Geo. 4, Cap. 121, copy of which was transmitted in the above letter unless such Warrants, Regulations, etc., shall henceforward be more strictly adhered to.

I have, &c,

J. STEWART.

[Enclosure No. 2.]

EXTRACT FROM TREASURY LETTER.

3rd April, 1830.

"I am commanded also by my Lords to transmit to you forSir G. Murray's information the enclosed copy of a Circular letter directed by my Lords to be forwarded to Officers in Command, and I am to request that you will take this opportunity of drawing Sir G. Murray's attention to the necessity of impressing the Governors at all Foreign Stations with the importance of adhering strictly to the injunctions they have repeatedly received, prohibiting them from increasing salaries or allowances, or authorising any Public Expenditure without previous sanction.

"My Lords also request that the attention of the Governors may be drawn to the Act of the 1st and 2d Geo. 4th, Cap. 121, Sec. 20, and that they may be apprised that it is the intention of this Board to give effect to the provisions of that Act by making the Governors or persons, administering to the Govts. at Foreign Stations, personally responsible for all the Expenditure which they may sanction without authority."

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(A circular despatch per ship Clyde.)

Sir,

Downing Street, 3d March, 1832.

The daily inconvenience and perplexity, to which this Department is subjected by the delay, which is unavoidably occasioned in attending to the questions, which are brought before it by the prevalence of a method of addressing communications to the Secretary of State, either not in conformity with the

* Note 157.
Regulations laid down in Lord Bathurst's despatch, marked separate of the 20 of May, 1826, or if, in nominal conformity with them, so contrived as to defeat its obvious intention, obliges me to recur to the subject and to request that you will give publicity to the following remarks for the guidance of those concerned.

It is by no means my desire to preclude or even to discourage the free resort of all His Majesty's Subjects to the highest authority in the State for the redress of any grievances, under which they may deem themselves to labour, provided they pursue the course of communication, which justice and fairness to all parties concerned, as well as convenience and regularity in the despatch of public business, render it necessary to prescribe.

The Governors of His Majesty's Colonies are the Authorities to which any of His Majesty's Subjects, being in those Colonies, should have recourse in the first instance for the correction of any evils under which they may conceive themselves to suffer. If the Governors are merely made the medium for transmitting documents to the Secretary of State, one of their most important functions and the practical utility of their Offices are altogether superseded. It is their duty to receive with attention all representations properly and respectfully addressed to them, and to make such decisions upon them as may appear to the best of their judgment to be just; or, if the matter be, from its nature or from its importance, such as they do not feel themselves authorized to decide upon, to refer it with their opinion and report to the Secretary of State. If on the other hand, although they feel themselves warranted in proceeding to a decision on their own judgment, their decision is not satisfactory to the parties concerned, it is their duty to receive the remonstrances which shall be respectfully addressed to them by those parties, and, if requested to do so, to transmit them to this Office, always however accompanied by their opinion and report. If the parties should be desirous for additional security to transmit to this Office duplicates of the communications which they may have made to the Governor, they are of course at liberty to do so, though it would seem to be a superfluous precaution, and one which is not unattended with inconvenience. But they should understand that the subject of such duplicate papers will not be taken into consideration until the originals shall have been received from the Governor, accompanied by his report, or until such a period of time shall have elapsed, as shall have afforded to the Governor an ample opportunity of considering and transmitting them. It must also be understood that should the letters, transmitting the duplicates, contain any comments...
upon the subject matter of them or anything beyond a list of the papers enclosed, it will be necessary, with whatever reluctance, to delay the consideration of the whole until the additional matter shall have been referred back to the Governor for his report.

The method, which, since Lord Bathurst's despatch of 20 May, 1826, has been frequently adopted by Memorialists to the Government, of addressing their Memorials direct to this Office and only sending copies of them to the Governor on the eve of the departure of the Vessel for England, is obviously calculated, if it were permitted to have any effect, to preclude the Governor's exercise of his proper functions. There can be no occasion to make any reference to the Secretary of State, until it shall have been ascertained that the Governor is unable or unwilling or slow to take the measures desired by the Memorialists, or to forward, if necessary, their representations.

At the same time that you give publicity to this despatch, you will be pleased to republish Lord Bathurst's despatch of 20 May, 1826, Both which communications have been suggested by an earnest desire to establish the most effectual and expeditious means of doing justice to all parties who may seek it from His Majesty's Government.

I am, &c,
GODERICH.

Viscount Goderich to Governor Bourke.

4th March, 1832.

[4 March, 1832.

A copy of this circular despatch, relating to the manner of voting public money in colonies where there was no legislative assembly, is not available.]

Under Secretary Hay to Governor Bourke.

(Despatch per ship Lady Harewood.)

Sir,

Downing Street, 5 March, 1832.

In addition to the cases of Vine Cuttings referred to in my Letter of the 26th Ultimo, I transmit to you herewith a statement of the particulars of three cases of Plants and two Boxes of Seeds obtained by Mr. Busby from Malaga and Xeus-de-la Frontera, which will, in like manner with the French Collections already shipped, be addressed to you; and I am to request that you will cause them to be placed under the charge of the Superintendent of the Government Garden at Sydney, with directions to him similar to those which you were requested to give with respect to the other collections.

I have, &c,

R. W. Hay.
[Enclosure.

PARTICULARS of three Cases of Vine Cuttings, and two boxes with Seeds to be forwarded to New South Wales by the ........

and addressed to His Excellency the Governor of the Colony.

Case No. 1 contains 300 cuttings of vines from Malaga, viz.:
80 Cuttings of Muscatel, the large White Grape which is dried for the finest desert Raisins.
100 Cuttings Pedro Ximenes, a white grape celebrated for the quality of the wine it produces throughout the South of Spain.
50 Cuttings of Larga, a very long white grape which is also dried for raisins for the Table. They are known by the appellation of San Raisins.
20 Cuttings Jacu, also white; this variety is used for Wine and also for Lexia Raisins.
20 Cuttings Machelli. This is also a white grape, and is chiefly consumed as an eating grape.
10 Cuttings of Gabriel. This is a black grape and is also an eating grape.
8 Cuttings of Doradillo. This is a white grape, and is used for wine and for Lexia raisins.
7 Cuttings of Don Bueno. This is a white grape, and is used in making wine.
5 Cuttings of Temprana, qualities not stated.
Case No. 2 contains 240 cuttings of Malaga vines, viz.:
100 cuttings of Muscatel as before.
40 do. Laisseu, a white eating Grape.
20 do. Gabriel as before.
10 do. Jacu do.
10 do. Don Bueno do.
Case No. 3 contains cuttings of vines from Xeus-de-la Frontera.—The varieties used in making Sherry wines; But the number of each variety is not stated, and they are not distinguished by any marks or numbers.
1st. 1 Bundle Pedro-Ximenes.
2nd. 1 do. Moscatel Meundo.
3rd. 1 do. Mantua Castellana.
4th. 1 do. Uvas del Rey.
5th. 1 do. Mollan.
6th. 1 do. Moscatel Gordo.
7th. 1 do. Machar Nudo.
The boxes Nos. 4 and 5 contain seeds from Malaga, the same quantities and description in each. With the exception of a parcel of Onion Seed. There is also a Book in No. 5. The contents of each box are:
2 pounds of dates.
1 paper parcel of Seed of the Valencia Melon.
1 do do Calaboza de Rota.
1 do do Sandia.
1 do do Tomatos, a variety of the Love Apple.
1 do do Pimintos, a sweet pepper.
1 do do Pepinos.
1 do do Sectrugus.
1 do do Escacolas.
One third of the Vine Cuttings are to be retained in the Government Garden to be propagated for general distribution, also one half of the Seeds. The remainder will be applied for on Mr. Busby's own account.

JAMES BUSBY.

London, 1st March, 1832.

6 March.

Despatch acknowledged re accounts of colonial agent.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 71, per ship Lady Harewood.)

Sir, Downing Street, 6 March, 1832.

I have had the honor to receive General Darling's despatch No. 51 of the 13th June, 1831, in which he enclosed a Report of the local Auditor upon the Accounts of the Colonial Agent for the years 1826, 1827, 1828, and 1829, and suggested the propriety of charging a portion of the Salary of the latter Officer upon the Revenues of Van Diemen's Land, the Agency of that Colony being conducted by him without any expense, hitherto, to Van Diemen's Land.

General Darling's despatch and its enclosures having been referred to the Commissioners of Colonial Audit for their Report, I herewith transmit to you a copy of the answer which has been received from them, by which you will perceive that they have recommended that two thirds (viz., £400) of Mr. Barnard's Salary should be paid out of the Revenues of New South Wales and the remaining third out of those of Van Diemen's Land. This division of the expense of the Agent between the two Colonies appears to me very equitable, and I have therefore to desire that the arrangement may take effect from 1st January, 1832.

With respect to the balance remaining in Mr. Barnard's hands at the end of 1829, which Mr. Lithgow estimates at £14,205 5s. 14d., it appears from the Auditors' Report that the real balance then in his custody was only £4,692 9s. 2d., and that the apparent discrepancy between the two amounts arises from Mr. Lithgow not having taken into account the disbursements made by the Agent for the service of Van Diemen's Land out of the common Funds of the Agency, which exceeded by £9,512 15s. 11d., the remittances from that Colony during the four years in question.

There can be no question that, from the date* at which the Colonies of New South Wales and Van Diemen's Land were made separate and independent, the expenses of each Colony ought to have been defrayed from its own resources, and, upon this principle, I should not hesitate to direct Colonel Arthur to

* Note 150.
repay immediately the sum in question to the Treasury of New South Wales; but, as I am unable to judge whether the Finances of Van Diemen’s Land are able to bear at once so unexpected a charge, I shall only call his attention to the subject and authorise him to make arrangements for gradually liquidating the claim, according as the Revenues of his Government may enable him to do so.

In conclusion, I beg to acquaint you that I have forwarded to Mr. Barnard a copy of Mr. Lithgow’s Report, with instructions to furnish you with the information stated to be necessary for the adjustment of the Colonial Accounts. I have further instructed him not to defray, without special authority, any expenses for the one Colony out of the Funds of the other, and, whenever it may so happen, to take the earliest opportunity of apprising the Governor, in order that the means of repaying the advance may be speedily remitted to him, and thus avoid the inconvenience of a confused account.

I am, &c.,
GODERICH.

[Enclosure.]

MR. G. W. BRANDE TO UNDER SECRETARY HAY.

Sir,
Colonial Audit Office, 2d February, 1832.

I am directed by the Commrs. of Colonial Audit to acknowledge the receipt of your letter of Decr. last, enclosing the copy of a despatch from the Govr. of N. S. Wales with several enclosures relating to the Accounts of Mr. Barnard as Agent for that Govt. in this Country; and, in compliance with your request that the Commrs. would report what portion of the Salary, received by Mr. Barnard as Agent for the Colonies of N. S. Wales and V. D. Land, it would be reasonable to charge against the latter Govt. I am directed to state to you that advertinge as well to the amount of the Expenditure incurred by the Agent for each respective Colony, as to the amount of Revenue raised in them, it appears to the Commrs. that it would be a fair apportionment of the Agent’s Salary, if two thirds of it were defrayed from the Funds of N. S. Wales, and one third from those of V. D. Land.

Referring to the observations of the Colonial Auditor relative to the apparent balance in the Agent’s hands at the end of the year 1829, I am to observe to you that the balance for which Mr. Barnard was actually accountable at that period was £4,592 9s. 2d. and that the great discrepancy between this amount and that of the balance stated by the local Auditor arises from the Auditor not having taken into account the Disbursements made by the Agent, during the four years referred to, for the service of V. D. Land, out of the common Funds of the Agency, and which exceeded by £9,512 15s. 11d. the remittances from the last mentioned Colony.
1832.
6 March.
Separation of accounts of colonies.

Mr. Barnard has latterly kept the entries in his Accounts of transactions relating to each Colony distinct, and it is to be presumed will have furnished the respective Govts. with statements of their separate Accounts; but I am to suggest that he should be desired to forward to the Govt. of N. S. Wales the information respecting the advances made to him in this Country, which the Auditor states in his Report to be required for the adjustment of the Account between the Colonial Govt. and H.M. Treasury.

I have, &c.,
G. W. BRANDE.

7 March.
Approval of reductions at dockyard.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 72, per ship Lady Harewood.)

Sir, Downing Street, 7th March, 1832.

I have received General Darling’s dispatch No. 73 of the 12th September last, stating that, in addition to the retrenchments before reported, he has been enabled to place the Establishment of the Dockyard upon a reduced scale; and I observe with much satisfaction that the arrangements carried into effect by him will diminish the Expenses of this Department even below those contemplated by the Commissioners of Colonial Enquiry, upon the subject of whose Report I had the honor of addressing you on the 29th of Sept., 1831. I have, &c.,
GODERICH.

8 March.
Approval of expenditure on clerk, etc., for attorney-general.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 73, per ship Lady Harewood.)

Sir, Downing Street, 8th March, 1832.

I have received General Darling’s Dispatch No. 80 of the 23rd September, 1831, enclosing the Copy of a Resolution of the Legislative Council on a minute presented by him to that Body on the subject of an allowance of £150 per annum to the Attorney General for the Services of a Clerk, £60 for furnishing and fitting up the office appropriated to his use, and £25 per annum to meet his expenses for Stationery.

I do myself the honor to acquaint you, in answer, that I approve, under the circumstances of the case, of the expenditure in question, and that the course pursued by General Darling for bringing these matters under the consideration of the Legislative Council appears to be in strict conformity with the Instructions conveyed to him by Sir George Murray in his Dispatch of the 12th of November, 1830.

I have, &c.,
GODERICH.
HAY TO BOURKE.

Viscount Goderich to Governor Bourke.

(Despatch No. 74, per ship Lady Harewood.)

Sir,

Downing Street, 9 March, 1832.

In reference to my despatch of the 28th of Sepr. last, announcing the intention of sending out a Ship containing Female Emigrants, and requiring preparation to be made for receiving them and furnishing them with information as to the opportunities of engaging themselves as Servants, I now have the honor to acquaint you that a Vessel will be despatched in the course of next month, containing Emigrants of this description. The persons to be sent out in this Vessel have principally been selected from the charitable institutions in the Towns of Dublin and Cork. My former despatch will have caused the collection of every information likely to be useful on this occasion, and you will probably be possessed of a list of the names and addresses of Settlers in want of Female Servants, as well as of the terms which they are willing to offer. I need scarcely observe that these Females must be treated entirely as free Agents, having their own choice of Service, and being in no respect required to enter into any other Bonds or engagements than they might have done, had they gone out from this Country at their own expense. You will provide a lodging, into which they may be received on landing, and until they can be disposed of in private Service, be employed in some suitable; the choice, as well as the conduct, of which will be best confided to the Matrons, by whom they will be accompanied to the Colony. It has been suggested to me that the formation of a Ladies’ Committee, should you find in the Colony a disposition favourable to that object, might tend to secure a successful issue to this Emigration. For the adoption of this or of any other measure, which may seem likely to be useful, I shall rely upon the disposition that I am sure you will feel to secure to these Emigrants every means of prospering in the Country which they have chosen for their future home.

I am, &c.,

Goderich.

Under Secretary Hay to Governor Bourke.

(Despatch per ship Lady Harewood.)

Sir,

Downing Street, 10 March, 1832.

With reference to Mr. Twiss’s Letter of the 11th January, 1830, to General Darling, I am directed by Viscount Goderich to transmit to you the Copy of a further Letter from Mr. Appleyard relating to the affairs of Mr. Mills late Registrar of the Supreme Court of New South Wales; and I am to request, in the event of no Communication having been made to this Department
1832.
10 March.
Particulars to be given by W. H. Moore.

since that, dated the 20th of June, 1829, that you will call upon Mr. Moore to furnish you with the additional particulars required. As to the late Mr. Mills' private papers, it must of course rest with Mr. Moore, as Executor, to part with them or not, as he shall think proper; but Lord Goderich cannot consider that he will have any excuse for withholding Copies of the accounts which are applied for in behalf of the relations of the deceased, and therefore trusts that there will be no unnecessary delay or difficulty opposed by Mr. Moore to a compliance with their request.

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

[Enclosure.]

MR. R. L. APPLEYARD TO UNDER SECRETARY HAY.

Sir,
Lincoln's Inn, 7 March, 1832.

I take the liberty of addressing you on behalf of the family of, and of requesting your official assistance in obtaining for us some further information from N. S. Wales relative to the affairs and property of G. G. Mills, Esq., the late Registrar at Sydney, who died there in the month of February, 1828.

On the receipt in August, 1828, of intelligence of Coll. Mills' death, Mr. Twiss (to whom I have the honor to be known) was kind enough to write to the then Governor, requesting him to procure and transmit home some information relative to his affairs and the property he had left behind him; and, in June, 1829, Mr. Twiss sent me the reply he had received from Genl. Darling to his application, enclosing a letter from W. H. Moore, Esq. (who it appeared had acted in the Colonel's concerns) stating in general terms that the property of Mr. Mills was only capable of paying 5s. in the pound, but without transmitting any account whatever of his Effects, or sending over to me (who was well known there to be his confidential and professional friend, as well as his Attorney in England) Mr. Mills' private papers, as had been particularly requested. On receipt of Mr. Twiss's communication, I, on the 23d of Decr., 1829, addressed another letter to that gentleman, a copy of which Mr. Twiss was kind enough to transmit to Sydney in a despatch of the 11th of January, 1830, to which no reply whatever has since been received, as I have found after repeated enquiries at the Colonial Office; in consequence of which (and as the only probable effective means of procuring one) I venture to intrude upon you, Sir, with a request that you will have the goodness to apply for and endeavour to procure, thro' such channel as you shall judge the best, the transmission to me of the private papers of Coll. Mills, and an account of his property left at his death with the Executorship Account and the Balance, if any, now left of it, and of the sale of his land, if effected since the period of Mr. Moore's letter.

I have, &c.,
Robt. L. Appleyard.
GOVERNOR BOURKE TO VISCOUNT GODOERICH.

(Despatch No. 34, per ship Strathfieldsaye; acknowledged by Viscount Goderich, 23rd September, 1832.)

My Lord,

Government House, 14th March, 1832.

I have to acknowledge the receipt of Your Lordship's despatch of the 24th Sept., 1831, No. 22, informing me of His Majesty's pleasure that Mr. McDowell Should be removed from the office of Solicitor General in this Colony, with which I immediately acquainted that Gentleman.

This intimation arrived at the opening of the Criminal Sessions, a Moment at which it would have been entirely prejudicial to the public Service to have removed Mr. McDowell from office. The Charge of conducting the Crown prosecutions rested wholly with him, the Attorney General being then much engaged in the Legislative Council. I therefore thought it right to leave Mr. McDowell in possession of his Office for a short time, that the business of the Crown before the Supreme Court might not be interrupted. By the end of this Month (Should Mr. Plunkett not Sooner arrive), Mr. McDowell will be removed from his Office.

In making this Communication, I think it due to Mr. McDowell's professional Character to acquaint Your Lordship that he has Conducted the Criminal Trials, to which I have alluded, with great Credit and effect. I have, &c.,

RICH. BOURKE.

VISCOUNT GODOERICH TO GOVERNOR BOURKE.

(A circular despatch per ship Clyde.)

Sir,

Downing Street, 15 March, 1832.

I herewith transmit to you a Copy of an Address from the House of Commons for Returns of the amount of the several Fees chargeable on the Instruments therein described, stating to what persons and for what purposes, and in what proportion paid, also by what authority the said Fees respectively are demanded and received, and the dates at which the Fees were fixed, as far as the same can be complied with, and the appropriation thereof.

I have to request that you will transmit to me, with the least possible delay, a Return of any Fees which may be chargeable in the Colony under your Government, of the description mentioned in the Address, with the further particulars therein required, for the purpose of being laid before the House.

I have, &c.,

GODERICH.


**HISTORICAL RECORDS OF AUSTRALIA.**

1832.
15 March.

Returns re fees required by house of commons.

Resolved, Martis, 7° Die Februarii, 1832.

That an humble Address be presented to His Majesty, that he will be graciously pleased to give directions that there be laid, before this House, A Return of the amount of the Several Fees and Stamp Duties now chargeable on the Appointment to each and every Office, Place, or Employment, Commission, Grant, Pension, Patent, Rank, or Precedence, Civil or Military, Judicial and Ecclesiastical, under the Crown, within the United Kingdom of Great Britain and Ireland, Dominion of Wales, Town of Berwick upon Tweed, Isles of Guernsey, Jersey, Alderney, Sark and Man, and also in His Majesty's Foreign Possessions, Colonies, and Plantations (the British East Indies excepted), distinguishing Fees from Stamp Duties, and stating to what persons, and for what purposes, and in what proportion paid; also, by what Authority the said Fees respectively are demanded and received, and the dates at which the Fees were fixed, as far as the same can be complied with, and the appropriation thereof.

Ordered,

That the said Address be presented to His Majesty by such Members of this House as are of His Majesty's Most Honorable Privy Council.

J. H. LEY.

**GOVERNOR BOURKE TO VISCOUNT GODERICH.**

(Despatch No. 35, per ship Strathfoildsaye; acknowledged by Viscount Goderich, 6th November, 1832.)

My Lord,

Government House, 15th March, 1832.

I have the honor to transmit for Your Lordship's Consideration an Application from the Revd. Mr. Cross, assistant Chaplain in this Colony, for Leave to Select four Sections of Land as portions for his two daughters, in accordance with the Instructions of Secretary Sir George Murray, Conveyed in his Despatch to Lieut. General Darling, No. 113, 25th May, 1829. I have declined granting the Land in question Until I shall receive Your Lordship's Commands upon the Subject, Conceiving it possible that the late regulations for the Sale of Crown Lands may be considered as Cancelling these Claims.

I have, &c.,

RICH. BOURKE.

[Enclosure No. 1.]

**MINUTE No. 6.**

Government House, 12 January, 1830.

Let it be notified to the Archdeacon that the Secretary of State has signified (despatch dated 25th May, 1829, No. 113) the decision of His Majesty's Government on the subject of improving the situation of the Chaplains employed here, which is to the following effect, viz.:

1. That each Chaplain shall be allowed "a decent parsonage House" and "a sufficient portion of land to serve as Glebe" (in any case not to exceed 40 Acres).
2. That each Chaplain shall receive land to serve as a future provision for his Widow and such other Members of his Family as shall not, at the time of his decease, have become independent of his support; to be granted as follows, that is, 1,280 acres at the end of five years' service and a further grant to the same extent at the end of Ten years' service.

3. The Chaplains, who receive the £100 a Year granted by the Corporation as an equivalent for the 400 Acres formerly assigned to them as a Glebe, will not be allowed the grants alluded to in Par. 2, except they relinquish the above allowance of £100 a year.

4. That the Sons of the Clergy (whose character and conduct shall render them deserving the Indulgence) shall receive three square Miles or 1,920 Acres, on attaining the Age of nineteen, on condition of their residing on the land, and the Daughters, two Square Miles, or 1,280 Acres as a portion from the Crown, on their attaining the age Eighteen.

Let the Archdeacon be requested to send in a Return of the Chaplains, stating,

1. The period they have respectively served in the Colony.
2. The lands they have received by grant from the Government, specifying the date and quantity of each, whether in their immediate possession, and what portion is cleared, under cultivation, etc.
3. The Names of the Chaplains, who are allowed £100 per Annum in lieu of the 400 Acres of land formerly granted as Glebe.
4. The Names of the Sons and Daughters of each Chaplain now alive and residing in the Colony, specifying their Age, and if married.

[Enclosure No. 2.]

REVEREND J. CROSS TO COLONIAL SECRETARY MACLEAY.

Sir, Port Macquarie, 13th February, 1832.

In consequence of instructions from the Venerable The Archdeacon, dated January 28th, 1830, I have the honor to make application for leave to select four Sections of land for my two Daughters, who are now become of Age to receive their Grants; and in trust for them I undertake to abide by such regulations as are fixed by The Right Honorable The Secretary of State.

JOHN CROSS.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

My Lord, Government House, 16th March, 1832.

In reply to Your Lordship's Despatch of the 25th September, 1831, No. 23, I have the honor to State that the whole of the Proceedings in the case of the Revd. F. Wilkinson were forwarded through the late Governor to the Bishop of the Diocese at Calcutta, in conformity to the 12th Article of Instructions* from Earl Bathurst, dated 21 December, 1824. To this Communication, no answer has as yet been received.

* Note 160.
1832.
16 March.

Reasons for submitting statement to ecclesiastical board.

I am requested by the Archdeacon of New South Wales to add that, in forwarding a Duplicate Statement to the Secretary of the Ecclesiastical Board in London, he was guided by a Verbal Instruction made to him by the Under Secretary of State previously to embarkation, Signifying it to be the wish of His Majesty's Government that he should communicate to the Board every occurrence of importance, in order that the Board might be prepared to advise upon any question, which might be referred to them by the Secretary of State.

I have further to observe that the Revd. F. Wilkinson remains suspended from his functions, but in receipt of salary, which, however, I understand it is your intention to withdraw upon the arrival in the Colony of an unfavorable decision on Mr. Wilkinson's Case by the Bishop of Calcutta.

I have, &c.

RICHD. BOURKE.

17 March.

Exploration by T. L. Mitchell.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 37, per ship Strathfieldsaye.)

My Lord, Government House, 17th March, 1832.

I found upon my arrival here that the Surveyor General had obtained leave* from the acting Governor, Colonel Lindesay, to proceed to the North West of the Colony to trace the course of a large River, which a fugitive Convict, upon his being brought back by the Police, asserted he had seen and traversed its banks to the sea, supposed to be the Gulf of Carpentaria. Major Mitchell is now returned to the Colony. During his absence, two letters of which copies are transmitted herewith were received from him, and serve to shew that the accounts of the Convict were fallacious.

I have, &c.

RICHD. BOURKE.

[Enclosures.]

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

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 38, per ship Strathfieldsaye; acknowledged by Viscount Goderich, 10th October, 1832.)

My Lord, Government House, 17th March, 1832.

Upon my arrival here in December last, I found the Surveyor General Major Mitchell had obtained leave of absence to proceed upon a journey of discovery in the North Western parts of New Holland. I was therefore unable to carry into

* Note 161.
effect the instructions contained in Your Lordship's despatch of
the 8th of July, 1831, No. 5, for investigating a Complaint
brought forward by that Officer against the local Government.

Subsequently, on perusing the recent correspondence of
General Darling with Your Lordship and the Minutes of the
Executive Council, I discovered that Several heavy Charges
against Major Mitchell had been transmitted to Your Lordship
and his removal from employment Solicited in General Darling's
Despatch of the 28th March, 1831, Marked Separate.

Major Mitchell is now returned; but I have not thought it
necessary to communicate with him on the Subject of Your
Lordship's Despatch above referred to, as the Complaint he has
made against the local Government is in truth of a frivolous
Character, and I expect to be honored with Your Lordship's
Commands in reply to the Despatch of General Darling. In
the meantime, I am employing Major Mitchell in the important
and very pressing duties of his Department.

I have, &c,

RICH. BOURKE.

VISCOUNT GODERICH TO GOVERNOR BOURKE.
(Despatch No. 75, per ship Clyde; acknowledged by
Governor Bourke, 2nd May, 1832.)

Sir,
Downing Street, 18th March, 1832.

General Darling's despatch No. 71 of the 7th of September
last has been received; and I am glad to find that he had relinquished
the intention, notified in his former communication of
the 4 of June, of appointing Captain Sturt to the office of Resident
at New Zealand, being of opinion that a more advantageous
mode of employing that Officer's services might be found, by
dispatching him on an Expedition to explore the course of the River, which he discovered flowing into the Murray, and which
he considers to be a continuation of the Darling. The settlement
of this important point appears to be worthy of the enterprise
and zeal in pursuing his discoveries, which have been manifested
by Captain Sturt; it would decide the question as to the
identity of those Streams, and would also throw much light on
the interior Geography of a large portion of Country as yet
unexplored.

It is of little consequence whether the exploring Party, to be
sent out, commence its researches from the point where Cap­
tain Sturt fell in with the Darling River in 1829, or trace
up its course in a North Easterly direction for the purpose of
1832. 15 March.

Instructions re proposed exploration.

Preference for extension of settlement.

Selection of leader in place of O. Sturt.

Nomination of J. Busby as resident in New Zealand.

ascertaining the identity of the Stream. In either case, much information cannot fail to be obtained as to the tributary waters, which it probably receives, and an accession of Geographical knowledge be obtained, which will throw considerable light on the prospects of extending our Settlements in that direction. It would perhaps be more advisable to adopt the latter of the courses pointed out, and the traveller might then, having reached the point of Captain Sturt's discovery of the Darling in 1829, or having attained the same latitude (should the two streams not turn out to be identical) be instructed to pursue a northwestern course for 3 or 4 degrees of Latitude, till he reached the Longitude of 140, should the nature of the Country permit him to do so, and then to bend his steps to Moreton Bay; and by this means he could not fail of adding materially to the information respecting this tract of Country, which was first made known to us by the discoveries of Mr. Cunningham.*

It has always been my fixed opinion that, as well on account of the temperature of the Climate being more congenial to the European Constitution, as to preserve as far as possible the compactness of the Settled Country, the first efforts of the Local Government ought to be directed to the extension of Our Settlements to the Southward; but, at the same time, it cannot be unimportant that the nature of the Country in the immediate neighbourhood of all the settled Districts should, as far as possible, be ascertained.

Should the arrangement, which is proposed for sending out Captain Sturt on such an Expedition as that which has been mentioned, not meet with that Officer's wishes, another Person, calculated for the task, should be employed instead of Captain Sturt in exploring the course of the Darling; but it will be essential that no one should be employed in this service, who may not have shewn himself fitted for the prosecution of such an undertaking; and it will be proper also that he should be accompanied by some one, who is accustomed to use the necessary instruments for taking observations in exploring the Country, and that the attention of the Head of the Expedition be directed to the importance of keeping an accurate Journal of his progress, and of following the other Rules contained in the enclosed memorandum.

In my Despatch No. 63 of the 31 of January last, I expressed my concurrence in the appointment of a Resident at New Zealand, and I have now to acquaint you that I am desirous that Mr. J. Busby, who has shewn much intelligence in the information which he has given to this Department as well as to a

* Note 162.
Committee of the House of Commons on matters connected with the Australian Provinces, should be employed in that Situation, to whom you will recommend to the Council to assign a salary at the rate of £500 per annum. In this arrangement, I have been influenced by the consideration that it will be inexpedient, as well in point of policy as with reference to expense, to detach any Troops to those Islands, at any rate, until they can be more easily spared from other duties, and until the feelings of the New Zealand Chiefs, in regard to their appearance amongst them, can be correctly ascertained.

I am, &c.,

GODERICH.

[Enclosure.]

RULES TO BE OBSERVED BY PERSONS EMPLOYED ON EXPLORING PARTIES.

1st. Never to set out without the following Articles, viz.:—the Ephemeris of the year, a Sextant, an Azimuth Compass, an artificial Horizon, and a Chronometer or well regulated watch, set upon the Meridian of the place of departure, in order to take as frequently as possible during their Journies either Solar or Lunar Observations to determine the Longitude and Latitude of the places upon their Route; the calculations for that purpose may be made on their return home.

2d. The bearing of their Route every time they alter their course (if only for half a mile) to be accurately noted with the distance pursued upon that course. At night a computation to be made of the distance explored during the day from first setting out in the Morning to the bivouacking at night, with the general bearing of the last place, compared with that at starting.

3. Particular attention to be given to every object worthy of remark which they may meet with either on their Route or at a distance from it. Mention will be made in their Journal of the Bearing, Distance and Situation of such object; whether to the right or left of their Route, with a minute description of its form and character.

4. Whether those Bearings be deduced from the Pole of the World or the Magnetic Pole; in either case, it must be stated what is the Angle of variation East or West, between the Meridian and the Needle. N.B.—If the place of observation be situated within 30 miles of the place of departure the difference of variation cannot be very great, but at a greater distance it begins to be sensible and must be noticed.

The Journal of the Traveller ought to contain the minutest particulars in reference to the foregoing Rules, for, without such information, it is impossible for the Hydrographer of this Dept. to construct an accurate Map of the Discoveries which may be made. Many of those already accomplished have been very imperfectly delineated in consequence of the brief or superficial manner in which some of the Journals transmitted to this Office have been kept. It is essential also that a Draft or Sketch of each Expedition should accompany the Journals.

R. W. Hay.

Colonial Office, Febry., 1832.
GOVERNOR BOURKE TO VISCOUNT GODERICH.
(Despatch No. 39, per ship Strathfieldsaye.)

My Lord,

Government House, 19th March, 1832.

I have the honor to transmit for His Majesty's gracious allowance fifteen Acts of Council passed at the late Session. It may be convenient that I should State Succinctly to Your Lordship the objects and particular enactments of each.

2d Wm. 4, No. 3 Is an act for regulating the Constitution of Juries in New South Wales. It is in all essential respects the renewal of a former act, which expired last December. In two particulars indeed, it has a More liberal tendency than the Act which it replaces. By Section 24, Bank Directors are placed on the list of Special Jurors, which was not the case before. The reason was this, that one or more of the Directors are of the Class termed Emancipists, and, though Gentlemen who came out free do not refuse to associate with Emancipists in the direction of a gainful concern, they deemed it a Contamination to Sit in the Same Jury Box with them. This prejudice after Some debate and a division, was overcome. By Section 40, Civil Jurors are to try Cases in which the Government or Naval or Military Officers are Prosecutors. This enactment was introduced in obedience to the directions of Secretary Sir George Murray, Conveyed in his Despatch of the 17th of July, 1830, No. 63. In the next Year, I hope another Step may be gained on the path to the British Institution by Superseding the Military Jurors altogether.

2d Wm. 4, No. 4 Fixes the Salaries of the Governor and Judges, and Makes them payable out of the Revenue of Customs. This Act I received Your Lordship's Instructions to initiate. It will have the effect of rendering an annual application to the Legislative Council for the Salaries of the Governor and Judges unnecessary.

2d Wm. 4, No. 5 Is an Act for amending the Customs Law by enabling Officers to Seize Unlicensed Boats and apprehend Smugglers. It differs from the English Law in no other particulars than the Application of reduced penalties and the omission of a power to apprehend Passengers on board Unlicensed Boats, which the English Act conveys. I do not understand that Smuggling prevails to any great extent in the Colony; Nevertheless this law was wanting to Supply a deficiency in a former Enactment.

2d Wm. 4, No. 6 Is an act directing all fines and penalties, which Under Ancient laws were ordered to be paid in Dollars, to be now paid in British Silver.

2d Wm. 4, No. 7 Is an act to regulate foreign attachment. This Bill was drawn by the Chief Justice and is calculated to
prevent the Commission of fraud, which has been practised with
great success and to a large amount in some recent instances
by persons absconding to avoid payment of their just debts,
leaving property behind them which was afterwards sold and
the proceeds remitted to them. The property may now be at-
tached and sold for the benefit of creditors under certain
regulations.

2nd Wm. 4, No. 8. This act renews one about to expire, the
object being to abate a serious nuisance to the public, caused
by an immense number of half-starved dogs which used to roam
through the streets of sydney. the number of these animals at
large is still excessive.

2nd Wm. 4, No. 9. This is the renewal of an act which ex-
pires the 21st of April next. it was passed in 1830, when the
roads were infested by bushrangers, and it was unsafe to pro-
ceed even a short distance from sydney without an escort or
being well armed and in company. burglaries had become
common, and i am informed there was an absolute want of
security for life and property within the best peopled parts of
the colony. certainly a less alarming state of society would
not have justified the passing of a law which subjects all per-
sonts to be arrested on suspicion without a warrant, and em-
powers a justice of the peace to detain any person in custody,
or to send him from any distance to sydney, unless he can
prove to the satisfaction of the justice that he is not a trans-
ported felon, and further enables justices to issue general search
warrants to be executed by day or night.

i am happy to say that the present state of the colony is very
different from that which induced the council to pass so
restrictive a statute. highway robberies and housebreaking
are now by no means frequent, and the roads are traversed at all
seasons without greater precaution than is frequently used in
england. it was therefore with extreme reluctance that i
yielded to the unanimous application of the council and intro-
duced a renewal of the act of 1830. the council attributed the
present security to the operation of the act, and expressed great
apprehension of a renewal of outrage, if it were so soon to be
withdrawn. feeling that i had not acquired such a knowledge
of the country, as would justify me in resisting the unanimous
opinion of the council upon so important a subject, i brought
in the bill, the duration of which is limited to two years. i
would have confined it to one only, but his majesty's instruc-
tions forbid the passing of any acts for a shorter period than
two years.

* Note 165.
1832.
19 March.

2nd Wm. 4, No. 10 Is an Act for regulating the engagements of Merchant Seamen. It was called for by the Merchants of Sydney, principally to control the Conduct of Crews of Merchant Vessels arriving in Port Jackson for refreshments or to fit out for a Whaling Voyage. On the arrival of these Vessels, the Crews used frequently to desert in Contravention of their Articles, and there existed no Summary process by which they could be compelled to return to their duty. This act provides a remedy and regulates the engagements of Seamen upon the principles of the 2 Geo. 2, Cap. 36. I trust, when its existence is known to Masters of Vessels and their Owners in British Ports, that Port Jackson will become the resort of a great portion of Shipping, which has been kept away from apprehension of inconvenience and loss occasioned by the former defective State of the Law.

2nd Wm. 4, No. 11 is an Act for the relief of Insolvent Debtors. In 1830, An Act* was passed for the Same purpose, but Containing all the Bankrupt Clauses of the English Acts and much of the regulations and Machinery, by which the Estates of declared Insolvents are (or have been Until lately) administered in England. After a trial of nearly two years, this System was found Unsuitable to the State of Society in the Colony, and many frauds are alleged to have been practised under cover of the law. The former act expires on the 2d April next, having been at first passed for two years only. It will be replaced by the Act now under Consideration, the objects of which are to relieve a Debtor from imprisonment upon his giving up to his detaining Creditor the property he possesses, and engaging to Make a full payment of the debt, if he Should at any Subsequent time acquire the means of discharging it.

2nd Wm. 4, No. 12. This is a Kind of general Turnpike Act, the want of which occasioned much inconvenience and even placed the Collectors of Toll in a doubtful position. The rates are Moderate and will provide for the repair of the Roads on the most frequented lines at Short distances from Sydney. The distant roads of long extent are Supported by payments from the general Revenue of the Colony.

2nd Wm. 4, No. 13 Establishes a Savings Bank in New South Wales, with many of the Provisions of the English Acts regulating Such Institutions. It was called for here, in Consequence of its having been long a practice to take from the Convicts on their arrival what money they possessed, which was placed in the hands of Mr. Robert Campbell, a very respectable Merchant in Sydney, who allowed the Convict the benefits of a Savings Bank, and engaged to pay an interest of 7½ per Cent. At the Close of

* Note 166.
last Year, the Sum in Mr. Campbell's hands Amounted to Near eight thousand pounds, for which this Government is considered responsible to the Convict Depositors. No Security has been given by Mr. Campbell, who has, in addition to the Sum I have stated, about two thousand pounds in his hands, deposited by free Persons at the Same rate of interest as the Convicts. The present Act will enable free Persons to remove their deposits to the Savings Bank if they please; and I have Called on Mr. Campbell to make arrangements for paying into the Colonial Treasury, to the Credit of the Trustees, the Money due to Government on account of the Convicts. Mr. Campbell requires time to make these payments, as he States the principal part of the Deposits is lent on Mortgage at ten per Cent.

2nd Wm. 4, No. 14. This is an Act Substituting a declaration in lieu of an Oath in certain Custom House transactions, and is a Copy nearly of the English Act, which the Commissioners of Customs transmitted to the Collector here, with the view, I understand, of procuring the adoption of a Similar Measure in the Colony.

2nd Wm. 4, No. 15 Renews an Act* by which Slaughter Houses are required to be licensed, and the Skins of Slaughtered Cattle are Submitted to the Inspection of an Officer, who registers the Brand and Marks. The object is to Check Cattle Stealing, which the Bill is Said to have accomplished in a considerable degree. The Officer is paid or nearly So by the Amount of Fees Collected.

2d Wm. 4, No. 16 Establishes the Market dues at Sydney and Parramatta upon a more equitable footing than they Stood before, with reference to the present low price of Cattle and Agricultural produce. It also legalizes and regulates the Collection of Market dues, and will enable me to establish Separate Markets for Certain distinct objects of Sale to the great convenience of the Town.

2nd Wm. 4, No. 11 Is an act for appropriating the Revenues of the Colony for the Year 1832, and, being an Annual Act, has been passed Under the Authority of Your Lordship's Instructions on this Subject. The Several Items of Expenditure were first discussed and agreed to in the Shape of Resolutions. They are for the most part Such as have been approved of by the Secretary of State. In a separate Despatch, I shall have the honor of laying before Your Lordship the Grounds upon which those expences, which have not been So Sanctioned, are proposed to be incurred. I enclose herewith a printed Copy of the appropriation Bill, as it passed the Council.

I have, &c,

RICH. BOURKE.

* Note 167.
VISCONT GODERICH TO GOVERNOR BOURKE.

(Despatch per ship Clyde; acknowledged by Governor Bourke, 18th March, 1833.)

My dear Sir,

Downing Street, 20th March, 1832.

I beg leave to enclose to you a copy of a letter, which I have received from Sir Colin Campbell on behalf of his relative Mr. Patrick Campbell, who was temporarily employed by General Darling in the Department of Roads and Bridges, but was discontinued when that Department was placed by Sir George Murray under the charge of the Surveyor General. The General seems to infer from the circumstance of two other persons, junior to Mr. Campbell, having been reinstated whilst Mr. Campbell remains unemployed, that he has been guilty of misconduct; I have to request that you will make enquiry on this point, and, if you should be satisfied that Mr. Campbell is not disqualified for further employment by the Government, that you will confer upon him some small appointment which may compensate him for the one which he lost, whenever circumstances may enable you to do so, without interfering with the interests of other claimants.

I remain, &c.,

GODERICH.

[Enclosure.]

SIR COLIN CAMPBELL TO UNDER SECRETARY HAY.

My dear Hay,

34 Pall Mall, 17 Feb., 1832.

I write you these few lines as I may not have the pleasure of seeing you.

I spoke to you a considerable time ago regarding a Relation of mine, who went to New South Wales with his family as Settlers; they were unfortunate being obliged to sell their property and went with the residue of that property to try their luck there, and were doing very well until the death of their Father, who was head Land Surveyor. The Son Patrick Campbell was the Senior of three assistants in the same Department, but orders went from home to reduce them; two of them have since been reinstated who were junior to my Relation, I presume by the applications of their friends at home. My Relation feels himself aggrieved by being overlooked. He would not have ventured to have said one word of the reduction, but it looks as if something improper in his conduct as the two Juniors were reinstated. I have therefore only to request you to do me the favor to enquire into this, and have him reinstated, if he is found deserving, which I have every reason to believe he is; and, if he cannot be appointed to his former situation, that you will do what you can to appoint him to another.

I remain, &c.,

C. CAMPBELL.
Viscount Goderich to Governor Bourke.
(Despatch No. 76, per ship Clyde.)

Sir,
Downing Street, 21st March, 1832.

I have received General Darling’s Despatch No. 66 of the 23d August, 1831, on the subject of Mr. Foster’s remuneration for discharging the duties of Inspector of Slaughter Houses.

As this subject has been regularly brought under the consideration of the Executive Council, who have stated that the whole of the fees collected by Mr. Foster in the execution of his duty, if granted for his benefit, will not in addition to his salary be more than a fair remuneration for his services, I have no objection to allow the augmentation which has been thus made in his Emoluments; but, as I am by no means satisfied as to the necessity of continuing this appointment, you will take an early opportunity of enquiring into the nature of the duties which devolve upon the Inspector; and, if you shall consider it practicable to dispense with the Services of such an officer without prejudice to the Interests of the Public, you will immediately carry such an arrangement into effect, providing otherwise for Mr. Foster in the best manner that circumstances may permit.

I am the more sanguine that this reduction of Expense may be made, as I observe that the Board of Officers, who were assembled by General Darling in November, 1826, to remodel the scale of Salaries at that time enjoyed by the respective officers of the Government, reported it to be their opinion that the office of “Superintendent of Government Slaughter Houses” might be abolished, the Regulations, under which this Establishment was formed, being no longer in force.

I have, &c.,
Goderich.

Viscount Goderich to Governor Bourke.
(Despatch No. 77, per ship Clyde.)

Sir,
Downing Street, 22d March, 1832.

I have to acknowledge the receipt of Colonel Lindsay’s Despatch No. 3 of the 16 of November last, inclosing an application from the Surveyor General in favor of Mr. Thompson’s claim to Lodging Money.

The ground, upon which this application is supported by the Surveyor General, is that Mr. Thompson’s Employment at Sydney, in assisting the head of his department in arranging the Plans and Graphic Records belonging to it, exposes him to a heavy charge for House Rent and to other Expences, to which
an assistant Surveyor, employed in the Bush under Canvas and having Rations, is not equally liable. In estimating, however, the pecuniary advantages which one species of Employment confers over that of the other, it appears to have escaped attention that the Surveyors, whose duties call them into the Interior, are also liable to charges from which the same Officers when employed at home are relieved. I allude in particular to the expence attendant upon the keep of a horse, for which Mr. Thompson receives the same allowance in lieu of forage as the other Officers of his Department, whilst there is not the same necessity for his incurring it.

The Sum paid to Mr. Thompson on that account will thus be available towards defraying any extra charge to which he may be exposed for House-Rent, and I do not therefore feel myself at liberty to sanction the issue to him of any additional Remuneration, as, by doing so, I should be conferring advantages upon him which are not enjoyed by the other officers of the Surveyor General's Department, whose services, without any disparagement to Mr. Thompson, are of as much importance perhaps to the public, as any which he may have performed.

I have, &c,
GODERICH.

Viscount Goderich to Governor Bourke.
(Despatch No. 78, per ship Clyde.)

Sir, Downing Street, 24th March, 1832.

Having received a Dispatch from General Darling of which the enclosed is an Extract, I consider that I should at once endeavour to remove the very important misapprehension under which he seems to have labored in regard to the circumstances under which it was decided that his Government of the Australian Colonies should be brought to a close.

I do not feel that I am called upon to make any comment on the correspondence, which seems to have taken place between Mr. Hume and the Editor of the "Sydney Monitor," excepting to express my regret that any one of the daily Journals of New South Wales should be written with so vindictive a spirit as is displayed by Mr. Hall in such of his papers as have been brought under my notice, and to add my anxious hope that a better tone than that which has prevailed hitherto will be found in general amongst the publications which issue from the Colonial Press.
In regard, however, to the particular grievance of which General Darling complains, I feel myself bound to observe (not only for your Information, but with a view to your giving the utmost publicity to the statement) that the change in the Government of New South Wales, which has recently taken place, was in no degree whatever produced by any representation, which might have been made to this Department by any of those persons in England who were inclined to disapprove of the mode in which its affairs had been administered by General Darling; and that nothing could be more erroneous than the supposition that any observations contained in an intemperate newspaper or any suggestions from those at home, who might think fit to espouse the cause and adopt the Language employed in such a publication, could have any influence whatever with His Majesty's Government in deciding on a measure of so much importance as that of a change in the Government of a distant Colony, whether such a step be regarded with reference to the public Interest, or to those of the officer whom such a decision would more immediately affect.

I have, &c.,

Goderich.

[Enclosure.]

[This extract comprised the second and third paragraphs on page 401.]
have enabled Mr. Kemmis to enter into competition with Mr. Riddell for it; His Lordship requests, however that you will enquire into the circumstances of the case, and report to him how the matter stands.

I have, &c.,

R. W. Hay.

[Enclosure.]

MR. A. KEMMIS TO VISCOUNT GODERICH.

My Lord,

Sydney, 19 Novr., 1831.

Knowing that justice will be impartially administered even to a private individual by H.M. Ministers, I respectfully beg leave to lay before your Lordship the following statement:

In 1828, Genl. Darling being Govr. of this Colony, I arrived, and my attention being directed to embarking my Capital (which I have since done to the amount of upwards of £10,000) in the Sperm Whale Fishery, I applied to H.E. to grant me an allotment of land for the purpose of building a Wharf, Sheds, etc., suitable to the prosecution of my business. He gave me permission officially by letter to select such a piece of land, and, upon the most minute inspection of the whole harbour of Port Jackson, the only spot, I found in the hands of Govt, suited to my purposes, was a point situated on the South Side of the harbour, 3 miles E. from the Town of Sydney, and lying between that land* granted to A. McLeay, Esq., Col. Secretary, and that originally granted to J. Piper, Esq., now the property of Messrs. Cooper and Levey. I applied for this point, as the only part of the shore eligible for my pursuits, and was informed by official letter that it was specially reserved for public purposes, and I was directed to select in Darling (otherwise called "Cockle") Harbour, situated immediately to the West of Sydney an allotment which would suit me; here likewise I found all the lands in the hands of Govt. specially reserved for building a Dockyard. Despairing of being able to procure a piece of land suited to my undertakings, in the early part of the year 1831, I selected an allotment on the N. Shore of the harbour, to which there is no access except by Water, and what I now find I can make no use whatever of, and which I am anxious to surrender again to Govt. if I would be permitted to select that point of land described to your Lordship in the foregoing part of this letter. This point of land a few days back has been granted by H.E. the Actg. Govr. Col. Lindsay, to C. D. Riddell, Esq., Colonial Treasurer, thereby shewing that it was not specially reserved as officially stated to me; now I would most respectfully submit to your Lordship's consideration that I was a prior applicant by some years, and that I have embarked a considerable capital in this Country, thereby contributing to its advancement, whereas Mr. Riddell, to whom this land has been granted, has not been many months in this Country, is a Govt. Officer, and embarked in no speculations which would require such an allotment of land, or benefit or advance an infant Colony. For the correctness of the statements made in this letter, I most respectfully beg leave to refer to Genl. Darling, and to the documents in the Colonial Secretary's Office, and trusting to your Lordship's impartial judgement in a matter of vital interest to a private individual.

I have, &c.,

ARTHUR KEMMIS.

* Note 168.
HAY TO BOURKE.

UNDER SECRETARY HAY TO GOVERNOR BOURKE.

(Despatch per ship Clyde.)

Sir,

Downing Street, 26 March, 1832.

With reference to Lord Goderich's Dispatch of the 31st
of January last, No. 63, I am directed by his Lordship to transmit
for your Information the enclosed Copy of a Letter from the
Secretary to the Admiralty, in answer to a proposition made to
that Board with a view to the better protection of British Sub­
jects, trading to or engaged in the Fisheries at New Zealand,
by which you will perceive the precise nature of the Instructions
which have been given by their Lordships, and of the orders,
founded upon them, which have been issued by Rear Admiral
Sir Edward Owen, Commanding on the East India Station,
respecting the occasional visits of a Man of War to those Islands.

I have, &c,

R. W. HAY.

[Enclosure.]

MR. J. BARROW TO UNDER SECRETARY HAY.

Sir,

Admiralty Office, 24th March, 1832.

Having laid before my Lords Commissioners of the Admiralty
your letter of the 20th Inst., relative to New Zealand, I am com-
manded by their Lordships to acquaint you, for the information of
Viscount Goderich, that the Sulphur Bomb* has been ordered, on the
21st October, 1831, to proceed forthwith to England, but that their
Lordships cannot doubt that the Admiral Commanding on the
Indian Station, who has repeatedly been instructed on this subject,
will have taken care to send, in succession, a ship of War to New
South Wales, to communicate with the officer in Command at
Sydney, and to meet his wishes with regard to New Zealand; But
Lord Goderich must be aware that, considering the Character of
the Natives, and the numerous Americans that visit those Islands,
who, as well as British Subjects, come into frequent collision with
the Islanders, it would neither be expedient nor safe that the
Crews of His Majesty's Ships should interfere on shore in the
quarrels that will unavoidably occur; nor indeed could any
authority be given to the Commander of a King's Ship, so to inter­
fere in a territory not belonging to His Majesty, and with the
Rulers of which he has no treaty either of alliance or Commerce;
and the extent of whose interference must be confined to the giving
protection to British Subjects, by receiving them on board the
Ship he Commands, when applied to for that purpose.

That Lord Goderich may be in possession of the heads of corre­
spondence, and the orders given respecting the visits of a Man of
War to New Zealand, I herewith enclose an Abstract which will
afford that information.

I am, &c,

J. BARROW.

* Note 169.

The Ship stationed at New South Wales is to be ordered to inspect occasionally the Coasts of New Zealand.

20th July, 1830. R. Adml. Sir Edward Owen to Mr. Croker.

H.M.'s Sloop Comet, stationed at New South Wales, has orders to attend to "the protection of H.M.'s subjects trading to New Zealand, or engaged in the Fisheries in any of the Seas adjacent." "To arrange with the Governor of New South Wales as to the most convenient time for carrying the orders into effect as regards the protection which may be required for the Coasts of the Colonies, and of New Zealand."

5th Jany., 1831. Lord Howick to Jno. Barrow.

Encloses a Dispatch from the Governor of New South Wales, respecting outrages committed by the Crews of South Whalers towards the Natives of New Zealand, and expresses a hope that it may not be impracticable to afford greater protection to the Mercantile Establishments formed at New Zealand, and to restrain the bad conduct of Crews of Vessels resorting thither for supplies.

7th Jany., 1831. Capt. Elliott to Lord Howick (in reply to the preceding).

"Their Lordships have an earnest wish to do all in their power to restrain irregularities of the kind alluded to; but they do not feel that they have any power to delegate such authority as is requested in the Governor's dispatch"; and their Lordships observed "that the greater part of the Trade in the quarter in question is carried on by Americans. They have however repeated their instructions to the Commander in Chief in the East Indies on this subject."


The Rear Admiral's attention called to the directions of the 15th June, 1826, "that the Ship stationed at New South Wales should be ordered to inspect occasionally the Coasts of New Zealand."

19th May, 1831. R. Admiral Sir E. Owen to Capt. Elliott (In reply to the preceding).

The Instructions of June, 1826, have been always kept in view, and orders founded on them given to the Vessel detached to New South Wales. "The Governor of New South Wales has but to make known his wishes to the Commander of the vessel on that or any other subject connected with the duties of his Colony, and that officer must yield a ready acquiescence to them, or most grossly disobey the orders he is acting under."

The Rear Admiral refers to the Copy of the Orders to the Comet enclosed in his letter of the 20th July, 1830.

27th Sept., 1831. Lord Howick to Jno. Barrow.

The Governor of New South Wales has appointed a Permanent British Settlement at New Zealand, and Lord Goderich requests that their Lordships will "afford such assistance as may render the..."
BOURKE TO GODERICH.

presence of the British Resident effective, either by directing that the occasional visits to New Zealand of a ship of War, from the Squadron stationed in the neighbourhood of those Seas, should take place as frequently as possible, or by detaching an armed Vessel exclusively for that service."


"Instructions will be given to V. Admiral Sir J. Gow on this subject."

12 Jany., 1832. Extract from the general instructions to V.A. Sir John Gow.

"And the Secretary of State for the Colonies having expressed a wish that a Ship of War may occasionally be sent to N. Zealand for the protection of the British interests in that quarter, you are to make arrangements for that purpose."

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 42, per ship Strathfieldsaye.)

My Lord, Government House, 26th March, 1832.

Captain Sturt of the 39th Regiment, being in bad health, has obtained leave to return to England. This Officer has made two Journeys* into the Interior of the Colony, and added much to the knowledge of the Geography of the Southern portion of this vast Country. In his last expedition he discovered and embarked on a large River, which he descended to the Southern Coast reaching it at Encounter Bay.

Captain Sturt is an Officer of Considerable intelligence and great perseverance. He has I fear suffered irreparably by the Constancy with which he pursued his object, and the hardships he was exposed to on his Journeys. I feel it my duty to make these Circumstances known, and to solicit for this deserving Officer Your Lordship’s protection and Support.

I have, &c.,

RICH. BOURKE.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 43, per ship Strathfieldsaye; acknowledged by Viscount Goderich, 23rd September, 1832.)

My Lord, Government House, 26th March, 1832.

Mr. E. McDowell, late Solicitor General in this Colony, has requested me to lay before Your Lordship the accompanying testimonials of his Competency to fill a judicial Station in New South Wales, or Van Diemen’s Land, in either of which Countries it is his wish and his design to continue his professional

* Note 171.
pursuit. I have had already occasion to express my opinion of Mr. McDowell's merit, and my regret that circumstances had rendered it Necessary to withdraw him from the Service of the Crown.

RICHD. BOURKE.

Enclosures.

Copies of these testimonials are not available.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 79, per ship Clyde.)

Sir, Downing Street, 27th March, 1832.

I have the honor to acquaint you that the Lords Commissioners of the Treasury have drawn my attention to the subject of the Fines and Fees received by the various Police Establishments at New South Wales, which have hitherto been paid into the Colonial Treasury. Their Lordships have expressed an opinion, in which I entirely concur, that these Fees and Fines ought, from the period when the expenses of these Establishments were defrayed from the Military Chest, to have been paid to the Commissariat. I do not think it necessary to give you any instructions with respect to the Fees and Fines which were received previous to the 1st Jan'y last, as the amount has been more than covered by the proceeds of the Spirit Licenses, lately paid by your Predecessor into the Military Chest for the service in question; but I am to desire that any Fines and Fees received by the Police Departments, subsequent to the 1st January last, may be paid to the Commissariat to be applied towards the liquidation of the expenses of those Establishments.

I am, &c.,

GODERICH.

GOVERNOR BOURKE TO VISCOUNT GODERICH.

(Despatch No. 44, per ship Strathfieldsaye.)

My Lord,

Government House, 27th March, 1832.

In reply to Your Lordship's Despatch of the 21st August, 1831, No. 13, I have the honor to State that the Revd. Thomas Reddall has not been Compelled to take the benefit of an Insolvency Act, and that the following arrangement for the payment of his Debts to Government was made by the late Governor in June last, upon the recommendation of the Venble. the Archdeacon of New South Wales.
Mr. Reddall’s debt, which, in 1826, amounted to £693 6s. 8d., was reduced in the last year by payments on account of principal to £486 10s. 1d. To liquidate this balance, the Commissioners for the Management of the Church and School Affairs took from Mr. Reddall on lease for six years at £80 per annum rent a house and premises, his property, situate near Campbell Town; and, as there is no house and glebe in the parish and Mr. Reddall would be entitled to an allowance in lieu, he has been allowed to occupy his own premises, and the rent payable by the Commissioners to him is handed over on his account to the Collector of Internal Revenue to discharge the debt to Government. The balance due to this date amounts to £413 4s. 3d.

I should add that all interest on Mr. Reddall’s debt has been remitted, as also an annual payment of £60, for which he had given his bond in October, 1828.

I have, &c.,

RICHD. BOURKE.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 80, per ship Clyde.)

Sir,

Downing Street, 28th March, 1832.

I have received General Darling’s Dispatch No. 91 of the 28 March. claim for 19th of October, accompanied by a memorial from Mr. Archibald Bell, claiming remuneration for a town allotment in Sydney, which he first received from Governor Bligh and which appears by his statement to have been subsequently exchanged for the accommodation of the Government for another piece of land, the deeds connected with which were afterwards cancelled.

As no steps appear to have been taken by Mr. Bell, further reasons for refusal of claim, than the communications which he states to have held upon the subject with the Attorney General, to recover possession either of the original location or that which was promised to him in exchange, although the transaction occurred so far back as the late Governor Macquarie’s administration, His Majesty’s Government must now decline entering upon a consideration of it, the more especially as, from Mr. Bell’s own shewing, he forbore to bring it forward at the proper time, owing to the “great indulgence” which he was then enjoying under the Colonial government.

I am not aware that any compensation* has lately been made Compensation to J. Blaxland. to Mr. John Blaxland for land granted to him and resumed by the Government under similar circumstances.

I have, &c.,

GODERICH.

SER. I. VOL. XVI—2 0   * Note 122.
1832. 28 March.

Report re occupation of New Zealand by French.

Viscount Goderich to Governor Bourke.
(Despatch marked "Separate," per ship Clyde.)

Downing Street, 28th March, 1832.

Sir,

I have to acknowledge the receipt of Colonel Lindesay's Dispatch marked separate of the 4th of November last upon the subject of the report, which had reached him, of the occupation of New Zealand by a detachment of Soldiers which had been landed there from the French Corvette "La Favorite."

I did not fail to communicate the Information, contained in this Dispatch, to His Majesty's Secretary of State for Foreign Affairs, and I have now the honor of transmitting herewith for your Information the copy of a letter, which has been received from his Lordship's Under Secretary, with its Enclosure from His Majesty's Ambassador at Paris, by which you will perceive that, if possession has been taken of New Zealand in the name of The King of the French by the Captain of "La Favorite," it has been done without any Instructions or authority to that effect having been conveyed to him from the French Government.

I have, &c.,

GODERICH.

[Enclosure No. 1.]

Under Secretary Backhouse to Under Secretary Hay.

Sir, Foreign Office, 26 March, 1832.

I am directed by Lord Palmerston to transmit to you, with reference to your letter of the 23d Inst., copy of a dispatch from H.M. Ambassador at Paris upon the subject of the report of the French Schooner "La Favorite" having taken possession of New Zealand in the name of the King of the French, and I am to request that you will lay that dispatch before Lord Goderich for His Lordship's information.

I am, &c.,

J. BACKHOUSE.

[Enclosure No. 2.]

Lord Granville to Viscount Palmerston.

My Lord,

Paris, 23 March, 1832.

I received your Lordship's dispatch No. 64, enclosing a P.S. of a letter dated Sydney, which states that it was reported "that the French Schooner La Favorite had taken possession of N. Zealand in the name of the French King, had hoisted the Tricolor Flag, and mounted Guns in the Bay of Islands," and directing me to ascertain, by a confidential enquiry from the French Govt. whether there is any foundation for the report therein mentioned.

I had the opportunity of speaking last night on the subject with Admiral de Rigny, who answered my enquiries by saying that theFavorite sailed from France before the Revolution of 1830, that the Captain of that Vessel had no Instructions which could authorise him to take possession of N. Zealand or to form there any Establishment.
Admiral de Rigny added that perhaps the Crew of the Favorite, after so long a Voyage, might have been in an unhealthy state, and that some of them had been landed for the recovery of their health, and some field work raised for their defence against any attack that might be made upon them by the Natives of the Country.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch No. 81, per ship Clyde.)

Sir,
Downing Street, 29th March, 1832.

My Under Secretary has laid before me Colonel Lindesay’s Letter of the 22nd October last, enclosing Copies of a Correspondence, which had taken place with Mr. J. Gray, Deputy Harbour Master at Sydney, upon the subject of the maintenance, which I had deemed it right to call upon him to afford to his Wife, whom it appears that he had deserted and left in the greatest distress in this Country. In this correspondence, Mr. Gray states that he had made arrangements with Mr. William Walker, when he left Sydney for London, to pay his Wife three Pounds per month and to continue the same until further orders, at the same time offering, if more satisfactory, to remit the money through the Colonial Government to the Colonial Agent for the purpose of being paid to her. I regret that the Acting Governor did not avail himself of the latter proposal, Mr. Gray having (as appeared too probable) made no arrangements with Mr. Walker of the nature referred to, nor having taken any other steps, as I am informed, to afford to his Wife the relief which he had promised. Under these circumstances, you will immediately send for Mr. Gray, and, after pointing out to him the highly discreditable conduct of which he has been guilty, you will inform him that he will be expected, without further loss of time, to remit, through the hands of the Colonial Government, the allowance which he has promised to make to her, paying up the arrears from the time at which he undertook that it should commence, and continuing the same by regular quarterly payments, failing in which he will subject himself to the loss of the Situation which he holds under the Colonial Government.

I enclose for your Information the Copy of a Letter from Mrs. Gray, with its enclosures from her husband, and also the Copy of one from Mr. Walker by which you will perceive that there can be no mistake as to the non-fulfilment by Mr. Gray of his engagement, as Mr. Walker explicitly states that no arrangements were made with him by Mr. Gray to pay a monthly sum to his Wife in this Country.

I have, &c.,
GRANVILLE.
HISTORICAL RECORDS OF AUSTRALIA.

[Enclosure No. 1.]

MRS. GRAY TO VISCOUNT GODERICH.

My Lord, Wapping, 5 King Edward St., 13th March, 1832.

Sensible of the obligation I am under to your Lordship for the prompt attention to my case, as stated to you in Feb., 1831, and under the greatest privations, I beg to state I have received a letter from my Husband, John M. Gray, dated Sydney, 6 Octr., informing me he had made arrangements with Mr. Wm. Walker to pay to me the sum of £10 and £3 per month. In consequence I waited on Mr. Walker, and he denies all knowledge of any such arrangement with Mr. Gray. I therefore cannot but think it is a deception on his part to lead the Governor to believe he is allowing me a maintenance. I therefore enclose a copy of my Husband’s letter with the order on Mr. Walker. Humbly craving you will make my case known to the Governor.

I remain, &c,

ISABELLA GRAY.

[Sub-enclosure.]

MR. J. M. GRAY TO MRS. GRAY.

Dear Madam,

I wrote some time ago to acquaint you that I had made arrangements with Mr. Walker, who left this Colony in the Barque “Forth” for London, to pay you £3 per month and continue the same until further advice. I also wrote to Mr. Walker to advance you £10 which I hope you have received. Since my letter to you I am informed by the Govr. that you had applied to the Secy. of State to be allowed a maintenance from me. In consequence of which I think you cannot have received my letter. On the receipt of this, you will wait on Mr. Walker to present the order on the other side; have the goodness to acknowledge the receipt.

I am, &c,

Mr. Walker’s address: 11 Fenchurch Buildings. J. M. GRAY.

ORDER REFERRED TO.

Sir, Sydney, 6 Oct., 1831.

On the receipt of this have the goodness to pay Mrs. Isabella Gray £10 and £3 per month, which you were kind enough to promise you would advance on my account, paying the same to your order in Sydney and continuing the monthly money until further advice.

I am, &c,

Wm. Walker, Esq. J. M. GRAY.

[Enclosure No. 2.]

MR. W. WALKER TO UNDER SECRETARY HAY.

Sir, 11 Fenchurch Buildings, 27 March, 1832.

In reply to your letter of the 24 Inst. I have the honor to state for the information of Viscount Goderich that no arrangements were made with me by Mr. John M. Gray, Deputy Harbour Master of Sydney, to pay a monthly sum to his Wife in this Country.

I am, &c,

W. WALKER.
VISCOUNT GODERICH TO GOVERNOR BOURKE.

(Despatch marked "Confidential," per ship Clyde; acknowledged by Governor Bourke, 10th September, 1832.)

Sir,

Downing Street, 30th March, 1832.

I have for some time had it in contemplation to address you on the subject of the present state of the Judicial Establishment of New South Wales, and to explain to you confidentially my sentiments as to the steps, which it may be proper to take for relieving the administration of justice from some of the defects under which it appears at present to labor, and for restoring it to that degree of reputation in the eyes of the Community, which is so essential to the efficiency of the Law in all Societies, but more especially in a Convict Colony.

It cannot be concealed that, from various circumstances to which it would be useless now to advert (the more so, as I trust they will not again recur) that good understanding, which is so essential to the interests of the Colony, has not for some time existed between the Governor of New South Wales and the Heads of the Law in that Settlement, frequent disputes having arisen which, as in all similar cases, have tended to lower the authority of the disputants. Each party has manifested a desire to expose the errors of the other, in a manner which could not fail to be very prejudicial to the Public Service.

It is unfortunately too notorious at the same time that those Persons, who of late filled the Chief Law appointments of the Crown in the Colony, have not proved themselves equal to the discharge of the arduous duties which belong to their situation, and that hence an undue advantage has been given to those who were opposed to them in the Colonial Courts. By the appointment of Mr. Kinchela and Mr. Plunkett, I should hope that this defect has in a great measure been provided for, but still I am inclined to think that the state of the Bench is susceptible to much improvement.

There can be no doubt of the abilities of the Chief Justice, and of his fitness for the situation which he fills. I should hope also that, after all that has passed, he will be aware of the importance of acting cordially with the Executive Government, and of applying himself entirely to the correct discharge of his legal duties.

When I observe how frequently of late the Senior Puisne and Mr. Stephen, Judge, Mr. Stephen, has been precluded by illness from attending to the active discharge of his official duties, I am afraid that it would be injudicious to anticipate that the Public would derive much advantage from his further continuance on the Bench, or that he can fairly be expected to devote himself much longer
Proposed resignation of J. Stephen.

Pension proposed for J. Stephen.

Judge to be transferred from Cape of Good Hope.

1832.
30 March.

You are well aware that those employed in the Colonial Service have, on quitting office, no positive claim to a retiring Pension, yet, as in most cases where the Government are satisfied with the services of Individuals, who have long held situations of trust in the Colonies, the Crown has been advised to grant a Pension to them, when disabled by age or infirmities from the further performance of their duty. I conceive that it would be no less just towards Mr. Stephen than indispensable, with the view of placing the administration of the Law at New South Wales upon an efficient footing, to grant to him a superannuation allowance upon the same principle as it has been bestowed upon other servants of the Crown.

As Mr. Stephen’s services at New South Wales have not exceeded eight years (five only of which have been performed on the Bench), I have not felt myself at liberty to fix the allowance to be granted to him at a higher rate than one third of his salary; But although this sum falls short of that for which he has stipulated, I have in reliance on his acquiescence made arrangements for supplying his place at New South Wales by the employment of a Judge, whose services are no longer required at the Cape of Good Hope. And I have been induced to take this step as well to save that time which must otherwise be lost in a reference to New South Wales, as because I see no prospect that, if this opportunity of providing for the retirement of Mr. Stephen be neglected, when it can be done without an increase of expence to the Public Service, the Treasury will consent to grant any superannuation allowance whatever to Mr. Stephen at a future period.

I am, &c.,

Goderich.

Viscount Goderich to Governor Bourke.

(Despatch No. 82, per ship Clyde.)

Sir,

31 March.

Refusal of request by R. Campbell for land grant.

Downing Street, 31 March, 1832.

I have received General Darling’s Dispatch No. 93 of the 20th October, enclosing a further application from Mr. Campbell on the subject of a Grant of Land.

In proportion to the estimation in which the private as well as public character of this Gentleman is held must be my regret at not feeling at liberty to meet his wishes; but, as any departure from the recent Regulations in respect to the disposal of Land
in favor of a particular Individual, however strong might have been his claim under the former system to an additional Grant, would occasion much embarrassment to His Majesty's Government in dealing with other applications of the same kind, I have unfortunately no other alternative than to decline complying with the request which he has again addressed to this Department. I have likewise to lament that the Sons of Mr. Campbell, by not having made applications for Land at an earlier period, should have debarred themselves from participating in the advantages which others have enjoyed. I have, &c.,

GODERICH.

VISCOUNT GODERICH TO GOVERNOR BOURKE.

(A circular despatch per ship Clyde; acknowledged by Governor Bourke, 30th October, 1832.)

Sir, Downing Street, 31 March, 1832.

I have the honor herewith to enclose for your information the Copy of a Paper on the subject of Quarantine,* which has been drawn up by the Central Board of Health now established in London.

The results, to which the Members of that Body have been led by a careful examination of the most authentic sources of intelligence, are so fully stated at the close of this Document, that it would be altogether superfluous for me to enter into any explanation of them. In general you will perceive that they strongly confirm the opinion that, even under the most suspicious circumstances and in reference to infected Ports in the immediate vicinity of an uninfected Country, the period of Quarantine, whether for Ships, Persons or Goods may, with entire safety, be reduced in the case of Spasmodic Cholera within a far shorter period than that which the experience or the apprehensions of Mankind have required in the case of Plague and some other highly contagious Diseases.

Indeed with regard to Merchandize, even of the most susceptible Class, such regulations might seem, from the Document to which I have referred, to be entirely superfluous, were it not necessary on such a subject as the present to consult the feelings of Society and to defer in some degree even to unnecessary alarm.

The Central Board of Health confirm the opinion, which appears to have been generally adopted throughout the European Continent as well as in Great Britain, that all methods, taken for arresting the progress of the Disease from one part of the same territory to another, are not merely unavailing but positively injurious. By the distress and panic inseparable from

* Note 172.
such measures, an overland Quarantine has always been found to aggravate the Calamity which it was intended to prevent. Accordingly every such attempt has been abandoned amongst the States on the European Continent, nor has any regulation of that nature been established in any part of Great Britain since the disorder first appeared in this Island.

Since the character and progress of this Malady have been the subject of anxious observation and scientific enquiry in Europe, many facts have been ascertained which have contributed greatly to allay the terror which the first appearance of a disease so rapid in its course, and so destructive of human life, had naturally excited. It has for example been fully established that the rate of mortality is much less in reality than had been supposed, rarely exceeding two pr. Cent, upon a given population, and generally not reaching above half that number. It appears also that persons of intemperate habits, and those who are peculiarly destitute of food, clothing and shelter, are not indeed the only but by far the most usual victims. In the crowded Societies of Europe, the relief of pauperism and prevention of drunkenness are attended with difficulties almost insuperable. But amidst the comparatively scanty population of the British Colonies, the temporary relief of extreme distress and the prevention (at least during the general prevalence of Disease) of the inordinate use of strong Liquors might be attempted with far better prospects of success. Amidst the urgent demands upon the funds of private Charity, which are continually made in this Kingdom, it has been found that the relief of extreme want has even here tended greatly to mitigate the Disease, and sometimes to arrest its progress.

Without encroaching on the province of Medical Writers, I may properly notice in this place the general conclusion to which they seem to have arrived that by a careful attention to the symptoms which are generally found to precede the more virulent forms of the Spasmodic Cholera, it may, in a large proportion of cases, be arrested or cured before it has assumed a malignant type.

Hitherto the Spasmodic Cholera has manifested itself only in the Counties of Durham and Northumberland, in some of the Southern Districts of Scotland, and in London and its Suburbs. The whole Southern and Western parts of the Kingdom, and all the Ports between the Clyde and the Thames and between the Thames and Sunderland are and have as yet been exempt. Ireland has hitherto escaped this visitation altogether.

The great importance of the Trade of Liverpool has induced His Majesty's Government, at the instance of the Merchants of